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7 **PASCUAL TOMAS TOMAS**

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

10 **PASCUAL TOMAS TOMAS,**

11 Petitioner,

12 v.

13 **CHRISTOPHER CHESTNUT, et al.,**

14 Respondents.

Case No.: 1:26-cv-05204-TLN-CKD

**AMENDED PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28 U.S.C. § 2241**

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17 **I. INTRODUCTION**

18 This case concerns the continued immigration detention of Petitioner PASCUAL TOMAS
19 TOMAS following Respondent's determination that he is subject to mandatory detention under INA §
20 235(b), 8 U.S.C. § 1225(b), without any opportunity for an Immigration Judge to conduct an
21 individualized custody determination.

22 Petitioner has remained in immigration custody since October 2025. During that period, he
23 sought review of his custody before the Immigration Court. One Immigration Judge denied bond on the
24 ground that Petitioner failed to establish he was not a danger to the community. A subsequent
25 Immigration Judge concluded that the Immigration Court lacked jurisdiction altogether because
26 Petitioner was allegedly subject to mandatory detention under § 235(b). Thus, Petitioner has effectively
27 been deprived of any meaningful opportunity to obtain an individualized custody determination.
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Petitioner seeks habeas relief because his continued detention violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and governing federal law.

II. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal immigration custody and challenges the legality and constitutionality of that custody.
2. This Court also has jurisdiction under 28 U.S.C. § 1331 because Petitioner's claims arise under the Constitution and laws of the United States.
3. Habeas jurisdiction remains available to review whether the Government is detaining Petitioner under the correct statutory authority and whether the procedures governing his continued detention satisfy the Due Process Clause. Petitioner does not seek review of the merits of any removal order or ask this Court to determine whether he is removable.
4. Venue is proper in the Eastern District of California because Petitioner is detained at the California City Immigration Processing Center, within this District, and Respondent Christopher Chestnut is the official with immediate custody over Petitioner.
5. On July 7, 2026, the Court ordered that Petitioner not be transferred outside this District while the petition remains pending.

III. PARTIES

6. Petitioner is a native and citizen of Guatemala who has lived in the United States for approximately twenty-three years.
7. Petitioner is presently detained at the California City Immigration Processing Center in California City, California.
8. Respondent Christopher Chestnut is the warden or facility administrator responsible for Petitioner's immediate physical custody. Respondent is named in his official capacity.

IV. FACTUAL AND PROCEDURAL BACKGROUND

A. Petitioner's immigration history

10. Petitioner was born  in Huehuetenango, Guatemala, and is a citizen of Guatemala.

1 11. According to the Department of Homeland Security's records, Petitioner entered the United
2 States without inspection in approximately 2003.

3 12. In August 2019, DHS served Petitioner with a Notice to Appear charging him as removable
4 under 8 U.S.C. § 1182(a)(6)(A)(i), based on his alleged presence in the United States without
5 admission or parole.

6 13. The 2019 Notice to Appear states that an asylum officer had found that Petitioner demonstrated a
7 credible fear of persecution or torture and that an expedited-removal order under 8 U.S.C. §
8 1225(b)(1) had been vacated.

9 14. The materials presently available to appointed habeas counsel do not establish the complete
10 procedural history or present status of Petitioner's removal proceedings. Counsel has requested
11 additional immigration-court records but has not yet received the complete record of
12 proceedings.

13 **B. Petitioner's October 2025 apprehension and detention**

14 15. On October 15, 2025, Florida Highway Patrol officers stopped a vehicle in which Petitioner was
15 traveling as a passenger on his way to work.

16 16. Border Patrol agents participated in or responded to the stop. Florida Highway Patrol transported
17 Petitioner to the West Palm Beach Border Patrol Station, where custody was transferred to
18 Border Patrol.

19 17. DHS prepared a new Form I-213 stating that Petitioner was present in the United States without
20 admission or parole.

21 18. The I-213 further states that DHS databases reflected no pending immigration petitions on
22 Petitioner's behalf. The available records do not explain the status of the removal proceedings
23 initiated through the 2019 Notice to Appear.

24 19. DHS processed Petitioner as detained and relied upon agency guidance issued in July 2025
25 asserting that persons who entered without inspection or are present without admission or parole
26 are subject to mandatory detention under 8 U.S.C. § 1225(b).

1 20. Petitioner was initially confined in Florida. He reports that he was held at the detention facility
2 commonly referred to as "Alligator Alcatraz," later transferred to the Krome Service Processing
3 Center, and ultimately transferred to California City.

4 21. Petitioner has remained continuously detained since October 15, 2025.

5 **C. Petitioner's custody proceedings**

6 22. Petitioner has repeatedly sought review of his detention before the Immigration Court.

7 23. On May 19, 2026, the Immigration Court issued a custody order reflecting "no action."

8 24. On May 26, 2026, an Immigration Judge denied bond on the stated ground that Petitioner had
9 failed to establish that he was not a danger to the community.

10 25. The written May 26 order contains no findings identifying the evidence relied upon, the factual
11 basis for the dangerousness determination, or the reasons the Immigration Judge concluded
12 continued detention was warranted.

13 26. Petitioner did not receive a contemporaneous written explanation sufficient to permit meaningful
14 review of the dangerousness determination.

15 27. After Petitioner was transferred to California, he again requested a custody redetermination.

16 28. On June 26, 2026, a different Immigration Judge concluded that the Immigration Court lacked
17 jurisdiction to conduct a custody redetermination.

18 29. The June 26 decision treated Petitioner as detained under 8 U.S.C. § 1225(b)(2) and relied upon
19 the agency's interpretation that a person who entered without inspection remains an "applicant
20 for admission" subject to mandatory detention.

21 30. The Immigration Judge therefore did not determine whether Petitioner presently poses a danger
22 to the community, whether he presents an unmitigable risk of flight, or whether conditions of
23 release could reasonably assure his appearance.

24 31. The result is that Petitioner remains detained without a current, meaningful, and legally valid
25 individualized determination that his detention is necessary.

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27 **D. Petitioner's medical condition and the effects of detention**

28 32. While detained at Krome, Petitioner fell from an upper bunk on or about January 9, 2026.

1 33. Petitioner reports that the fall caused an injury requiring six stitches and that he has continued to
2 experience headaches, back pain, and stomach pain.

3 34. Petitioner alleges that he has not received adequate evaluation or treatment for his continuing
4 symptoms.

5 35. Petitioner has also suffered substantial psychological distress from prolonged confinement and
6 separation from his family.

7 36. Petitioner has lived in the United States for more than two decades and reports substantial
8 family, employment, and community ties in this country.

9 37. Despite those ties and the availability of less restrictive conditions, Respondent continues to
10 detain Petitioner based on an asserted mandatory-detention rule rather than a valid individualized
11 determination of present necessity.

12 The identity, immigration, arrest, and detention allegations above are supported by the NTA, I-
13 213, criminal-history materials, and pro se petition. The record presently establishes Guatemala as his
14 country of citizenship,  as his date of birth, the October 15, 2025 apprehension, and DHS's
15 reliance on § 1225(b).

16 **V. CLAIM ONE**

17 **Respondent Is Detaining Petitioner Under an Erroneous Interpretation of the Immigration**
18 **and Nationality Act.**

19 38. Petitioner realleges and incorporates by reference the preceding paragraphs.

20 39. Respondent presently maintains that Petitioner is subject to mandatory detention under 8 U.S.C.
21 § 1225(b) and therefore is not entitled to an individualized custody determination before an
22 Immigration Judge.

23 40. That position formed the basis of the Immigration Judge's June 26, 2026 custody order, which
24 concluded that the Immigration Court lacked jurisdiction to conduct a custody redetermination
25 because Petitioner was allegedly detained under § 1225(b). The Immigration Judge therefore
26 declined to determine whether Petitioner presently posed a danger to the community or an
27 unmitigable risk of flight.

28 41. Petitioner's continued detention under that interpretation of § 1225(b) is unlawful.

- 1 42. Congress established different statutory detention schemes depending upon an individual's
2 procedural posture and immigration history. Whether a person is detained under § 1225, § 1226,
3 or another provision of the Immigration and Nationality Act is a legal question subject to judicial
4 review.
- 5 43. The Government's own records demonstrate that Petitioner's immigration proceedings began
6 years before his present detention. DHS served Petitioner with a Notice to Appear in 2019 after
7 an asylum officer determined that he had established a credible fear of persecution and the
8 expedited-removal order had been vacated.
- 9 44. Nevertheless, after Petitioner's October 2025 apprehension, "...DHS processed Petitioner
10 pursuant to agency guidance issued in July 2025 providing that individuals who entered without
11 inspection or are 'present without admission or parole' are subject to mandatory detention under
12 INA § 235(b)." The Form I-213 expressly cites agency guidance issued in July 2025 and states
13 that such individuals "are subject to mandatory detention under INA 235(b)."
- 14 45. Respondent's continued reliance upon that statutory interpretation deprives Petitioner of any
15 meaningful opportunity to obtain an individualized custody determination.
- 16 46. Federal habeas corpus remains available to determine whether immigration authorities are
17 relying upon the correct statutory authority for detention and whether an Immigration Judge
18 erroneously concluded that jurisdiction to conduct a custody determination was absent.
- 19 47. Petitioner's challenge is not to the merits of any removal order. Rather, Petitioner challenges
20 Respondent's legal authority to continue detaining him without an individualized custody
21 determination based upon an erroneous interpretation of the governing detention statutes.
- 22 48. The Ninth Circuit has repeatedly recognized that purely legal challenges concerning the
23 Government's authority to detain or remove an individual remain subject to judicial review and
24 are not foreclosed merely because they arise in the immigration context.
- 25 49. Because Respondent is detaining Petitioner under an erroneous interpretation of the Immigration
26 and Nationality Act, Petitioner's continued detention is unlawful.
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VI. CLAIM TWO

**Petitioner's Continued Detention Without a Meaningful Individualized Custody
Determination Violates the Fifth Amendment Due Process Clause**

50. Petitioner realleges and incorporates by reference all preceding paragraphs.

51. The Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law.

52. Civil immigration detention is regulatory rather than punitive and therefore may continue only so long as it bears a reasonable relationship to its permissible governmental purposes.

53. Petitioner has remained continuously detained since October 15, 2025.

54. During that period, Petitioner has repeatedly sought review of his custody before the Immigration Court.

55. Although Petitioner received custody proceedings, he has not received a meaningful and legally sufficient individualized determination that his continued detention remains necessary.

56. The May 26, 2026 custody order denied bond using a conclusory finding that Petitioner failed to establish that he was not a danger to the community. The written order contains no meaningful factual findings, identifies no evidence supporting that conclusion, and provides no explanation sufficient to permit meaningful administrative or judicial review.

57. The June 26, 2026 custody proceeding did not address dangerousness, flight risk, or alternatives to detention at all. Instead, the Immigration Judge concluded that the Immigration Court lacked jurisdiction to conduct any individualized custody determination because Petitioner allegedly was subject to mandatory detention under 8 U.S.C. § 1225(b). As a result, the Immigration Judge declined to exercise any independent judgment regarding the necessity of Petitioner's continued confinement.

58. The practical consequence of those proceedings is that Petitioner remains detained without any current determination that continued physical confinement is necessary to protect the community or reasonably assure his appearance in future immigration proceedings.

59. Due process requires more than continued detention based solely upon an asserted statutory classification. Where the Government continues to deprive an individual of physical liberty, the

1 Constitution requires procedures that meaningfully evaluate whether continued detention
2 remains justified under the particular facts of the individual case.

3 60. Petitioner possesses substantial ties to the United States, including decades of residence, family
4 relationships, employment history, and community connections. Those individualized
5 considerations have not been meaningfully evaluated in the context of his present detention.

6 61. Less restrictive alternatives to continued detention have likewise not been meaningfully
7 considered.

8 62. The continuing deprivation of Petitioner's liberty without a constitutionally adequate
9 individualized determination violates the Due Process Clause of the Fifth Amendment.

10 63. Unless Respondent provides Petitioner with a constitutionally adequate custody determination
11 within a reasonable period established by this Court, Petitioner's continued detention is unlawful.

12 VII. CLAIM THREE

13 The Bond Proceedings Failed to Provide Meaningful Process and Failed to Produce a 14 Record Sufficient for Judicial Review

15 64. Petitioner realleges and incorporates by reference all preceding paragraphs.

16 65. Immigration detention may not continue based upon conclusory or unexplained determinations
17 that are incapable of meaningful administrative or judicial review.

18 66. Petitioner sought review of his custody before the Immigration Court.

19 67. On May 26, 2026, the Immigration Court denied bond. The written order states only that
20 Petitioner failed to establish that he was not a danger to the community.

21 68. The written order does not identify the evidence relied upon, make findings regarding
22 Petitioner's present dangerousness, explain why any criminal history justified continued
23 detention, discuss Petitioner's favorable equities, or explain why less restrictive alternatives to
24 detention would be inadequate.

25 69. On June 26, 2026, the Immigration Court declined to reach the merits of custody altogether after
26 concluding that it lacked jurisdiction because Petitioner allegedly was subject to mandatory
27 detention under 8 U.S.C. § 1225(b). Accordingly, no individualized determination regarding
28 dangerousness, flight risk, or alternatives to detention was made.

1 70. The combined effect of those proceedings is that Petitioner remains detained without a
2 meaningful, reviewable, and adequately explained custody determination.

3 71. Appointed counsel has requested the administrative materials relating to Petitioner's custody
4 proceedings. Respondent has produced only the written custody orders and selected DHS
5 records. Counsel has not yet received the complete administrative record, including any hearing
6 recordings, exhibits, or transcripts necessary to evaluate fully the proceedings before the
7 Immigration Court.

8 72. Petitioner expressly reserves the right to supplement this petition after receipt of the complete
9 administrative record should additional constitutional, statutory, or procedural violations become
10 apparent.

11 73. Under these circumstances, continued detention based upon an incomplete and insufficiently
12 explained custody process violates Petitioner's rights under the Due Process Clause and warrants
13 habeas relief.

14 **VIII. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

15 74. Petitioner has pursued the administrative procedures reasonably available to challenge his
16 continued detention.

17 75. Petitioner requested custody review before the Immigration Court.

18 76. On May 26, 2026, an Immigration Judge denied bond.

19 77. After Petitioner's transfer to California, he again sought a custody redetermination before the
20 Immigration Court.

21 78. On June 26, 2026, the Immigration Judge concluded that the Immigration Court lacked
22 jurisdiction to conduct a custody redetermination because Petitioner allegedly was subject to
23 mandatory detention under 8 U.S.C. § 1225(b). Accordingly, the Immigration Court declined to
24 conduct any individualized custody determination.

25 79. The issues presented in this habeas proceeding are primarily legal and constitutional. Petitioner
26 challenges the statutory basis for his continued detention, the Immigration Court's conclusion
27 that it lacked jurisdiction to conduct a custody determination, and the constitutionality of
28 Petitioner's continued detention without a meaningful individualized custody determination.

80. Those questions are appropriate for review under 28 U.S.C. § 2241.

81. To the extent any additional administrative remedies may exist, further exhaustion would be futile because the Immigration Court has already concluded that it lacks authority to provide the principal relief sought in this proceeding.

82. Further administrative proceedings likewise would not provide an adequate remedy for Petitioner's continuing deprivation of liberty.

IX. RESERVATION OF RIGHT TO SUPPLEMENT

83. Following appointment, counsel diligently sought the administrative records relevant to Petitioner's detention and custody proceedings.

84. Respondent has produced certain DHS records, including the Notice to Appear, Form I-213, criminal history records, and written custody orders. However, counsel has not yet received the complete administrative record, including the Immigration Court recordings, exhibits, or other materials relating to Petitioner's custody proceedings.

85. Petitioner therefore respectfully reserves the right to supplement or further amend this petition should additional facts or legal issues become apparent after receipt and review of the complete administrative record.

X. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241;
2. Declare that Petitioner's continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;
3. **Order Respondents to immediately release Petitioner from immigration;**
4. **Alternatively, if the Court concludes that immediate release is not presently warranted, order Respondents to provide Petitioner with a constitutionally adequate individualized custody determination before an Immigration Judge within seven (7) days, applying the correct legal standards and burden of proof;**
5. Maintain the Court's July 7, 2026 Order prohibiting Petitioner's transfer outside the Eastern District of California pending resolution of this habeas proceeding;

6. Grant Petitioner leave to supplement or further amend this Petition upon receipt of the complete administrative record relating to his detention and custody proceedings;
7. Retain jurisdiction to enforce any order entered in this matter;
8. Grant such other and further relief as the Court deems just and proper.

Date: August 5, 2026

/s/ Roger Humberto Ponce.

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