

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

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

JUAN FLORES-LEON

Petitioner,

v.

WARDEN, Otay Mesa Detention Center;
David VENTURELLA, Acting Director of
U.S. Immigration and Customs
Enforcement; Todd BLANCHE, Acting
Attorney General of the United States; John
Doe, acting in their official capacities,
Respondents.

Case No. '26CV3866 JLS JLB

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

I. INTRODUCTION

1. Juan Flores-Leon ("Petitioner") is a native and citizen of Mexico. He last entered the United States without inspection in 2008. He has not departed the United States since that date. He is married and has U.S. citizen and lawful permanent resident children.
2. On July 3, 2026, Respondents arrested and detained Petitioner, likely without, or with invalid, administrative warrant.
3. Respondents did not make an individualized custody determination at the time of detention and instead claim that Petitioner is subject to mandatory detention pursuant to INA § 1225(b).

- 1 4. Petitioner initially asks this Court **to issue an order to show cause required answer**
2 **within 5 days.** There are no factual disputes in this case, and the legal questions have
3 been considered hundreds of times across the country and in this District.
- 4 5. **Petitioner asks for an order of immediate release. A bond hearing before an**
5 **immigration judge is an inadequate remedy for the ongoing constitutional**
6 **violations in this case.** *See* ¶¶ 48-63;
- 7 6. Additionally, Petitioner requests injunctive and declaratory relief requiring that any
8 detention of Petitioner during ongoing removal proceedings is pursuant to 8 U.S.C. §
9 1226(a) and that he is not subject to mandatory detention under § 1225(b)(1) or (b)(2).
- 10 7. Civil Immigration Detention is generally only permissible for only two reasons: to
11 ensure a noncitizen's appearance at immigration hearings and to prevent danger to the
12 community. But DHS did not arrest and detain Petitioner for either of these reasons.
13 Instead, as part of its broader enforcement campaign, DHS detained Petitioner to strip
14 him of his procedural rights and seeking to pressure Petitioner to abandon his
15 longtime residency in the United States.
- 16 8. Petitioner's arrest and detention are causing him and his family ongoing harm.
17 Petitioner's liberty and ability to earn income is crucial to his ability support himself,
18 and to provide support to his loved ones inside the U.S., and to access and afford
19 counsel.
- 20 9. The Constitution protects Petitioner—and every other person present in this country—
21 from arbitrary arrest and detention and guarantees him due process of law. While the
22 Executive Branch has broad power over the regulation of noncitizens, those powers are
23 still "subject to important constitutional limitations." Zadvydas v. Davis, 533 U.S.
24 678, 695 (2001). "Freedom from bodily restraint has always been at the core of the
25 liberty protected by the Due Process Clause from arbitrary governmental action."
26 Foucha v. Louisiana, 504 U.S. 71, 80 (1992).
- 27 10. Petitioner respectfully, and urgently, seeks a writ of habeas corpus ordering the
28 government to release him from unlawful detention, prohibiting his re-arrest absent a

1 finding that he is a danger to his community or a flight risk from a neutral
2 decisionmaker.

3 II. JURISDICTION AND VENUE

4 11. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
5 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory
6 Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S.
7 Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S.
8 Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

9 12. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
10 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this
11 district at ICE's Otay Mesa Detention Center.

12 III. PARTIES

13 14. Petitioner, Juan Flores Leon, is a native and citizen of Mexico. He is detained by
15 Respondents in Otay Mesa, California.

16 14. Respondent, Warden, is the Warden, Otay Mesa Detention Center. They are
17 Petitioner's immediate physical custodian. They are sued in their official capacity.

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

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

IV. EXHAUSTION

17. 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).

18. 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

19. 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 and procedural.

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

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

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

14 23. Secondly, the Due Process Clause’s procedural protections require that even
15 permissible forms of detention only be imposed where procedural safeguards are in
16 place and have been followed. Lopez v. Heinauer, 332 F.3d 507, 512 (8th Cir.
17 2003) (“The Supreme Court has long recognized that deportable aliens are entitled to
18 constitutional protections of due process.”)
19

20 24. Except in rare situations, “the Constitution requires some kind of a hearing before the
21 State deprives a person of liberty or property.” Zinermon v. Burch, 494 U.S. 113, 127
22 (1990).

23 25. Noncitizens residing in the United States, like Petitioner, have a protected liberty
24 interest in their ongoing freedom from detention. *See* Zadvydas, 533 U.S. at 690.
25 Further, “[g]iven the civil context [of immigration detention], [the] liberty interest [of
26 noncitizens released from custody] is arguably greater than the interest of parolees.”
27 Ortega v. Bonnar, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).
28

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

26. 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).

27. 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).

28. 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)

29. 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).

30. 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 1869299, at *2 (D. Mass. July 7, 2025) (quoting 8 U.S.C. § 1182(d)(5)(A)); *see also* Hyppolite v. Noem, No. 25-CV-4304 (NRM), 2025 U.S. Dist. LEXIS 197628, 2025 WL 2829511, at *7 (E.D.N.Y. Oct. 6, 2025) (describing mandatory detention under § 235).

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

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

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

(2) may release the alien on—

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

(B) conditional parole

8 U.S.C. § 1226(a).

34. Section §1226 therefore creates a "discretionary detention framework" for noncitizens arrested and detained on a warrant issued by the Attorney General. Gomes, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at *2. It "authorizes the [g]overnment to detain certain aliens already in the country pending the outcome of removal proceedings." Jennings, 583 U.S. at 289.

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

36. The noncitizen then "ha[s] the right to request a custody redetermination (i.e., bond) hearing before an Immigration Judge." *Id.* (citing 8 C.F.R. § 1236.1(c)(8), (d)(1)). "Bond may be denied only if the government 'either (1) prove[s] by clear and convincing evidence that [the noncitizen] poses a danger to the community or (2) 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).

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

VI. FACTUAL ALLEGATIONS

A. DHS and EOIR seek to increase arrests and detentions

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

40. DHS's policies appear to be motivated by the Administration's imposition of quotas of 3,000 ICE arrests per day. In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January 2025.¹

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

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

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

43. First, on July 8, 2025, U.S. Immigration and Customs Enforcement ("ICE") issued an interim guidance memo stating that anyone who entered without inspection was ineligible for release on bond and could not challenge their detention at a bond hearing in immigration court, regardless of how long an individual has lived in the United States.

44. As a result, DHS attorneys started arguing, and some Immigration Judges started

¹ José Olivares & Will Craft, ICE Arrests of Migrants with No Criminal History Surging under Trump, The Guardian, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>.

1 finding that such individuals were not eligible for bond hearings in immigration court.
2 45. Then, on September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a
3 precedential decision, binding on all Immigration Judges, holding that a judge had no
4 authority to consider bond requests for any person who entered the United States
5 without inspection. See Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025).

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

8
9 **C. Petitioner’s unlawful detention**

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

11 48. Petitioner entered the United States without visa or inspection in 2008.

12 49. Petitioner has not departed the United States since entering in 2008.

13 50. Petitioner is married and has a U.S. citizen child and a lawful permanent resident
14 child.

15 51. Petitioner was detained by Respondents on or about July 2, 2026.

16 52. Respondents did not have a warrant or valid excuse for not obtaining warrant at time
17 of arrest.

18 53. Respondents did not make an individualized custody determination at the time of
19 arrest or thereafter.

20 54. Respondents have not served Petitioner with a notice to appear in § 1229a removal
21 proceedings nor is there a record of initiation of removal proceedings in Executive
22 Office for Immigration Review’s (EOIR) online case lookup system.

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

25 56. Indeed, no individualized hearing or consideration has been conducted by
26 Respondents.

27 57. Petitioner remains detained in Respondents’ custody as of filing.

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

1 58. Due Process violation of unlawful detention is properly remedied by order of
2 immediate release even where Petitioner has some criminal record. Monsalve v.
3 Chestnut, No. 1:26-cv-00626-DADCKD, 2026 U.S. Dist. LEXIS 17745, at *3 (E.D.
4 Cal. Jan. 29, 2026); Cajina v. Wofford, No. 1:25-cv-01566-DAD-AC (HC), 2025 U.S.
5 Dist. LEXIS 229609, at *2 (E.D. Cal. Nov. 21, 2025).

6 59. Immigration Judges cannot act as neutral arbiters in bond hearings where they have
7 direct financial threat looming over their heads in rendering a decision.

8 60. EOIR and DOJ leadership have placed such a threat over individual immigration
9 judges by terminating immigration judges who do not comply with policy objectives of
10 DOJ or EOIR. Singh v. Valdez, Civil Action No. 26-cv-1109-WJM, 2026 U.S. Dist.
11 LEXIS 71846, at *13 (D. Colo. Apr. 1, 2026)(“To the contrary, the mounting evidence
12 that bond determination hearings conducted in Immigration Court under § 1226(a)
13 have preordained outcomes has become impossible to ignore. As a result, courts across
14 the country have, with increasing frequency, ceased order[ing] even initial bond
15 hearings in cases like this one involving unlawful detention under § 1225(b) because
16 Respondents' conduct can no longer be attributed to mere negligence or ineptitude, . . .
17 and doing so would effectively allow the Government to transform an unlawful
18 detention into a lawful one through post-hoc justifications.”)(omitting internal quote
19 and citation”); Singh v. Baltazar, Civil Action No. 1:26-cv-00336-CNS, 2026 U.S.
20 Dist. LEXIS 26444, at *14 (D. Colo. Feb. 9, 2026) Lepe v. Andrews, 801 F. Supp. 3d
21 1104, 1119 (E.D. Cal. 2025); Martinez v. Hyde, 792 F. Supp. 3d 211, 223 n.23 (D.
22 Mass. 2025); Nicholas Nehamas et al., *How Trump Purged Immigration Judges to*
23 *Speed Up Deportations*, N.Y. Times (Apr. 9, 2026),
24 [https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-](https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html)
25 [purge.html](https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html) (“Teresa Riley, the chief immigration judge, has received daily reports
26 about bond rulings, according to a Justice Department official. **Her office has**
27 **sometimes emailed judges asking for an explanation about their decisions to**
28 **grant bond**, three people said. Ms. Riley declined to comment. One current judge said
the “pressure to deny bond is overt.” **The judge said that there was a requirement to**

1 **inform a supervisor every time bond was granted**, underscoring how closely the
2 administration was monitoring decisions.”) (**emphasis added**).

3 61. Over a hundred immigration judges have been fired, resigned, or retired in the
4 wake of unprecedented interference with their independence and quasi-judicial
5 function.
6

7 62. Respondents have issued directives to immigration judges encouraging and,
8 effectively ordering, that most bond requests should be denied on ‘flight-risk’
9 grounds.
10

11 63. Judges who do grant bond are fired, disciplined, or reassigned.

12 64. Respondents are in possession of statistics showing drastic decrease in bond grant
13 rates over the last 12 months despite no change in legal standard governing bond
14 determinations.
15

16 65. Respondents are in possession of directives, memorandums, and correspondence
17 with immigration judges and immigration courts wherein they directed that bond
18 should rarely, if ever, be granted.
19

20 66. Even where bond hearings are granted, they are conducted in rushed and grossly
21 unfair settings.
22

23 67. Noncitizens often have difficulties hearing judges or translators through video
24 conferences from detention centers, have limited access to counsel to prepare, and
25 hearings are conducted rapidly without full consideration of evidence or testimony.
26

27 68. Immigration Judges often do not even permit testimony from noncitizens or their
28 witnesses before entering a judgment.

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

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

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

72. Appeals from Bond decisions take more than 6 months and data shows that the BIA has not reversed a denial of refusal of bond in the last 6 months.

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

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

64. Petitioner is being deprived of his liberty without lawful basis or permissible justification.

65. Petitioner is being held in penal like detention conditions, is unable to work to earn income to support himself, his family, and to afford legal counsel.

VII. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

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

1 67. The Due Process Clause of the Fifth Amendment protects all “person[s]” from
2 deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom
3 from imprisonment—from government custody, detention, or other forms of physical
4 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
5 Zadvydas, 533 U.S. at 690.

6 68. Immigration detention is constitutionally permissible only when it furthers the
7 government’s legitimate goals of ensuring the noncitizen’s appearance during removal
8 proceedings and preventing danger to the community. *See Id.*

9
10 69. Respondents have not initiated removal proceedings and therefore detention is not
11 designed to ensure attendance at those proceedings.

12 70. Respondents have not determined that Petitioner is a flight risk or a danger.
13 Respondents’ detention of Petitioner is therefore unjustified and unlawful.
14 Accordingly, Petitioner is being detained in violation of the Due Process Clause of the
15 Fifth Amendment.

16 71. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any
17 legitimate government purpose. *Id.* (finding immigration detention is civil and thus
18 ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s
19 detention appears to be “not to facilitate deportation, or to protect against risk of flight
20 or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-
21 imposed DHS quotas and to pressure Petitioner into abandoning his claim for
22 protection through punitive incarceration. Demore, 538 U.S. at 532–33 (Kennedy, J.,
23 concurring).

24 **SECOND CLAIM FOR RELIEF**

25 **Violation of the Fifth Amendment to the United States Constitution**
26 **(Procedural Due Process—Detention without individualized custody determination)**

27 72. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs
28 of this Petition as if fully set forth herein.

1 73. Petitioner has a strong liberty interest under the Due Process Clause in not being
2 incarcerated by Respondents.

3 74. Accordingly, “[i]n the context of immigration detention, it is well-settled that due
4 process requires adequate procedural protections to ensure that the government’s
5 asserted justification for physical confinement outweighs the individual’s
6 constitutionally protected interest in avoiding physical restraint.” Hernandez, 872
7 F.3d at 990 (cleaned up); Zinermon, 494 U.S. at 127 (Generally, “the Constitution
8 requires some kind of a hearing before the State deprives a person of liberty or
9 property.”).

10 75. Petitioner’s detention without individualized custody determination under 1226(a)
11 hearing violates due process. Respondents have detained Petitioner without any
12 custody determination and claim that he is subject to mandatory detention under 8
13 U.S.C. § 1225(b)(2)(A).

14 76. Petitioner’s continued detention without hearing constitutes an ongoing violation of
15 petitioner’s Constitutional right to under the Due Process Clause. Naveen v. LaRose,
16 No. 25-CV-3689 JLS (AHG), 2025 U.S. Dist. LEXIS 268483, 2025 WL 3771900, at *2
17 (S.D. Cal. Dec. 30, 2025) (rejecting Respondents’ argument that petitioner is a class
18 member under *Maldonado Bautista* and therefore only entitled to a bond hearing,
19 rendering her other constitutional arguments moot); Lozada v. Larose, No. 25CV3614-
20 LL-KSC, 2026 U.S. Dist. LEXIS 12973, 2026 WL 184205, at *2 (S.D. Cal. Jan. 23,
21 2026) (rejecting same argument and releasing petitioner on due process violation)

22 **THIRD CLAIM FOR RELIEF**

23 **Violation of the Immigration & Nationality Act**

24 74. Petitioner repeats and re-alleges the allegations contained in the preceding
25 paragraphs of this Petition as if fully set forth herein.

26 75. Respondent’s claim Petitioner is detained pursuant to § 1225(b).
27
28

1 76. § 1225(b) does not authorize detention where a noncitizen is not an ‘arriving alien’
2 or applicant for admission or where a noncitizen has resided in the interior of the
3 United States for over a 17 years.

4
5 77. Respondents do not claim any other source of lawful authority to detain Petitioner.

6 78. Petitioner’s arrest and detention pursuant § 1225(b) is unlawful.
7

8
VIII. VERIFICATION OF PETITION

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

13
IX. PRAYER FOR RELIEF

14
15 Petitioner respectfully requests that this Court:

- 16 1. Assume jurisdiction over this matter;
- 17 2. Issue a writ of habeas corpus ordering Respondents to immediately release
18 Petitioner from custody.
- 19 3. Declare that Petitioner’s arrest and detention violate the Due Process Clause
20 of the Fifth Amendment, and the Immigration and Nationality Act
- 21 4. Enjoin Respondents from re-detaining Petitioner unless his re-detention is
22 ordered at a custody hearing before a neutral arbiter in which the
23 government bears the burden of proving, by clear and convincing evidence,
24 that Petitioner is a flight risk or danger to the community.
- 25 5. Enjoin Respondents from detaining Petitioner under § 1225(b) while
26 removal proceedings are ongoing.
- 27 6. Award Petitioner costs and reasonable attorneys’ fees in this action as
28 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.

1 Respectfully submitted this 6th Day of July 2026,

2 /S/BEN LOVEMAN

3 /s/Joseph Reina

4 Joseph Reina (PHV Pending)
5 Reina and Associates
6 1140 Empire Central Drive Ste 300
7 Dallas, Texas 75247
8 (214) 905-9100
9 rReina@reinalaw.com

10 CERTIFICATE OF SERVICE

11 I certify that on the 6th day of July 2026, I electronically filed the foregoing with
12 the Clerk of the Court using the CM/ECF system, which will send notification of
13 such filing to the following:

14 1) U.S. Attorney for the Southern District of California

15 2) David Venturella
16 Acting Director,
17 Immigration and Customs Enforcement
18 500 12th St SW
19 Washington, DC 20536

20 3) Todd Blanche
21 Attorney General of the United States
22 U.S. Department of Justice
23 950 Pennsylvania Avenue, NW
24 Washington, D.C. 20530

25 4) Warden
26 Otay Mesa Detention Center

27 /s/ Ben Loveman
28 Ben Loveman