

UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF CALIFORNIA

FILED

JUL 01 2026

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

SATUJ BENITO MARCO-TULIO

Proceeding Pro Se,

Petitioner,

v.

_____, Warden, California City Correctional Center;
_____, Field Office Director, San Diego Field Office,
United States Immigration and Customs Enforcement;
TODD M. LYONS, Acting Director, United States
Immigration and Customs Enforcement;
Markwayne Mullin, Secretary of Homeland Security;
PAMELA JO BONDI, United States Attorney General,
Respondents.

1:26-cv-5063 TLN (SK) (HC)

Civil Action No.:

**SECOND PETITION FOR WRIT OF
HABEAS CORPUS (Verified Petition
Pursuant to 28 U.S.C. § 2241)**

I. INTRODUCTION

1. This is a new and independent Petition for a Writ of Habeas Corpus, filed pursuant to 28 U.S.C. § 2241. It is not a motion to enforce any prior judgment. Petitioner's first habeas corpus action, Case No. 2:26-cv-00849-JLT-SKO, was granted by this Court, and judgment was entered, on March 26, 2026. That case is closed. This new petition is based on new facts that arose after that judgment was entered: (1) the constitutionally defective bond hearing held on April 1, 2026; (2) the Immigration Judge's failure at that hearing to require the Government to prove by clear and convincing evidence that Petitioner is a flight risk or danger to the community, as required by this Court's prior order and the Constitution; (3) Petitioner's pending administrative appeal of that defective hearing, filed April 17, 2026; and (4) Petitioner's continued unconstitutional detention since February 2, 2026. The claim is a new and ongoing due process violation. The constitutionally required hearing ordered by this Court failed to cure the unlawful detention because the Government has still never justified Petitioner's continued detention by clear and convincing evidence.

The Government had its opportunity and failed. The only proper remedy is immediate release.

II. JURISDICTION AND VENUE

2. This Court has subject-matter jurisdiction over this petition pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 2241 (writ of habeas corpus). The Court's jurisdiction is further supported by the Due Process Clause of the Fifth Amendment and the Suspension Clause of the United States Constitution.
3. Venue is proper in the Eastern District of California pursuant to 28 U.S.C. § 1391(e) and § 2241(d) because Petitioner is currently detained at the California City Immigration Processing Center, which is located within this judicial district, and his immediate custodian is present in this district.

III. PARTIES

4. Petitioner is MARCO TULIO SUTUJ BENITO, also listed by ICE as SATUJ BENITO MARCO-TULIO, A#  a citizen of Guatemala who is currently detained by Respondents at the California City Immigration Processing Center, 22844 Virginia Boulevard, California City, CA 93505.
5. Respondents are the officials who have custody and control over Petitioner, sued in their official capacities: a. WARDEN, California City Immigration Processing Center; b. FIELD OFFICE DIRECTOR, ERO Bakersfield, CA IHP Sub Office, United States Immigration and Customs Enforcement; c. TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement; d. KRISTI NOEM, Secretary, Department of Homeland Security; and e. PAMELA JO BONDI, Attorney General of the United States.

IV. PROCEDURAL HISTORY

6. Petitioner, MARCO TULIO SUTUJ BENITO, also listed by ICE as SATUJ BENITO MARCO-TULIO, A#  previously filed a successful habeas petition in this Court, *Satuj Benito Marco-Tulio v. Warden, et al.*, Case No. 2:26-cv-00849-JLT-SKO (E.D. Cal.), on March 12, 2026.
7. On March 26, 2026, the Honorable Jennifer L. Thurston granted that petition, finding Petitioner's detention unlawful. The Court ordered Respondents to provide Petitioner with "an individualized bond hearing before an immigration judge that complies with the requirements set forth in *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011), and where 'the government must prove by clear and convincing evidence that [Petitioner] is a flight risk or a danger to the community to justify denial of bond.'" (Case No. 2:26-cv-00849-JLT-SKO, Doc. 8 at 3). On that same day, the Clerk of Court entered Judgment and formally CLOSED the case. (Case No. 2:26-cv-00849-JLT-SKO, Doc. 9).
8. On April 1, 2026, a bond hearing was held before Immigration Judge Roberto Amaya. At the hearing, the Government failed to meet its court-ordered burden of proof. The Immigration Judge nonetheless denied bond without making an individualized finding, supported by clear and convincing evidence, that Petitioner's detention was necessary.
9. On April 17, 2026, Petitioner filed a timely Notice of Appeal of the Immigration Judge's decision to the Board of Immigration Appeals ("BIA"). He paid the required filing fee, and that appeal remains pending.
10. Petitioner's immigration proceedings remain pending before EOIR. His last scheduled Master Calendar Hearing was June 26, 2026; to the best of Petitioner's knowledge, no final order of removal has been entered.

11. Respondents have not filed a response in this separate case, and the Court may deem the petition unopposed or require Respondents to show cause.

V. STATEMENT OF FACTS

12. Petitioner is a citizen of Guatemala. He entered the United States in August 1996 and has resided continuously in the United States for nearly thirty (30) years.
13. Petitioner has absolutely no criminal history in the United States or any other country.
14. Prior to his detention, Petitioner was gainfully employed and a productive member of his community.
15. On February 2, 2026, ICE officers arrested Petitioner while he was riding a public bus on his way to work. This was an interior apprehension; he was not arrested at the border or upon release from any criminal custody. He has been continuously detained ever since, for approximately five months.
16. Petitioner suffers from high blood pressure, a medical condition that requires ongoing monitoring and management, which is made more difficult by the stress of prolonged and indefinite detention.
17. As detailed above, Petitioner successfully challenged his initial detention. However, the subsequent bond hearing on April 1, 2026, was constitutionally deficient and failed to cure the ongoing due process violation. Petitioner's unconstitutional detention continues to this day.

VI. THIS IS AN INDEPENDENT SECOND HABEAS ACTION

18. This is a second habeas petition, but it is not successive or an abuse of the writ because it is based on new facts and a new legal ground that have arisen since the adjudication of the first petition. The first habeas action was fully adjudicated, relief was granted, and the case

was closed on March 26, 2026.

19. The new operative facts are the constitutionally defective April 1, 2026 hearing and Petitioner's continued detention without the justification this Court and the Constitution require. This flawed hearing did not cure the due process violation; it perpetuated it, creating a new and continuing ground for habeas relief. The remedy for this ongoing violation is not another hearing. As a court in this District has held, "The relief for a constitutional violation cannot be to merely bring the Government into compliance—it must be to restore the liberty that was lost." *Charan S. v. Warden*, No. 1:26-cv-03017-TLN-JDP, ECF No. 7 at 9 (E.D. Cal. Apr. 28, 2026). Similarly, another court found that a post-deprivation bond hearing does not cure the constitutional violation of an improper detention. *Rafaela Neri Angel v. Warden*, No. 5:26-cv-03269-MWC-JDE (C.D. Cal. June 18, 2026) (granting immediate release based on pre-detention due process violations despite petitioner's receipt of a post-deprivation bond hearing).

VII. CLAIM FOR RELIEF

COUNT ONE: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT (UNCONSTITUTIONAL DETENTION)

20. Petitioner re-alleges and incorporates by reference each allegation set forth above.
21. The Due Process Clause of the Fifth Amendment prohibits the Government from depriving any "person" of liberty without due process of law. U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This protection applies to all individuals within the United States, regardless of their immigration status.
22. Due process requires that any deprivation of liberty in the civil immigration context be non-punitive and based on an individualized justification. This Court previously found that

to continue detaining Petitioner, the Government was required to prove by clear and convincing evidence that he poses a flight risk or a danger to the community.

23. The bond hearing on April 1, 2026, was constitutionally defective and failed to cure the due process violation. The Immigration Judge did not require the Government to meet its burden of proof, yet continued Petitioner's detention. This renders the hearing procedurally and substantively deficient and means Petitioner's detention remains without a constitutionally adequate justification.

24. The Government has never provided an individualized justification, supported by clear and convincing evidence, for Petitioner's detention. His nearly 30 years of U.S. residence, perfect lack of criminal history, and stable employment history are powerful evidence that he is neither a danger to the community nor a risk of flight.

25. His continued detention is therefore arbitrary, punitive, and serves no legitimate, non-punitive governmental purpose. It has become unconstitutionally prolonged and violates his rights under the Due Process Clause. The proper remedy for this ongoing constitutional violation is his immediate release.

VIII. LEGAL FRAMEWORK AND ARGUMENT

A. Due Process Requires an Individualized Justification for Civil Detention.

26. Civil immigration detention is not meant to be punitive. For detention to be constitutional, it must be justified by a "special justification—e.g., preventing flight or danger to the community—that outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Zadvydas*, 533 U.S. at 690.

27. For long-term residents like Petitioner, this requires robust procedural safeguards. The Ninth Circuit has held that to justify continued detention, "the government must prove by

clear and convincing evidence that an alien is a flight risk or a danger to the community.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). This standard reflects the “substantial liberty interest at stake.” *Id.*

B. The Defective Bond Hearing Did Not Cure the Ongoing Due Process Violation, Requiring Immediate Release.

28. Petitioner’s detention has been unconstitutional since its inception, as found by this Court in its March 26, 2026 Order. The Court-ordered remedy—a constitutionally compliant bond hearing—was not provided. Instead, Petitioner received a defective hearing where the Government was not held to its constitutional burden. A flawed hearing cannot cure an ongoing constitutional violation. *See Charan S. v. Warden*, No. 1:26-cv-03017-TLN-JDP (E.D. Cal. Apr. 28, 2026) (holding that a court-ordered bond hearing that is itself defective does not remedy the constitutional violation).

29. To hold otherwise would allow the Government to ignore federal court orders and render habeas relief meaningless. If the Government can continue to detain an individual even after failing to meet its court-ordered burden, then the writ of habeas corpus offers no real protection. Courts in this District and throughout the circuit consistently order immediate release in these circumstances. *See, e.g., Cabreja Liranza v. Warden*, No. 1:26-cv-03512-JLT-EGC (E.D. Cal. May 22, 2026) (Thurston, J.); *Yunhe B. v. Warden*, No. 1:26-cv-03307-TLN-CKD (E.D. Cal. June 16, 2026); *Lainez Escobar v. Warden*, No. 1:26-cv-03391-DC-AC (E.D. Cal. May 15, 2026); *Johalan David N.M. v. Warden*, No. 2:26-cv-01270-TLN-AC (E.D. Cal. June 26, 2026); *Xiaoming Wang v. Warden*, No. 1:26-cv-03460-DC-SCR (E.D. Cal. June 24, 2026); *Quichimbo-Jimenez v. Warden*, No. 2:26-cv-00739-DAD-EFB (E.D. Cal. Mar. 10, 2026); *Acosta-Tolentino v. Lyons*, No. 2:26-cv-

00821-DC-CSK (E.D. Cal. May 11, 2026).

C. The Government Failed to Meet Its Burden of Proof.

30. At the April 1, 2026 hearing, the Government failed to present—and the Immigration Judge failed to require—clear and convincing evidence that Petitioner is a flight risk or a danger to the community.

31. The evidence points overwhelmingly to the contrary. Petitioner's nearly 30 years of continuous residence is a powerful factor weighing against flight risk. His complete lack of a criminal record establishes he is not a danger. He was employed, has deep ties to the U.S., and has every incentive to see his pending immigration case through to its conclusion.

D. Petitioner Suffers Irreparable Harm Daily.

32. The loss of liberty is a profound and irreparable harm. This harm is compounded by Petitioner's high blood pressure, the psychological distress of indefinite confinement, separation from his community, and the economic devastation of being unable to work.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Grant the Petition for a Writ of Habeas Corpus and order Petitioner's immediate release from custody;
2. Enjoin and restrain Respondents from re-detaining Petitioner without providing advance written notice and a constitutionally adequate hearing before a neutral decision-maker, at which the Government must prove by clear and convincing evidence that Petitioner's detention is necessary;
3. In the alternative, if the Court does not order immediate release, order Respondents to provide Petitioner with a new, constitutionally-compliant bond hearing before a different

Immigration Judge within seven (7) days, at which the Government bears the burden of proving by clear and convincing evidence that Petitioner poses a flight risk or danger to the community; and

4. Grant such other and further relief as this Court deems just and proper.

X. VERIFICATION

I, MARCO TULIO SUTUJ BENITO, also listed by ICE as SATUJ BENITO MARCO-TULIO,  declare under penalty of perjury under the laws of the United States of America that I am the Petitioner in this action, that I have read the foregoing Second Amended Petition for a Writ of Habeas Corpus, and that the factual statements contained therein are true and correct to the best of my knowledge and belief.

Dated: June 29, 2026

Respectfully submitted,

S/ *Satuj Benito Marco Tulio*
Satuj Benito Marco Tulio
Petitioner, Pro Se

UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF CALIFORNIA

SATUJ BENITO MARCO-TULIO

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United States Immigration and Customs Enforcement;

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Immigration and Customs Enforcement;

Markwayne Mullin, Secretary of Homeland Security;

PAMELA JO BONDI, United States Attorney General,

Respondents.

Civil Action No.:

**DECLARATION OF SATUJ
BENITO MARCO-TULIO**

I, MARCO TULIO SUTUJ BENITO, declare as follows:

1. I am the Petitioner in this action. My full name is MARCO TULIO SUTUJ BENITO. I am also listed by ICE as SATUJ BENITO MARCO-TULIO. My Alien Registration Number is .
2. I am 45 years old and a citizen of Guatemala.
3. I entered the United States in or around August 1996. I have lived in the United States continuously for nearly thirty years.
4. I have no criminal record.
5. I submit this declaration in support of my Second Amended Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241.
6. All statements in this declaration are based on my personal knowledge. If called as a witness, I could and would testify truthfully to the facts stated here.
7. Since arriving in the United States, I have worked hard, supported myself, and lived as a

productive member of my community.

8. Prior to my detention, I was employed and was on my way to work when I was arrested.
9. On February 2, 2026, I was riding a public bus on my way to work when ICE officers boarded the bus and arrested me.
10. I was not arrested at the border. I was not arrested while attempting to enter the United States. I was not arrested upon release from criminal custody.
11. My arrest was an interior civil immigration arrest.
12. Since February 2, 2026, I have been continuously detained by ICE.
13. I am currently detained at California City Immigration Processing Center.
14. As of the filing of this declaration, I have been detained for approximately five months.
15. My detention has caused significant hardship to me and my family.
16. I suffer from high blood pressure, also known as hypertension.
17. My hypertension requires ongoing monitoring and care.
18. The stress, uncertainty, and conditions of prolonged detention have made it more difficult for me to manage my blood pressure.
19. Prolonged detention has negatively affected my physical health, emotional well-being, and ability to prepare my immigration case.
20. On March 12, 2026, I filed my first Petition for Writ of Habeas Corpus in this Court, Case No. 2:26-cv-00849-JLT-SKO.
21. On March 26, 2026, this Court granted my first habeas petition.
22. After the Court granted my first petition, that case was formally closed.
23. My current petition is a new and independent action.
24. This current petition is based on events that happened after the closure of my first habeas

case, including the bond hearing that occurred after the Court's prior order and my continued detention after that hearing.

25. On April 1, 2026, I appeared before Immigration Judge Roberto Amaya for the bond hearing ordered by this Court.

26. At that hearing, the Government did not prove by clear and convincing evidence that I am a danger to the community.

27. The Government also did not prove by clear and convincing evidence that I am a flight risk.

28. The Government presented no evidence that I have a criminal history.

29. The Government presented no evidence that I have failed to appear for immigration proceedings.

30. The Government presented no evidence that I would not comply with future immigration hearings or conditions of release.

31. Despite the lack of evidence against me, the Immigration Judge denied bond.

32. I believe the bond hearing did not provide me with meaningful due process because the Government did not meet its burden and I remained detained anyway.

33. Since the bond denial, I have continued to remain detained without release.

34. I have now spent additional months in ICE custody after the Court-ordered bond hearing.

35. I respectfully believe that my continued detention has become prolonged and unreasonable.

36. I am not asking this Court to simply order another bond hearing that does not provide meaningful relief.

37. I am asking this Court to review whether my continued detention is lawful after all that has occurred, including my prolonged detention, my health condition, my lack of criminal

record, my strong ties to the United States, and the prior bond hearing.

38. I have lived in the United States for nearly three decades.

39. I have established my life in this country.

40. I have community ties in the United States.

41. I have worked and supported myself in the United States.

42. I am not a danger to the community.

43. I am willing to comply with any conditions of release that ICE or this Court may impose.

44. I am willing to report to ICE as required.

45. I am willing to attend all immigration hearings and comply with all court orders.

46. I have every reason to continue appearing in my immigration case because I want to pursue the legal relief available to me.

47. My continued detention is causing me severe stress and anxiety.

48. The longer I remain detained, the more difficult it becomes for me to manage my health and assist in my legal case.

49. I respectfully ask this Court to grant relief from my continued detention.

50. I respectfully request that the Court order my release under appropriate conditions, or grant any other relief the Court finds just and proper.

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

S/ Satuj Benito Marco Tulio
Satuj Benito Marco Tulio
Petitioner, Pro Se