

**BEN LOVEMAN** (SBN # 249970)  
Reeves Immigration Law Group  
425 California Street Suite 1250  
San Francisco, California 94104  
Tel: (415) 568-3777  
Fax: (415) 568-3799  
[bloveman@reevesimmigration.com](mailto:bloveman@reevesimmigration.com)

Joseph Reina (PHV Pending)  
Reina and Associates  
1140 Empire Central Drive Ste 300  
Dallas, Texas 75247  
(214) 905-9100  
[Jreina@reinalaw.com](mailto:Jreina@reinalaw.com)

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

**CESARIO MARINI-SANCHEZ**

Petitioner,

**v.**

Markwayne MULLIN, Secretary of U.S.  
Department of Homeland Security; David  
VENTURELLA, Acting Director of U.S.  
Immigration and Customs Enforcement;  
Todd BLANCHE, Acting Attorney General  
of the United States; John Doe, WARDEN  
of the Golden State Annex Detention  
Facility acting in their official capacities,  
Respondents.

Case No.

**PETITION FOR WRIT OF  
HABEAS CORPUS  
(28 U.S.C. § 2241)**

**I. INTRODUCTION**

1. ("Petitioner") is a native and citizen of Mexico. He last entered the United States without inspection in or around August of 2001. <sup>1</sup>He has not departed the United States since that date. He has three United States citizen children and a Permanent

<sup>1</sup> See Notice to Appear, Exhibit 1.

1 Resident wife. They all live together in Dallas. He has lived and worked in Texas for  
2 many years.

3 2. He was detained by Respondents after being stopped for driving while intoxicated  
4 (DWI). He was released from criminal custody after posting a bond for \$2,000. His  
5 DWI charge remains pending in Dallas County. His arrest was Petitioner's first  
6 detention by law enforcement. Once released Respondent is eligible to seek relief  
7 from removal in the form of Cancellation of Removal for Non-Permanent Residents,  
8 based on hardship his to permanent resident spouse.

9 3. Petitioner has been denied the opportunity for a bond hearing based on Respondent's  
10 new interpretation of 8 U.S.C. § 1225(b)(2)(A) as requiring mandatory detention  
11 during removal proceedings for all noncitizens charged with entering the United  
12 States without lawful admission.

13 4. On or about April 28, 2026, Petitioner requested a bond redetermination hearing  
14 before the Adelanto Immigration Court.<sup>2</sup> By order dated April 28, 2026, the  
15 immigration judge ordered the request for a change in custody status denied, noting  
16 that Petitioner is charged as being present without having been inspected and admitted  
17 or paroled, and finding "that [the court] lacks jurisdiction over the request for custody  
18 redetermination."<sup>3</sup>

19 5. Petitioner initially asks this Court to **issue an order to show cause required answer**  
20 **within 5 days.** There are no factual disputes in this case, and the legal questions have  
21 been considered hundreds of times across the country and in this District.

22 6. **Petitioner asks for an order of immediate release. A bond hearing before an**  
23 **immigration judge is an inadequate remedy for the unlawful arrest and**  
24 **detention in this case.** *See* ¶¶ 67-78; Jasbir v. Warden, Imperial Reg'l Adult Det. Facility,  
25 No. 26-cv-579-JES-BJW, 2026 U.S. Dist. LEXIS 26523, at \*6-7 (S.D. Cal. Feb. 9, 2026)

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26  
27 <sup>2</sup> See Motion for Bond Hearing, Exhibit 2.

28 <sup>3</sup> See Immigration Judge Order, Exhibit 3.

- 1 7. Additionally, Petitioner requests injunctive and declaratory relief requiring that any  
2 detention of Petitioner during ongoing removal proceedings is pursuant to 8 U.S.C. §  
3 1226(a) and that he is not subject to mandatory detention under § 1225(b)(1) or (b)(2).
- 4 8. Civil Immigration Detention is generally only permissible for only two reasons: to  
5 ensure a noncitizen's appearance at immigration hearings and to prevent danger to the  
6 community. But DHS did not arrest and detain Petitioner for either of these reasons.  
7 Instead, as part of its broader enforcement campaign, DHS detained Petitioner to strip  
8 him of his procedural rights and seeking to pressure Petitioner into giving up his claim  
9 for protection or to process his case without his ability to fully assist in preparing  
10 evidence in support of his claim.
- 11 9. Petitioner's arrest and detention are causing him and his family ongoing harm.  
12 Petitioner's liberty and ability to earn income is crucial to his ability support himself,  
13 and to provide support to his loved ones outside the U.S., and to access and afford  
14 counsel.
- 15 10. The Constitution protects Petitioner—and every other person present in this country—  
16 from arbitrary arrest and detention and guarantees him due process of law. While the  
17 Executive Branch has broad power over the regulation of noncitizens, those powers are  
18 still "subject to important constitutional limitations." Zadvydas v. Davis, 533 U.S.  
19 678, 695 (2001). "Freedom from bodily restraint has always been at the core of the  
20 liberty protected by the Due Process Clause from arbitrary governmental action."  
21 Foucha v. Louisiana, 504 U.S. 71, 80 (1992).
- 22 11. Petitioner respectfully, and urgently, seeks a writ of habeas corpus ordering the  
23 government to release him from unlawful detention, prohibiting his re-arrest absent a  
24 finding that he is a danger to his community or a flight risk from a neutral  
25 decisionmaker.

## 26 II. JURISDICTION AND VENUE

- 27 12. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal  
28 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory

Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district. Petitioner is detained at Golden State Annex Correctional Facility, which is located at 611 Frontage Rd, McFarland, CA 93250.<sup>4</sup>

### III. PARTIES

14. Petitioner, Cesario Marini-Sanchez, is a native and citizen of Mexico. He is detained by Respondents in McFarland, California.

15. Respondent, John Doe, is the Warden, Golden State Annex Correctional Facility. They are Petitioner's immediate physical custodian. They are sued in their official capacity.

16. Respondent David Venturella is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States, routinely transacts business in this District, and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Venturella is sued in his official capacity.

17. Respondent Markwayne Mullin Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through his agents, Respondent Mullin has broad authority over and responsibility for the operation and enforcement of the immigration laws; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Mullin is sued in his official capacity.

18. Respondent Todd Blanche is the Acting Attorney General of the United States and the

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<sup>4</sup> See Form I-830E included in Exhibit 2, Notice to EOIR: Alien Address

most senior official at the Department of Justice. In that capacity and through his agents, he is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Blanche is sued in his official capacity.

#### IV. EXHAUSTION

19. There is no requirement to exhaust because no other forum exists in which Petitioner can raise the claims herein. In cases like this the "exhaustion requirement is prudential, rather than jurisdictional," and therefore may be waived "if 'administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.'" Hernandez v. Sessions, 872 F.3d 976, 988 (9th Cir. 2017) (quoting Laing v. Ashcroft, 370 F.3d 994, 1000 (9th Cir. 2004)). Prudential exhaustion is not required here because it would be futile, and Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim." McCarthy v. Madigan, 503 U.S. 140, 147 (1992).

20. Further pursuit of administrative remedies through the immigration court or to the Board of Immigration Appeals would certainly be futile given the BIA's holding that all noncitizens present in the United States without admission are "seeking admission" for purposes of 8 U.S.C. § 1225(b)(2)(A) and must be detained. Matter of Yajure Hurtado, 29 I&N Dec. 216 (B.I.A. 2025).

#### V. LEGAL BACKGROUND

##### A. The Constitution prohibits arbitrary arrest and detention of noncitizens

21. The Constitution affords and requires due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." Hernandez v. Sessions, 872 F.3d 976, 990 (9th Cir. 2017) (quoting Zadvydas, 533 U.S. at 693). These due process rights are both substantive

1 and procedural.

2  
3 22. First, “[t]he touchstone of due process is protection of the individual against arbitrary  
4 action of government,” Wolff v. McDonnell, 418 U.S. 539, 558 (1974), including “the  
5 exercise of power without any reasonable justification in the service of a legitimate  
6 government objective,” Cnty. of Sacramento v. Lewis, 523 U.S. 833, 846 (1998).

7 23. These protections extend to noncitizens as “[i]n our society liberty is the norm, and  
8 detention prior to trial or without trial is the carefully limited exception.” United  
9 States v. Salerno, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from  
10 imprisonment—from government custody, detention, or other forms of physical  
11 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”  
12 Zadvydas, 533 U.S. at 690.

13 24. Substantive due process requires that all forms of civil detention—including  
14 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See*  
15 Jackson v. Indiana, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only  
16 two permissible non-punitive purposes for immigration detention: ensuring a  
17 noncitizen’s appearance at immigration proceedings and preventing danger to the  
18 community. Zadvydas, 533 U.S. at 690–92; *see also* Demore v. Kim, 538 U.S. 510 at  
19 519–20, 527–28, 31 (2003).

20  
21 25. Secondly, the Due Process Clause’s procedural protections require that even  
22 permissible forms of detention only be imposed where procedural safeguards are in  
23 place and have been followed. Lopez v. Heinauer, 332 F.3d 507, 512 (8th Cir.  
24 2003) (“The Supreme Court has long recognized that deportable aliens are entitled to  
25 constitutional protections of due process.”)

26 26. Except in rare situations, “the Constitution requires some kind of a hearing before the  
27 State deprives a person of liberty or property.” Zinermon v. Burch, 494 U.S. 113, 127  
28 (1990)

27. Noncitizens residing in the United States, like Petitioner, have a protected liberty interest in their ongoing freedom from detention. *See Zadvydas*, 533 U.S. at 690. Further, “[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

**B. Detention under the Immigration & Nationality Act: 8 U.S.C. §§ 1225 & 1226**

28. Detention of noncitizens who have not been ordered removed is generally governed by one of two sections of the Immigration and Nationality Act: INA §§ 235 & 236 (8 U.S.C. §§ 1225, 1226).

29. Section 1225 is titled “Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.” The statute provides:

An alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission. Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title. 8 U.S.C. § 1225(a)(1), (b)(2)(A).

30. An applicant is seeking “admission,” as that term is defined by § 1101(a)(13)(A), if he is seeking “lawful entry . . . after inspection” and authorization. *Tovar v. Noem*, No. 5:25-CV-1509-JKP, 2025 U.S. Dist. LEXIS 250408, at \*13 (W.D. Tex. 2025)

31. An “[a]rriving alien means an applicant for admission coming or attempting to come into the United States . . . regardless of the means of transport.” 8 C.F.R. § 1.2. “Admission” and “admitted” mean “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A).

32. Noncitizens subject to mandatory detention under §1225(b) may be released only if they are “paroled ‘for urgent humanitarian reasons or significant public benefit.’” *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL

1 1869299, at \*2 (D. Mass. July 7, 2025) (quoting 8 U.S.C. § 1182(d)(5)(A)); *see also*  
2 Hyppolite v. Noem, No. 25-CV-4304 (NRM), 2025 U.S. Dist. LEXIS 197628, 2025  
3 WL 2829511, at \*7 (E.D.N.Y. Oct. 6, 2025) (describing mandatory detention under §  
4 235).

5 33. Section 1226, titled "Apprehension and detention of aliens," states:

6 On a warrant issued by the Attorney General, an alien may be arrested and  
7 detained pending a decision on whether the alien is to be removed from the  
8 United States. Except as provided in subsection (c) and pending such decision, the  
9 Attorney General—

10 (1) may continue to detain the arrested alien; and

11 (2) may release the alien on—

12 (A) bond of at least \$1,500 with security approved by, and containing  
13 conditions prescribed by, the Attorney General; or

14 (B) conditional parole . . . .

15 8 U.S.C. § 1226(a).

16 34. Section §1226 therefore creates a "discretionary detention framework" for

17 noncitizens arrested and detained on a warrant issued by the Attorney General.  
18 Gomes, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at \*2. It "authorizes the  
19 [g]overnment to detain certain aliens already in the country pending the outcome of  
20 removal proceedings." Jennings, 583 U.S. at 289.

21 35. The arresting immigration officer has authority to make the initial custody  
22 determination. *See Gomes*, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at  
23 \*2 (citing 8 C.F.R. § 1236.1(c)(8)).

24 36. The noncitizen then "ha[s] the right to request a custody redetermination (i.e., bond)  
25 hearing before an Immigration Judge." *Id.* (citing 8 C.F.R. § 1236.1(c)(8), (d)(1)).  
26 "Bond may be denied only if the government 'either (1) prove[s] by clear and  
27 convincing evidence that [the noncitizen] poses a danger to the community or (2)  
28 prove[s] by a preponderance of the evidence that [the noncitizen] poses a flight risk.'" *Id.* (alterations in original) (quoting Hernandez-Lara v. Lyons, 10 F.4th 19, 41 (1st Cir. 2021)).

37. Section 1226(a)(2)(B) also allows release "on an Order of Recognizance, which is a  
form of conditional parole." *Id.* (citations omitted).

1 38. Thus, § 1226(a) requires "an individualized bond determination before a noncitizen  
2 may be taken into custody." Hyppolite, 2025 U.S. Dist. LEXIS 197628, 2025 WL  
3 2829511, at \*8 (citation omitted).

4  
5  
6 **VI. FACTUAL ALLEGATIONS**

7 **A. DHS and EOIR seek to increase arrests and detentions**

8 39. Since early last year, DHS has implemented a series of policies aimed at detaining  
9 noncitizens present in the United States without inspection and even those who had  
10 previously been released from custody on bond, recognizance, or on parole.

11 40. DHS's policies appear to be motivated by the Administration's imposition of quotas  
12 of 3,000 ICE arrests per day. In part as a result of this campaign, ICE's arrests of  
13 noncitizens with no criminal record have increased more than 800% since before  
14 January 2025.<sup>5</sup>

15 **B. BIA decision blesses novel and expanded use of detention to all persons present  
16 without having been inspected; Respondents increase pretextual rearrests**

17 41. For decades, noncitizens who entered without inspection, were arrested in the  
18 United States and were placed into removal proceedings were generally subject to  
19 discretionary detention under 8 U.S.C. § 1226(a) (and its predecessor statute). Under  
20 that framework, they could be considered for release on bond or conditional parole  
21 by the Department of Homeland Security ("DHS") and receive a bond hearing in  
22 immigration court before an IJ who could order release if found not to pose an undue  
23 flight risk or danger that justified continued detention.

24 42. The government upended this long-held policy and understanding of the law in 2025.

25 43. First, on July 8, 2025, U.S. Immigration and Customs Enforcement ("ICE") issued an

26  
27 <sup>5</sup> José Olivares & Will Craft, ICE Arrests of Migrants with No Criminal History Surging under Trump,  
28 The Guardian, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>.

1 interim guidance memo stating that anyone who entered without inspection was  
2 ineligible for release on bond and could not challenge their detention at a bond  
3 hearing in immigration court, regardless of how long an individual has lived in the  
4 United States.

5 44. As a result, DHS attorneys started arguing, and some Immigration Judges started  
6 finding that such individuals were not eligible for bond hearings in immigration court.

7 45. Then, on September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a  
8 precedential decision, binding on all Immigration Judges, holding that a judge had no  
9 authority to consider bond requests for any person who entered the United States  
10 without inspection. See Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025).

11 46. Respondents have continued to detain noncitizens across the country who entered the  
12 U.S. without inspection.

13 **C. Petitioner’s unlawful detention**

14 47. Petitioner is a citizen and native of Mexico.

15 48. Petitioner entered the United States without inspection in or around September of  
16 2001.

17 49. Petitioner was arrested by the Mesquite, Texas Police Department on March 7, 2026,  
18 for suspicion of Driving While Intoxicated under the Texas Penal Code 49.04, a Class  
19 B Misdemeanor punishable by up to 180 days in jail. His bond was set at \$2,000.00.  
20 Petitioner posted bond with Dallas County Texas and was transferred to Respondents’  
21 custody on March 11, 2026.

22 50. On March 11, 2026, Respondents served Petitioner with a notice to Appear initiating §  
23 1229a removal proceedings.

24 51. Petitioner has never been deemed to constitute either a flight risk or danger to the  
25 community.

26 52. Indeed, no individualized hearing or consideration has been conducted by  
27 Respondents.

28 53. Petitioner was not formally inspected or admitted into the United States at the time of

1 entry.

2 54. The Notice to Appear alleges that Petitioner entered the country without inspection,  
3 permission, or proper entry document and was therefore inadmissible.

4 55. Petitioner remains detained in Respondents' custody currently.

5 56. Petitioner has never been determined to be a flight risk or danger to the community,  
6 and his detention is not related to either of the permissible justifications for civil  
7 immigration detention.

8 57. His detention does not further any legitimate government interest.

9 **D. Bond hearing before an Immigration Judge is an inadequate remedy**

10 58. Petitioner requested a bond hearing, but his request was denied.

11 59. Petitioner is unlikely to receive a fair bond hearing before an immigration judge. *See*  
12 Kyle Cheney, Judges keep ordering immigration hearings – but say the results are a  
13 sham, Politico, Mar. 6, 2016, available at  
14 [https://www.politico.com/news/2026/03/06/immigrationcase-hearings-judges-](https://www.politico.com/news/2026/03/06/immigrationcase-hearings-judges-00815660)  
15 [00815660](https://www.politico.com/news/2026/03/06/immigrationcase-hearings-judges-00815660).

16 60. Scores of judges have been fired, resigned, or retired in the wake of unprecedented  
17 interference with their independence and quasi-judicial function.

18 61. On Information and belief, Respondents have issued directives to immigration judges  
19 encouraging and, effectively ordering, that most bond requests should be denied on  
20 'flight-risk' grounds.

21 62. Immigration Judges continue to report that they or their colleagues are pressured to  
22 deny bond requests.

23 63. Immigration attorneys and independent observers continue to report that bond  
24 hearings are not being conducted fairly and that the overall impression is that the  
25 bond hearings are a 'sham.'

26 64. Even where bond hearings are granted, they are conducted in rushed and grossly  
27 unfair settings. Noncitizens often have difficulties hearing judges or translators  
28 through video conferences from detention centers, have limited access to counsel to

1 prepare, and hearings are conducted rapidly without full consideration of evidence or  
2 testimony.

3 65. Immigration Judge's often give full weight to uncorroborated ICE/CBP reports,  
4 including Form I-213, even where it contains obvious inaccuracies and even in light  
5 of growing reports of ICE and CBP fabrications in court testimony, reports, and other  
6 settings.

7 66. Immigration Judges often do not even permit testimony from noncitizens or their  
8 witnesses before entering a judgment.

9 67. Immigration Judges do not have time to review filings submitted in support of  
10 request for release on bond prior to hearings.

11 68. Immigration Judges are not given the time or resources to adequately conduct fair  
12 bond or merits hearings in the detained or non-detained setting.

13 69. Immigration Judges often cite little or no reasoning in determining that noncitizens  
14 are a flight risk.

15 70. Appeals from Bond decisions take more than 6 months and are unlikely to result in  
16 reversal of a judge's finding.

17 71. Counsel is unaware of any bond denial being reversed by the BIA in the last 15  
18 months, despite conversing with scores of practitioners regularly about this and  
19 related issues.

20 72. EOIR leadership has provided specific email instructions to immigration judges  
21 advising them as to whether they should conduct bond hearings or deny for lack of  
22 jurisdiction.

23 **E. Petitioner is suffering irreparable and ongoing harm as a result of unlawful**  
24 **detention.**

25 73. Petitioner is being deprived of his liberty without lawful basis or permissible  
26 justification. The government previously released him on his own recognizance  
27 finding that he did not pose a flight risk or danger to the community.

28 74. Petitioner is unable to work to earn income to support himself, his family, and to afford

1 legal counsel crucial to his ability to present his asylum claim. Petitioner is unable to  
2 assist with gathering evidence and has difficulty communicating with counsel due to  
3 limited access to counsel and the world outside of the detention center.

## 4 **VII. CLAIMS FOR RELIEF**

### 5 **FIRST CLAIM FOR RELIEF**

#### 6 ***Violation of the Fifth Amendment to the United States Constitution***

#### 7 **(Substantive Due Process—Detention)**

8  
9 75. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs  
10 of this Petition as if fully set forth herein.

11  
12 76. The Due Process Clause of the Fifth Amendment protects all “person[s]” from  
13 deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom  
14 from imprisonment—from government custody, detention, or other forms of physical  
15 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”  
16 Zadvydas, 533 U.S. at 690.

17 77. Immigration detention is constitutionally permissible only when it furthers the  
18 government’s legitimate goals of ensuring the noncitizen’s appearance during removal  
19 proceedings and preventing danger to the community. *See Id.*

20 78. Petitioner is not a flight risk or danger to the community. Respondents’ detention of  
21 Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being  
22 detained in violation of the Due Process Clause of the Fifth Amendment.

23 79. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any  
24 legitimate government purpose. *Id.* (finding immigration detention is civil and thus  
25 ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s  
26 detention appears to be “not to facilitate deportation, or to protect against risk of flight  
27 or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-  
28 imposed DHS quotas and to pressure Petitioner into abandoning his claim for

1 protection through punitive incarceration. Demore, 538 U.S. at 532–33 (Kennedy, J.,  
2 concurring).

3 **SECOND CLAIM FOR RELIEF**

4 **Violation of the Fifth Amendment to the United States Constitution**  
5 **(Procedural Due Process—Detention)**

6 80. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs  
7 of this Petition as if fully set forth herein.

8 81. Petitioner has a strong liberty interest under the Due Process Clause in not being  
9 incarcerated by Respondents.

10 82. Accordingly, “[i]n the context of immigration detention, it is well-settled that due  
11 process requires adequate procedural protections to ensure that the government’s  
12 asserted justification for physical confinement outweighs the individual’s  
13 constitutionally protected interest in avoiding physical restraint.” Hernandez, 872  
14 F.3d at 990 (cleaned up); Zinermon, 494 U.S. at 127 (Generally, “the Constitution  
15 requires some kind of a hearing before the State deprives a person of liberty or  
16 property.”). In the immigration context, for such hearings to comply with due  
17 process, the government must bear the burden to demonstrate, by clear and  
18 convincing evidence, that the noncitizen poses a flight risk or danger to the  
19 community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also*  
20 Martinez v. Clark, 124 F.4th 775, 785, 786 (9th Cir. 2024).

21 83. Petitioner’s detention without hearing violates due process. Respondents have  
22 detained Petitioner without hearing and claimed that he is subject to mandatory  
23 detention under 8 U.S.C. § 1225(b)(2)(A).

24 84. Petitioner’s continued detention without hearing constitutes an ongoing violation of  
25 petitioner’s Constitutional right to under the Due Process Clause. Naveen v. LaRose,  
26 No. 25-CV-3689 JLS (AHG), 2025 U.S. Dist. LEXIS 268483, 2025 WL 3771900, at \*2  
27 (S.D. Cal. Dec. 30, 2025) (rejecting Respondents’ argument that petitioner is a class  
28 member under *Maldonado Bautista* and therefore only entitled to a bond hearing,

rendering her other constitutional arguments moot); Lozada v. Larose, No. 25CV3614-LL-KSC, 2026 U.S. Dist. LEXIS 12973, 2026 WL 184205, at \*2 (S.D. Cal. Jan. 23, 2026) (rejecting same argument and releasing petitioner on due process violation)

### VIII. VERIFICATION OF PETITION

85. The factual allegations made here are true and correct based on counsel's review of the record of proceedings from the Agency and based on counsel's communications with the Petitioner. I hereby swear the above allegations are true and correct to the best of my knowledge and subject to penalty of perjury.

### IX. PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody.
3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, and the Immigration and Nationality Act
4. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community.
5. Enjoin Respondents from detaining Petitioner under § 1225(b) while removal proceedings are ongoing.
6. Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412 (on motion); and
7. Grant such further relief as the Court deems just and proper.

Respectfully submitted this 30<sup>th</sup> Day of June 2026,

/S/BEN LOVEMAN

/s/Joseph Reina

Joseph Reina (PHV Pending)  
Reina and Associates  
1140 Empire Central Drive Ste 300  
Dallas, Texas 75247  
(214) 905-9100  
Jreina@reinalaw.com

### CERTIFICATE OF SERVICE

I certify that on the 30th day of June 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

- 1) Eric Grant  
Acting U.S. Attorney,  
Eastern District of California  
501 I Street, Suite 10-100  
Sacramento, CA. 95814
- 2) David Venturella  
Acting Director,  
Immigration and Customs Enforcement  
500 12th St SW  
Washington, DC 20536
- 3) Todd Blanche  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530
- 4) Markwayne Mullin,  
Secretary of Homeland Security  
U.S. Department of Homeland Security  
245 Murray Lane, SW Mail Stop 0485  
Washington, D.C. 20528
- 5) John Doe, Warden

1 Golden State Annex Detention Facility  
2 611 Frontage Rd,  
3 McFarland, CA 93250

4 /s/ Ben Loveman  
5 Ben Loveman  
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