

JODI LINKER,
Federal Public Defender
LISSET M. PINO, Bar No. 346133
Assistant Federal Public Defender
19th Floor Federal Building - Box 36106
450 Golden Gate Avenue
San Francisco, CA 94102
Tel: (415) 436-7700
Fax: (415) 436-7706

Attorney for Petitioner
MAXIMILIANO VIDAL RAMOS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAXIMILIANO VIDAL RAMOS,	)	Case No. 1:26-cv-05248-VC (HC)
Petitioner,	)	PETITIONER'S TRAVERSE
vs.	)	
WARDEN OF THE DETENTION	)	
FACILITY, <i>et al.</i> ,	)	
Respondents.	)	

I. Introduction

In 2021, after increasing violence and persecution due to his sexual orientation, Petitioner Maximiliano Vidal Ramos fled from his native Mexico to the United States. He filed an asylum application, which remains pending, and settled in Panama City, Florida.

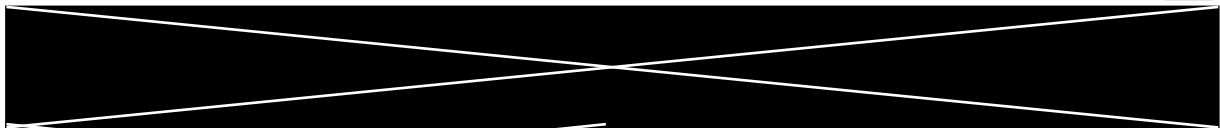
On January 25 of this year, Mr. Vidal Ramos was arrested by local police on after being falsely accused of attacking his roommate. The charges against him were ultimately dismissed, but instead of being released, Mr. Vidal Ramos was taken into ICE custody on March 3, 2026. He was not given any notice or a pre-deprivation hearing before he was detained.

In their barebones opposition, Respondents fail to identify any provision of law authorizing Mr. Vidal Ramos' continued detention. They half-heartedly suggest that he is detained under § 1225(b)(2)(A), but Mr. Vidal Ramos has been present in the U.S. for five years, meaning § 1225(b)(2)(A) does not apply to him. Respondents' argument to the contrary has been

1 repeatedly rejected by courts in this District, and now also by the Ninth Circuit. *See Rodriguez*
2 *Vazquez v. Bostock*, No. 25-6842, Slip Op. at 25 (July 30, 2026). Under § 1226(a), the applicable
3 provision here, Respondents violated Mr. Vidal Ramos' rights by detaining him without a
4 warrant. Accordingly, this Court should grant the petition and order Mr. Vidal Ramos's
5 immediate release.

6 II. Background

7 Mr. Vidal Ramos entered the United States in 2021 after fleeing from his hometown of
8 Tabasco, Mexico. Declaration of Maximiliano Vidal Ramos (hereinafter "M.V.R. Decl.") at ¶¶ 3,
9 11. As a gay man, Petitioner faced severe persecution due to his sexual orientation. *Id.* at ¶ 5. 

10 
11  *Id.* at ¶ 7. Each time, the beatings were
12 perpetrated by different people. *Id.* The Mexican police brushed off his reports twice, telling him
13 
14  *d.* at ¶ 8.

15
16 Mr. Vidal Ramos ultimately fled to the U.S. shortly after a particularly vicious attack by a
17 cartel in July 2021. *Id.* at ¶ 9. 

18 
19  *Id.* They told him that he was being released so he could
20 warn other people from his town that they would be killed for being gay. *Id.* He was then
21 stripped naked and released into town. *Id.*

22 Shortly thereafter, Mr. Vidal Ramos fled to the United States to seek asylum. *Id.* at ¶ 11.
23 He filed for asylum without an attorney and was granted a work permit. *Id.* at ¶ 12-14. He
24 resided in Panama City, Florida, where he worked in construction, house cleaning, and cooking
25 tacos. *Id.* at ¶¶ 15, 16. He was a productive member of the community and had never been in
26 trouble with the authorities. *Id.* at ¶ 20.

27 Unfortunately, on January 25, 2026, Mr. Vidal Ramos was assaulted by his inebriated
28 roommate. *Id.* at ¶ 21. During the attack, his roommate had both hands on his neck, choking him.

1 *Id.* Scared of being asphyxiated to death, he defended himself by hitting his roommate in the
2 head with a bowl. *Id.* When he went to report the assault, he was told his roommate had already
3 filed a report falsely alleging that Mr. Vidal Ramos had been the one who assaulted him. *Id.* at
4 ¶¶ 22-23. Because of the roommate's report, there was a warrant issued for Mr. Vidal Ramos'
5 arrest, and he was taken into custody. *Id.*

6 Ultimately, the charges were dismissed. *Id.* at ¶ 24. However, instead of being released
7 from custody, Mr. Vidal Ramos was detained by ICE on March 3, 2026. *Id.* at ¶ 25. He was not
8 given a bond hearing or any notice before he was detained by ICE. *Id.* at ¶ 27.

9 On or about July 10, after being in ICE custody for more than *four months*, Respondents
10 finally provided Mr. Vidal Ramos with the statutorily-required bond hearing before an
11 immigration judge ("IJ"). *Id.* at ¶ 28. But that bond hearing was fatally deficient: DHS counsel
12 argued that the IJ did not have jurisdiction to grant bond. *Id.* The IJ agreed and informed Mr.
13 Vidal Ramos that he was unable to grant release. *Id.* Mr. Vidal Ramos, who was not represented
14 by counsel, was not given the opportunity to argue that he was not a flight risk or danger to the
15 community. *Id.*

16 On July 8, 2026, Mr. Vidal Ramos filed a *pro se* petition for Writ of Habeas Corpus. Dkt.
17 1. On July 9, this Court issued an order providing for the appointment of counsel and instructed
18 Respondents to file responsive papers. Dkt. 5. The government filed an opposition on July 23,
19 2026. Dkt. 7. This traverse follows.

20 **III. Argument**

21 **A. Respondents do not identify any provision of law authorizing** 22 **Petitioner's continued detention.**

23 In their reply, Respondents do not identify any statutory basis that could justify the
24 continued detention of Mr. Vidal Ramos. Contrary to Respondents' contention, Mr. Vidal Ramos
25 is not an applicant for admission subject to detention under 8 U.S.C. § 1225(b). Dkt. 7 at 1. As
26 this Court has held, and as the Ninth Circuit recently recognized, § 1226(a) governs the detention
27 of noncitizens who, like Petitioner, have resided in the U.S. for several years. *Rodriguez Vazquez*
28 *v. Bostock*, No. 25-6842, Slip Op. at 25 (July 30, 2026); *see also Luna Cruz v. Warden of the*

1 *Golden State Annex*, No. 1:26-CV-04584 (VC), 2026 WL 1898916, at *2 (E.D. Cal. July 1,
 2 2026) (“Courts throughout this Circuit, including this Court, have found that . . . § 1225(b)(2)”
 3 does not apply “to individuals—like Petitioner—who have lived in the country for many years”).
 4 Having lived in the U.S. for five years, Mr. Vidal Ramos was indisputably residing in the United
 5 States at the time of his detention.

6 Importantly, Petitioner has not received the process § 1226(a) requires.¹ Individuals
 7 subject to § 1226(a) may only be arrested and detained on a warrant. 8 U.S.C. § 1226(a) (“On a
 8 warrant issued by the Attorney General”). That warrant, naturally, must issue *before* the
 9 noncitizen may be taken into custody. But here, Respondents have not submitted any evidence
 10 that Mr. Vidal Ramos was detained pursuant to such a warrant. *See* Dkt. 7 at 1-2 (no exhibits
 11 submitted in support of Respondents’ position). In a materially-identical case, this Court held
 12 that the petitioner could not be detained under § 1226(a) because Respondents did “not point[] to
 13 any evidence or facts indicating that Petitioner was provided the process provided for by
 14 § 1226(a), including issuance of a valid warrant *before* arrest.” *Leon-Nunez v. Warden, Cent.*
 15 *Valley Annex*, No. 1:26-CV-04881 (VC), 2026 WL 1999923, at *2 (E.D. Cal. July 10, 2026)
 16 (emphasis added). Here, Respondents similarly failed to present any evidence that Petitioner was
 17 arrested pursuant to a warrant. Thus, Respondents are required to immediately release Mr. Vidal
 18 Ramos from custody.

19 The fact that Mr. Vidal Ramos has received a bond hearing does not change the outcome,
 20 for two reasons. First, a bond hearing is a wholly inadequate remedy for the harm caused by an
 21 unlawful arrest. Section 1226(a) requires that an arrest be made *after* the issuance of a warrant in
 22

23
 24 ¹ Respondents argue Mr. Vidal Ramos “has criminal history,” but notably, they do not claim he
 25 is subject to mandatory detention under 8 U.S.C. § 1226(c). Dkt. 7 at 1. For good reason:
 26 because the criminal charges against Mr. Vidal Ramos were dropped, § 1226(c) plainly does not
 27 authorize his detention. *See, e.g., Singh v. Chestnut*, No. 1:26-cv-00546-DJC-AC, 2026 WL
 28 266021 (E.D. Cal. Feb. 2, 2026) (“[C]ourts have construed [§ 1226(c)(1)(E)(ii)] to apply only
 where an individual is *currently* charged with . . . [one of] the enumerated crimes”) (cleaned up).
 In the interest of brevity, Petitioner has opted not to address an argument Respondents did not
 make. However, should the Court deem it necessary, Petitioner will gladly submit additional
 briefing on this point.

1 order to ensure that the agency has made “an individualized determination as to whether a
2 noncitizen ‘pose[s] a danger to property or persons,’ or is unlikely ‘to appear for any future
3 proceeding.’” *Gonzalez v. Joyce*, No. 25 CIV. 8250 (AT), 2025 WL 2961626, at *3 (S.D.N.Y.
4 Oct. 19, 2025), *appeal withdrawn sub nom. Gonzalez v. Noem*, No. 26-237, 2026 WL 1211500
5 (2d Cir. Feb. 17, 2026) (quoting 8 C.F.R. § 1236.1(c)(8)). Here, where no such determination
6 was made, a belated bond hearing cannot cure that basic deficiency. To hold otherwise would be
7 to find “that government agents may sweep up any person they wish without [any prior]
8 consideration of dangerousness or flight risk, so long as the person will, at some unknown future
9 date, be allowed to ask some other official for his or her release,” a notion that clearly “offends
10 [our] ordered system of liberty.” *Id.* at *5.

11 Second, the facts here indicate that Mr. Vidal Ramos did not receive a § 1226(a) bond
12 hearing. At such a bond hearing, the IJ would have considered whether Mr. Vidal Ramos posed a
13 danger to the community or constituted a flight risk. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA
14 2006). But here, the IJ concluded only that he lacked jurisdiction to grant Petitioner bond,
15 without any consideration of dangerousness or flight risk. Thus, Mr. Vidal Ramos still has not
16 received a bond hearing at which an individualized assessment of the need to detain him is made,
17 which is what § 1226(a) requires.

18 In sum, Respondents initially violated the law when they detained Mr. Vidal Ramos
19 without a warrant, and they again violated the law by unlawfully detaining him for three months
20 without the type of bond hearing § 1226(a) requires. In light of that, ordering *another* bond
21 hearing “would effectively allow the Government to transform an unlawful detention into a
22 lawful one through post-hoc justifications and would inadequately remedy the harms suffered by
23 Petitioner.” *Leon-Nunez*, 2026 WL 1999923, at *2 (internal quotation marks and citation
24 omitted). Thus, as this Court held in *Leon-Nunez*, immediate release is the appropriate remedy in
25 this case.

26 **B. In the alternative, Mr. Vidal Ramos’s Detention Violated the**
27 **Due Process Clause of the Fifth Amendment to the United States**
28 **Constitution.**

In addition to the statutory claim raised above, Mr. Vidal Ramos’ continued detention is

1 separately unlawful because it violates his rights under the Fifth Amendment's Due Process
2 Clause. *Zadvydas v. Davis*, 533 U.S. 678, 693-94 (2001) ("[T]he Due Process Clause applies to
3 all 'persons' within the United States, including [noncitizens], whether their presence here is
4 lawful, unlawful, temporary, or permanent."). "Freedom from imprisonment—from government
5 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the
6 Due Process] Clause protects." *Id.* at 690. To determine what process is necessary under these
7 circumstances, courts generally apply the familiar factors articulated in *Mathews v. Eldridge*, 424
8 U.S. 319, 335 (1976). Here, those factors support Mr. Vidal Ramos' constitutional right to pre-
9 deprivation notice and a hearing.

10 First, Mr. Vidal Ramos has a substantial private interest in his own liberty that is
11 unquestionably undermined by Respondents' decision to detain him. The amount of time Mr.
12 Vidal Ramos has spent in the United States—five years—underscores the gravity of its loss. *See*
13 *Xinhai H., v. Robbins*, No. 1:26-CV-02622-TLN-CSK, 2026 WL 983176, at *3 (E.D. Cal. Apr.
14 13, 2026) (holding so about a petitioner who has been at liberty in the United States since 2024).

15 Second, the risk that Mr. Vidal Ramos has been erroneously deprived of this liberty
16 interest is considerable. Because civil immigration detention is "nonpunitive in purpose and
17 effect," a "special justification" must outweigh Mr. Vidal Ramos' protected liberty interest for
18 his detention to comport with due process. *Zadvydas*, 533 U.S. at 690. Here, a neutral adjudicator
19 has yet to consider the question of whether Mr. Vidal Ramos must remain detained because he is
20 a flight risk or poses a danger to the community. However, it is worth noting that Mr. Vidal
21 Ramos has a clean criminal record and has been continuously living in Panama City for several
22 years. Moreover, the fact that he has a pending asylum application gives him little incentive to
23 flee. Accordingly, the risk that he is being detained without justification is high.

24 Finally, the government's interest in detaining Mr. Vidal Ramos without notice and a pre-
25 deprivation hearing is low. The effort and cost required to provide him with procedural
26 safeguards are minimal. *See Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025).
27 Notice and custody-determination hearings are routine processes for Respondents and are indeed
28 the very processes required under 8 U.S.C. § 1226(a). Any burden associated with the provision

1 of these processes does not outweigh Mr. Vidal Ramos' substantial liberty interest and the risk of
2 erroneous deprivation.

3 Finally, for the same reasons discussed above, the post-deprivation hearing provided by
4 Respondents is not sufficient to cure the violation of Petitioner's due process rights. See supra p.
5 5. "A vital hallmark" of due process "is the opportunity to present evidence and testimony on
6 one's behalf." *Oshodi v. Holder*, 729 F.3d 883, 889 (9th Cir. 2013) (en banc). Here, because the
7 IJ immediately agreed with DHS's argument that he lacked jurisdiction to grant bond, Mr. Vidal
8 Ramos did not have any opportunity to present evidence that he is not a danger or flight risk.
9 This truncated post-deprivation hearing is woefully insufficient to remedy the lack of a pre-
10 deprivation hearing in this case. At this stage, immediate release—not another bond hearing—is
11 required. See *Feng v. Lyons*, No. 1:26-CV-00235-DJC-SCR, 2026 WL 472635, at *1 (E.D. Cal.
12 Feb. 19, 2026) (ordering immediate release because "[p]rovision of a bond hearing after months
13 of detention without the opportunity to seek release on bond cannot be said to satisfy due
14 process").

15 **IV. Conclusion**

16 For the foregoing reasons, Mr. Vidal Ramos respectfully requests the Court GRANT his
17 Petition for Writ of Habeas Corpus (ECF No. 1) pursuant to 28 U.S.C. § 2241 and ORDER that:

18 a. Petitioner Maximiliano Vidal Ramos shall be released immediately from Respondents'
19 custody.

20 b. Respondents are ENJOINED AND RESTRAINED from re-detaining Petitioner unless
21 they provide 7 days' notice to Petitioner and a pre-deprivation bond hearing before a neutral
22 arbiter pursuant to 8 U.S.C. § 1226(a) and its implementing regulations, at which Petitioner's
23 eligibility for bond must be considered.

24 c. The Clerk of Court shall enter judgement in favor of Petitioner and close this case.

25
26 Respectfully submitted,

27 JODI LINKER
28 Federal Defender

Date: July 30, 2026

/s/ Lisset M. Pino

LISSET M. PINO
Assistant Federal Defender
Attorney for Petitioner
MAXIMILIANO VIDAL RAMOS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28