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2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
4

5 **ONEL MONTES DE OCA,**

6 Petitioner,

7 v.

8 **WARDEN, California City Immigration**
9 **Detention Center; and**
10 **Sergio ALBARRAN,**
11 **Field Office Director, SF Field Office, US-**
12 **ICE,**

13 Respondents.
14

CASE NO. 1:26-CV-05251-JLT-SAB (HC)

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17 **FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS**
18 **PURSUANT TO 28 U.S.C. § 2241**
19

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1:26-cv-05251-JLT-SAB (HC)

**FIRST AMENDED PETITION FOR WRIT OF
HABEAS CORPUS**

Petitioner Onel Montes de Oca, through appointed counsel, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and alleges as follows:

I. Introduction

1. Petitioner is a 50-year-old native and citizen of Cuba who is presently detained by United States Immigration and Customs Enforcement (“ICE”) at the California City Immigration Processing Center.
2. This is not principally a case in which a noncitizen challenges the ordinary initial period of post-removal-order detention as unreasonably prolonged. Petitioner was ordered removed in 2009, but ICE was unable to effect his removal. ICE instead released him under an Order of Supervision (“OSUP”), and Petitioner thereafter lived in the community under immigration supervision for

approximately sixteen years.

3. ICE's own June 20, 2019 OSUP states why Petitioner was at liberty: "Because the agency has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large." ECF No. 6-2 at 1.
4. On May 3, 2026, ICE abruptly re-detained Petitioner. ICE did not allege that he violated a condition of his OSUP. Instead, ICE checked a box stating only that "[i]t is appropriate to enforce your removal order, which became administratively final on 3/27/2009." ECF No. 6-3 at 4.
5. The notice did not identify any circumstance that had changed since ICE released Petitioner, much less a changed circumstance establishing that his removal had become significantly likely in the reasonably foreseeable future. Nor did it explain how a removal order that ICE had been unable to execute for approximately seventeen years had suddenly become executable.
6. Respondent's own evidence makes the deficiency particularly stark. ICE recorded on May 3, 2026 that Petitioner had **no valid travel documents in his file**. ECF No. 6-3 at 3. ICE separately gave Petitioner a one-page notice stating that it "intends to remove you to Mexico." ECF No. 6-3 at 6. Respondent has produced no evidence that Mexico has agreed to accept Petitioner, that a travel document has been obtained, that removal has been scheduled, or even that a concrete timetable for removal exists.
7. Respondent's original return supplies nothing further. It merely states that "ERO is pursuing third-country removal" and argues that Petitioner has not yet been detained for six months under Zadvydas v. Davis, 533 U.S. 678 (2001). ECF No. 6 at 1-2.
8. That argument addresses a different question. When ICE releases a person subject to a final removal order because it cannot effect removal and later seeks to revoke that release for purposes of removal, 8 C.F.R. § 241.13(i)(2) requires changed circumstances supporting a determination

that removal has become significantly likely in the reasonably foreseeable future. The regulation also mandates meaningful notice and an opportunity to respond. 8 C.F.R. § 241.13(i)(3).

9. This Court recently applied those provisions in materially similar circumstances. In Granuel Dereck v. Noem, No. 1:26-cv-02086-JLT-SKO (HC), the government argued that re-detention was justified because it was pursuing third-country removal to Mexico. The government there had progressed farther than it has here: it had conducted a third-country screening and produced documentation concerning Mexico. Nevertheless, this Court concluded that the government had failed to establish a significant likelihood of removal in the reasonably foreseeable future and ordered the petitioner immediately released under the same conditions of supervision that existed before his re-detention. Order, Granuel Dereck v. Noem, No. 1:26-cv-02086-JLT-SKO, ECF No. 13 at 2–3 (E.D. Cal. Apr. 6, 2026).

10. The same result is warranted here. Petitioner asks the Court to restore the *status quo* that existed before ICE unlawfully revoked his supervised release: immediate release under his prior OSUP conditions. In the alternative, Petitioner requests a prompt custody hearing containing constitutionally adequate safeguards.

II. Parties, Jurisdiction, and Venue

11. Petitioner Onel Montes de Oca  is a native and citizen of Cuba. He is presently detained in ICE custody at the California City Immigration Processing Center. Exh. B.

12. Respondent Warden of the California City Immigration Processing Center is Petitioner's immediate physical custodian and has authority over Petitioner's present physical confinement.

13. Respondent Sergio Albarran is the Field Office Director for the San Francisco Field Office of U.S. Immigration and Customs Enforcement ("ICE"), which exercises authority over Petitioner's immigration custody. Respondent Albarran is sued in his official capacity.

14. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in custody in violation of the Constitution and laws of the United States. Federal courts retain habeas

jurisdiction to review the legality of post-removal-period detention. Zadvydas, 533 U.S. at 687–88.

15. Venue is proper in this District because Petitioner is detained within the Eastern District of California and Respondent exercises custody over him here. Petitioner does not seek review of the validity of his 2009 removal order. Nor does he ask this Court in this Petition to determine whether Mexico is legally permissible as a country of removal. The government’s asserted pursuit of removal to Mexico is relevant here because ICE relies upon prospective third-country removal as the basis for Petitioner’s renewed detention.

16. To the extent prudential exhaustion principles apply, exhaustion should be deemed satisfied or excused. Petitioner stated under penalty of perjury in his original petition that he submitted a request for release to ICE’s Headquarters Post-Order Detention Unit (“HQPDU”) on June 4, 2026, and that no decision had issued as of the filing of that petition. ECF No. 1 at 2–3, 8. The governing regulations provide no administrative appeal from the pertinent custody determinations. See 8 C.F.R. §§ 241.4(d), 241.13(g)(2). Continued detention while awaiting further discretionary administrative action would not provide an adequate remedy for the unlawful re-detention challenged here.

III. Procedural History of This Action

17. Petitioner filed his original *pro se* Petition for Writ of Habeas Corpus on July 8, 2026. ECF No.

1. He signed the Petition under penalty of perjury. ECF No. 1 at 8.

18. On July 30, 2026, Respondent filed a Response and supporting exhibits. Dkts. 6 through 6-4.

19. Respondent asserted that Petitioner was detained pursuant to 8 U.S.C. § 1231(a)(6),

acknowledged that ICE had revoked his supervised release on May 3, 2026, and stated that

“ERO is pursuing third-country removal.” ECF No. 6 at 1. Respondent argued principally that

Petitioner’s detention remained presumptively reasonable because fewer than six months had

elapsed. ECF No. 6 at 2.

20. On July 31, 2026, the Court appointed counsel. The Court specifically noted Respondent's representation that ICE was working toward third-country removal to Mexico rather than Cuba and *sua sponte* granted Petitioner leave to file a First Amended Petition. ECF No. 7 at 1–2.

21. The Court further directed Respondent, in responding to the amended Petition, to address “whether this case is distinguishable from those cases in which this Court has granted habeas relief.” ECF No. 7 at 2.

22. Also on July 31, 2026, the Court ordered Respondent not to remove Petitioner from the United States or transfer him outside this District pending determination of this action. ECF No. 8.

IV. Petitioner's Removal Order and Longstanding Supervised Release

23. Petitioner entered the United States in 2001 and later adjusted his status to that of a lawful permanent resident. ECF No. 6-3 at 2.

24. In 2008, Petitioner was convicted in New Jersey of a controlled-substance offense. An Immigration Judge thereafter ordered him removed to Cuba on March 27, 2009, and Petitioner waived appeal. ECF No. 6-1.

25. ICE did not remove Petitioner. Instead, it released him under supervision.

26. Respondent's records establish that Petitioner was reporting under an OSUP by at least June 2010. The government's records contain repeated reporting entries extending over a period of years. ECF No. 6-2 at 4. Petitioner's own copy of the 2019 OSUP contains additional ICE reporting entries reflecting his continued reporting under supervision in subsequent years. Exh. M.

27. Petitioner was convicted in Florida of marijuana possession in May 2018 and received nine days of incarceration. ECF No. 6-3 at 3.

28. That conviction did not cause ICE to revoke Petitioner's supervised release. To the contrary, ICE issued the OSUP presently in the record on June 20, 2019—more than one year after the 2018 offense. ECF No. 6-2 at 1.

29. The June 20, 2019 OSUP expressly stated that ICE was permitting Petitioner to remain at large because “the agency has not effected your deportation or removal during the period prescribed by law.” ECF No. 6-2 at 1.

30. The OSUP required Petitioner, among other things, to report as directed, provide information requested by ICE, notify ICE concerning certain travel and changes in residence or employment, assist ICE in obtaining travel documents, obey the law, and provide ICE with correspondence concerning requests for travel documents. ECF No. 6-2 at 1, 3.

31. Nothing in ICE’s May 2026 revocation notice alleges that Petitioner violated any of those conditions. ECF No. 6-3 at 4.

V. Petitioner’s Family, Employment, and Community Life

32. During the years ICE permitted Petitioner to remain under supervision, he established substantial family, employment, and community ties in the United States.

33. Petitioner is married to Mayelin Capote Rodriguez, a naturalized United States citizen. Their marriage certificate reflects that they married in New Jersey on February 12, 2016. Exh. C.

Immediately before Petitioner’s detention, Petitioner, Mayelin, and Yoselin resided at [REDACTED]

[REDACTED] while Yankiel, his fiancée Tracy Diaz, and their son Axel resided in the adjoining

[REDACTED] unit of the same duplex property.

34. Petitioner and Mayelin have two adult children. Their daughter, Yoselin Montes de Oca, was born in New Jersey and is a United States citizen. Exh. D. Their son, Yankiel Montes de Oca, was born in Cuba and became a naturalized United States citizen in 2016. Exh. E.

35. Petitioner also played a substantial daily role in caring for his young grandson, [REDACTED] Yankiel reports that Petitioner saw [REDACTED] every day and served as a principal caregiver while Yankiel and [REDACTED] mother, Tracy Diaz, worked full-time, providing approximately forty hours of childcare each week. Petitioner regularly fed [REDACTED] breakfast and lunch, took him bicycle riding and to the park, and participated in the family’s daily evening meals. Exhs. E–F.

36. Petitioner also maintained substantial employment and business ties. [REDACTED] states that it employed Petitioner as a professional truck driver beginning in 2021. Exh. H.

37. After years of trucking and mechanical experience, Petitioner established [REDACTED], a small business that sources truck parts and provides mechanical services to commercial truck drivers. Mayelin assisted Petitioner in operating the business. ICE itself identified Petitioner's occupation in May 2026 as "Business owner" and identified [REDACTED] at [REDACTED] [REDACTED] in connection with his employment. ECF No. 6-3 at 2.

38. Petitioner's tax records further document employment and business activity. His 2024 federal tax transcript contains Schedule C business information reflecting substantial gross receipts and self-employment income. Exh. I. His 2025 tax transcript likewise documents a married joint household and reported income immediately preceding his detention. Exh. J. Petitioner's business records likewise identify [REDACTED] identify Petitioner as its contact person, and reflect active tax-reporting arrangements beginning in 2025. Exh. N.

39. Petitioner's wife, children, grandson's mother, employer, and community members have all provided evidence supporting his return to the community and ability to comply with conditions of supervision. Exhs. C-H. Yankiel further reports that Petitioner was the principal source of income for the household, paying the mortgage, utilities, food, insurance, transportation, and other household expenses; since Petitioner's detention, Mayelin has relied on savings and Yankiel has assisted with household bills.

40. These circumstances do not themselves extinguish lawful immigration detention authority. They do, however, demonstrate the concrete liberty that Petitioner actually exercised for many years under ICE supervision and the readily available supervised-release arrangement that existed before May 3, 2026.

VI. ICE's May 2026 Re-Detention

41. On May 3, 2026, ICE arrested Petitioner at Palm Beach International Airport while he was

1 preparing to board a domestic flight to Newark, New Jersey. ECF No. 6-3 at 1–3. The trip was a
2 routine business trip to oversee  which Petitioner ordinarily made
3 approximately once each quarter. His family knew of the trip, and he had reserved a rental car
4 and hotel accommodations in Woodbridge, New Jersey. He planned to return to Florida on May
5 7, 2026, in time for his daughter Yoselin’s college graduation.

6 42. ICE’s I-213 expressly states: “VALID TRAVEL DOCUMENTS IN FILE: None.” ECF No. 6-3
7 at 3.

8 43. ICE served Petitioner with a Notice of Revocation of Release dated May 2, 2026. ECF No. 6-3 at
9 4.

10 44. The form contains four potential grounds for revocation. ICE did not check the box alleging that
11 Petitioner violated a condition of release. It did not check the box stating that his conduct or
12 another circumstance demonstrated that release was no longer appropriate. Instead, ICE selected
13 only: “It is appropriate to enforce your removal order, which became administratively final on
14 3/27/2009.” ECF No. 6-3 at 4.

15 45. The notice then states, without elaboration, that the decision was based upon “a thorough review
16 of your case and the removal options available at this time.” ECF No. 6-3 at 4.

17 46. ICE did not identify what had changed. It did not state that Cuba had agreed to accept Petitioner.
18 It did not state that another country had agreed to accept him. It did not identify a travel
19 document. It did not identify a scheduled removal. And it did not explain why removal had
20 become significantly likely after approximately sixteen years of supervised release.

21 47. On May 3, ICE also served a one-page Notice of Removal stating: “ICE intends to remove you
22 to Mexico.” ECF No. 6-3 at 6.

23 48. Nothing presently in the record establishes that Mexico has agreed to accept Petitioner.

24 49. ICE conducted what it labeled an “ALIEN INFORMAL INTERVIEW UPON REVOCATION
25

1 OF ORDER OF SUPERVISION UNDER 8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i).” ECF No. 6-
2 3 at 7.

3 50. The form recites that the interview was intended to give Petitioner an opportunity to respond to
4 the reasons for revocation. But the portion of the form reserved for Petitioner’s oral response is
5 blank. The form indicates only that Petitioner did not provide a written statement. ECF No. 6-3
6 at 7.

7 51. The record contains no evaluation of contested facts, no explanation of what circumstance had
8 changed, and no determination explaining why Petitioner’s removal had become significantly
9 likely in the reasonably foreseeable future.

10 52. Section 241.4(l)(3) further provides that, if a person remains detained after the initial informal
11 interview, the normal review process commences with notice of a records review and an
12 interview ordinarily expected within approximately three months after revocation, followed by a
13 final evaluation of the facts relevant to revocation and continued detention.

14 53. More than three months have now elapsed since the May 3, 2026 revocation. On information and
15 belief, Petitioner has not received notice of any further custody review, has not received the
16 interview contemplated by 8 C.F.R. § 241.4(l)(3), and has not received a written determination
17 following such review.

18 54. In any event, no such subsequent custody-review determination presently appears in the record
19 before this Court.

20 **VII. CLAIM ONE**

21 **ICE’s Re-Detention Violates 8 C.F.R. § 241.13(i)(2)**

22 55. Petitioner incorporates paragraphs 1 through 54.

23 56. Federal regulations specifically govern the re-detention of a person whom ICE previously
24 released because removal could not be effectuated.

25 57. Section 241.13(i)(2) provides that ICE may revoke such release for purposes of removal only “if,

on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.”

58. That standard is distinct from the general question whether an initial period of detention following a removal order has exceeded Zadvydass’s six-month presumptively reasonable period.

59. This Court has repeatedly applied § 241.13(i) to re-detention following supervised release. See, e.g., Granuel Dereck v. Noem, No. 1:26-cv-02086-JLT-SKO, ECF No. 13 (E.D. Cal. Apr. 6, 2026); Hai Thanh Le v. Chestnut, No. 1:26-cv-01750-JLT-SAB, 2026 WL 809891, at *4 (E.D. Cal. Mar. 24, 2026); Saqib v. Andrews, No. 1:25-cv-02035-DC-CSK, 2026 WL 350830, at *5–7 (E.D. Cal. Feb. 9, 2026), adopted, 2026 WL 440566 (E.D. Cal. Feb. 17, 2026).

60. Granuel Dereck is particularly instructive. There, as here, ICE had previously released a person subject to a final removal order because removal could not be effected. There, as here, ICE later claimed that third-country removal to Mexico justified renewed detention. And there, as here, the government argued that detention remained presumptively reasonable because six months had not yet elapsed.

61. This Court rejected that argument. It held that § 241.13(i)(2) governed the re-detention and required the government to establish changed circumstances making removal significantly likely in the reasonably foreseeable future.

62. Indeed, the government’s showing in Granuel Dereck was stronger than the present showing. There, the government produced a third-country screening worksheet and evidence that an asylum officer had evaluated potential persecution or torture in Mexico. Nevertheless, because the record did not establish coordination with Mexico, travel-document efforts, a scheduled removal, or a concrete timeframe, this Court held that the showing was insufficient.

63. Here, Respondent has produced even less. ICE’s own I-213 states that no valid travel documents are in the file. ECF No. 6-3 at 3. The only evidence concerning Mexico is a notice stating that

ICE intends to remove Petitioner there and Respondent's unsupported assertion that ERO is "pursuing" third-country removal. ECF No. 6 at 1; ECF No. 6-3 at 6.

64. Respondent has produced no evidence of Mexico's acceptance, no travel document, no scheduled removal, no diplomatic or governmental correspondence, and no anticipated timeframe.

65. ICE therefore lacked the showing required by § 241.13(i)(2) when it revoked Petitioner's release, and Respondent has not supplied that showing since.

66. Petitioner's continued custody is consequently contrary to the laws and regulations of the United States and is unlawful under 28 U.S.C. § 2241(c)(3).

VIII. CLAIM TWO

ICE Failed to Follow the Mandatory Revocation Procedures of 8 C.F.R. §§ 241.13(i)(3) and 241.4(l)

67. Petitioner incorporates paragraphs 1 through 66.

68. Section 241.13(i)(3) requires that, upon revocation, ICE notify the person of the **reasons** for revocation and promptly conduct an informal interview permitting a meaningful response to those reasons.

69. The regulation expressly permits the person to submit evidence showing that removal is not significantly likely in the reasonably foreseeable future and requires the revocation custody review to evaluate disputed facts and determine whether those facts warrant revocation and further detention.

70. Merely telling a person that "circumstances have changed," or otherwise failing to identify what allegedly changed, does not afford the meaningful notice contemplated by § 241.13(i)(3). See Saqib, 2026 WL 350830, at *5–6.

71. Petitioner received even less. ICE did not identify any changed circumstance. It simply told him that it was now "appropriate to enforce" a removal order that had been final since 2009. ECF No.

6-3 at 4.

72. A person cannot meaningfully respond to a claim that removal has newly become foreseeable when ICE does not identify the factual development that supposedly made it so.

73. The May 3 informal-interview record confirms the resulting inadequacy. The form contains no recorded oral response, no identified evidence, no resolution of a disputed fact, and no reasoned custody determination. ECF No. 6-3 at 7.

74. Section 241.4(l)(3) independently requires a further review process following revocation if the person remains detained, ordinarily including notice and an interview approximately three months after revocation, followed by a final evaluation whether the facts warrant continued revocation and denial of release.

75. On information and belief, ICE has not provided Petitioner the further custody review contemplated by 8 C.F.R. § 241.4(l)(3), despite the passage of more than three months since the May 3, 2026 revocation.

76. ICE's failure to comply with its mandatory regulatory procedures renders Petitioner's continued detention unlawful.

IX. CLAIM THREE

Petitioner's Re-Detention Without Constitutionally Adequate Process Violates the Fifth Amendment

77. Petitioner incorporates paragraphs 1 through 76.

78. The Due Process Clause protects every person within the United States from deprivation of physical liberty without constitutionally adequate process. Zadvydas, 533 U.S. at 690, 693.

79. Petitioner's private liberty interest is substantial. This is not the continuation of an uninterrupted detention. The government released Petitioner into the community, permitted him to remain there under supervision for approximately sixteen years, and allowed him to build and maintain a family, employment, business, home, and community life.

80. The risk of erroneous deprivation was correspondingly substantial. ICE re-detained Petitioner based upon a conclusory checkbox stating only that it had become appropriate to enforce his longstanding removal order. It did not identify a changed circumstance. It did not identify an available travel document. It did not establish acceptance by Mexico. And the resulting informal-interview record contains no meaningful factual adjudication.

81. The governmental burden associated with providing meaningful notice and the procedures required by ICE's own regulations is minimal. Indeed, ICE is already required by §§ 241.13(i) and 241.4(l) to provide those protections.

82. Under Mathews v. Eldridge, 424 U.S. 319, 335 (1976), the balance therefore weighs decisively in favor of meaningful process before—or, in circumstances genuinely requiring immediate arrest, promptly after—the government extinguishes an established supervised liberty.

83. Recent decisions in this District recognize that the procedures contained in §§ 241.13(i) and 241.4(l) protect important due-process interests and require meaningful notice of the actual factual basis for re-detention. See Saqib, 2026 WL 350830, at *5–6; Granuel Dereck, No. 1:26-cv-02086-JLT-SKO, ECF No. 13; see also Fidel Arteaga Hernandez v. Bondi, No. 1:26-cv-00486-TLN-SCR, ECF No. 14 at 4–6 (E.D. Cal. Jan. 30, 2026).

84. Petitioner was not afforded constitutionally sufficient process before being deprived of the supervised liberty he had exercised for years.

85. His continued detention therefore violates the Fifth Amendment.

X. ALTERNATIVE CLAIM FOUR

Continued Detention Is Not Reasonably Related to Effectuating Removal

86. Petitioner incorporates paragraphs 1 through 85.

87. Section 1231(a)(6) does not authorize indefinite detention untethered from the likelihood of removal. Zadvydas, 533 U.S. at 699–701.

88. Petitioner recognizes that Zadvydas identifies six months as a presumptively reasonable period

1 for ordinary post-order detention. This claim is pleaded in the alternative and does not limit
2 Claims One through Three, which challenge the separate legality and process governing re-
3 detention after longstanding release.

4 89. The present evidence nevertheless provides substantial reason to question whether Petitioner's
5 removal is significantly likely in the reasonably foreseeable future. His removal order has existed
6 since 2009. ICE was unable to execute it and released him. ICE's own May 2026 record states
7 that no valid travel documents are in the file. ECF No. 6-3 at 3.

8 90. Respondent does not contend that removal to Cuba is presently scheduled. Instead, it relies on
9 possible removal to Mexico.

10 91. But Respondent has not established that Mexico has agreed to accept Petitioner, that any travel
11 document has been obtained, that removal has been scheduled, or that the asserted third-country
12 removal process has reached any concrete stage beyond ICE's stated intention.

13 92. Continued detention cannot become reasonable merely because ICE has identified the name of a
14 possible third country without demonstrating a realistic path and reasonably foreseeable
15 timeframe for removal.

16 93. This claim becomes still stronger as Petitioner's detention continues and should be preserved
17 even if the Court concludes that the six-month presumption presently precludes relief on this
18 alternative ground alone.

19 **XI. Immediate Release Is the Appropriate Remedy**

20 94. The principal injury challenged here is the unlawful **revocation of an existing supervised**
21 **release**, not merely the absence of a subsequent opportunity to seek release.

22 95. Immediate restoration of the preexisting OSUP therefore places Petitioner in the position he
23 occupied before the unlawful deprivation and is narrowly tailored to the violation.

24 96. That is precisely the relief this Court ordered in Granuel Dereck: immediate release "with the
25 same conditions of supervision in place prior to his re-detention," coupled with an injunction

1 prohibiting renewed detention unless ICE complied with §§ 241.4(l), 241.13(i), and other
2 applicable procedures. No. 1:26-cv-02086-JLT-SKO, ECF No. 13 at 3.

3 97. Petitioner's family and employment evidence confirms that restoration of supervised release is
4 readily workable. His United States citizen wife and two adult United States citizen children
5 remain available to support him; his family occupies adjoining units of the same duplex property;
6 he was the principal financial provider for his household and a daily caregiver for his grandson;
7 and he maintained an operating small business before detention. Exhs. C–J.

8 98. A bare immigration-court bond hearing would also be materially less complete relief. Recent
9 empirical evidence documents a substantial deterioration in immigration bond outcomes.
10 Gunther and Marrow report that 2025 produced the lowest bond-grant rate in their dataset and
11 that the first four months of 2026 were lower still. Exh. K, Joseph Gunther & Brandon Marrow,
12 *Immigration Bonds in the Second Trump Administration* (updated May 26, 2026).

13 99. The Salazar Declaration provides additional California-specific context. At the Adelanto
14 Immigration Court—the court studied in that declaration—denials increased from 39.3% to
15 57.4% of completed bond records after November 10, 2025, the grant rate fell from 37% to
16 25.7%, and the median recorded positive bond increased from \$7,500 to \$10,000. Exh. L ¶¶ 12–
17 17. Petitioner does not contend that Adelanto necessarily would conduct his hearing; the
18 evidence is offered as corroborative evidence regarding the practical adequacy of a bare bond-
19 hearing remedy.

20 100. The appropriate primary remedy is therefore immediate release under the previously
21 existing OSUP.

22 101. If the Court declines immediate release, Petitioner requests, in the alternative, a custody
23 hearing before a neutral Immigration Judge within seven days. At that hearing, the Government
24 should bear the burden of proving by clear and convincing evidence that continued detention is
25

1 necessary because Petitioner presents a flight risk or danger; the Immigration Judge should be
2 required to consider alternatives to detention and Petitioner's ability to pay before imposing any
3 monetary bond; and the hearing should be contemporaneously recorded, with a transcript or
4 audio recording available to Petitioner. See Singh v. Holder, 638 F.3d 1196, 1203, 1208 (9th Cir.
5 2011); Hernandez v. Sessions, 872 F.3d 976, 990–93 (9th Cir. 2017).

6 **XII. Prayer for Relief**

7 WHEREFORE, Petitioner respectfully requests that this Court:

- 8 1. Assume jurisdiction over this matter and issue the writ of habeas corpus;
- 9 2. Declare that Petitioner's May 2026 re-detention and continued detention violate the governing
10 federal regulations and the Due Process Clause of the Fifth Amendment;
- 11 3. Order Respondent to release Petitioner immediately under the same Order of Supervision
12 conditions that governed his release before May 3, 2026;
- 13 4. Enjoin Respondent and those acting in concert with Respondent from re-detaining Petitioner
14 unless and until the government complies with 8 C.F.R. §§ 241.4(l), 241.13(i), and all other
15 applicable statutory, regulatory, and constitutional requirements;
- 16 5. In the alternative, order that Petitioner receive within seven days a custody hearing before a
17 neutral Immigration Judge at which the Government bears the burden of proving by clear and
18 convincing evidence that continued detention is necessary based on flight risk or danger; the
19 Immigration Judge must consider alternatives to detention and ability to pay before imposing
20 monetary bond; the Immigration Judge must issue written findings explaining the decision; and a
21 contemporaneous transcript or audio recording must be made and provided to Petitioner upon
22 request;
- 23 6. Continue the protections of the Court's July 31, 2026 order, ECF No. 8, as necessary to preserve
24 this Court's jurisdiction while this Petition remains pending; and

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

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3 Dated: August 14, 2026

Respectfully submitted,

4 /s/ Erin J. Radekin

5 ERIN J. RADEKIN

6 Attorney for Petitioner

7 ONEL MONTES DE OCA

Verification

I, Erin J. Radekin, declare as follows:

1. I am counsel of record for Petitioner Onel Montes de Oca in this action and am authorized to act on his behalf.
2. I have reviewed the foregoing First Amended Petition for Writ of Habeas Corpus and the records and evidence presently available in this matter.
3. I verify the factual allegations in the First Amended Petition based upon my review of the record, communications with Petitioner and his family, and information obtained in the course of my representation.

Executed this 14 day of August, 2026, in Sacramento, California.

/s/ Erin J. Radekin
ERIN J. RADEKIN

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the District Court for the Eastern District of California by using the CM/ECF system on August 14, 2026.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that the following non-CM/ECF participant has been served by mail:

Onel Montes De Oca
Cal. City Imm. Det. Ctr.
☒ Via U.S.P.S.

/s/ Melissa Amanda Trinidad
MELISSA AMANDA TRINIDAD