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

JUAN NAVARRO GOMEZ,

Petitioner,

v.

MINGA WOFFORD, Warden of Mesa Verde
Detention Center; SERGIO ALBARRAN, Field
Office Director of the San Francisco
Immigration and Customs Enforcement Office;
DAVID VENTURELLA, Acting Director of
United States Immigration and Customs
Enforcement; MARKWAYNE MULLIN,
Secretary of the United States Department of
Homeland Security; TODD BLANCHE, Acting
Attorney General of the United States, acting in
their official capacities,

Respondents.

CASE NO.

**PETITION FOR WRIT OF HABEAS
CORPUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

ALIEN NUMBER:



I. INTRODUCTION

1. Petitioner Juan Navarro Gomez (“Petitioner” or “Mr. Navarro Gomez”), by and through counsel, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief challenging his unlawful detention by the U.S. Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”) and seeking his immediate release from Respondents’ custody.

2. Petitioner, Navarro Gomez, is a citizen of Mexico who entered the United States in or around January 2023. He was not apprehended upon entry. Since arriving in the United States, Petitioner has established substantial ties to the community. Prior to his detention, he was steadily employed as a warehouse worker. Petitioner has no criminal history. Petitioner was placed in removal proceedings on June 10, 2026. Petitioner intends to apply for U visa based on a 2025 incident reported to law enforcement, during which his neighbor pointed a firearm at his head in the presence of his former stepchildren. Additionally, Petitioner has close family ties in the United States, including uncles who are lawful permanent residents and U.S. citizens.

3. On or about June 5, 2026, Petitioner was detained by U.S. Immigration and Customs Enforcement (“ICE”) in Stockton, California, while driving his truck. According to Petitioner, ICE officers stopped his vehicle without providing any reason for the stop. The officers asked only for his name and driver’s license before taking him into custody. He has remained in ICE custody since June 5, 2026, and is currently detained at the Mesa Verde Detention Facility in Bakersfield, California.

4. On September 5, 2025, the Board of Immigration Appeals issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such

1 individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be
2 released on bond.

3 5. Petitioner's detention on this basis violates the plain language of the Immigration and
4 Nationality Act. Section 1225(b)(2)(A) and 1225(b)(1) do not apply to individuals like Petitioner
5 who are placed into full removal proceedings after entry and are detained during the pendency of
6 those proceedings. Instead, such individuals are subject to a different statute, § 1226(a), that
7 allows for release on conditional parole or bond. That statute expressly applies to people who,
8 like Petitioner, are charged as inadmissible for having entered the United States without
9 inspection.

10 6. Respondents' new legal interpretation is plainly contrary to the statutory framework
11 and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

12 7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension
13 Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. §
14 1331 because this action arises under federal law, including the Immigration and Nationality Act,
15 8 U.S.C. § 1101, et seq., the Administrative Procedure Act, 5 U.S.C. §§ 702-706, 28 U.S.C. §
16 1361, 2201-02 (Declaratory Judgment Act).

17 **II. JURISDICTION AND VENUE**

18 8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §
19 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the
20 Suspension Clause).

21 9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment
22 Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651, and the Fifth
23 Amendment of the United States Constitution.

24 10. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the
25

1 Respondents are employees or officers of the United States, acting in their official capacity, a
2 substantial part of the events or omissions giving rise to the claim occurred in the Eastern District
3 of California, and a substantial part of the events or omissions giving rise to the claim occurred
4 in this District.

5
6 **III. REQUIREMENTS OF 28 U.S.C. § 2243**

7 11. The Court must grant the petition for writ of habeas corpus or order Respondents to
8 show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
9 order to show cause is issued, Respondents must file a return “within three days unless for good
10 cause additional time, not exceeding twenty days, is allowed.” *Id.*

11 12. Habeas corpus is “perhaps the most important writ known to the constitutional law ...
12 affording as it does a swift and imperative remedy in all cases of illegal restraint or
13 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
14 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
15 receives prompt action from her within the four corners of the application.” *Yong v. I.N.S.*, 208
16 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

17
18 **IV. PARTIES**

19 13. Petitioner Juan Navarro Gomez is a native of Mexico.

20 14. Respondent Sergio Albarran is Field Office Director of the San Francisco
21 Immigration and Customs Enforcement Office. As such, Sergio Albarran is responsible for
22 Petitioner’s detention and removal. He is named in his official capacity.

23 15. Respondent David Venturella is the Acting Director of Immigration and Customs
24 Enforcement. He is named in his official capacity.

25 16. Respondent Markwayne Mullin is the Secretary of Homeland Security and is

1 Petitioner's ultimate legal custodian. He is named in his official capacity.

2 17. Respondent Todd Blanche is the Acting Attorney General of the United States
3 Department of Justice, one of Petitioner's legal custodians, named in his official capacity.

4 18. Minga Wofford is the warden of the Mesa Verde Detention Center in Bakersfield,
5 California. Petitioner is currently detained there in the physical custody of the warden. The
6 warden is sued in her official capacity.

7 **V. LEGAL FRAMEWORK**

8 **Right to a Hearing**

9
10 19. Although the government may initially detain noncitizens during immigration
11 proceedings, the Due Process Clause imposes constitutional limits on the length of that
12 detention. When immigration detention occurs without an individualized hearing to determine
13 whether continued detention serves a permissible purpose, it violates the Fifth Amendment's
14 guarantee of due process.

15 20. The Due Process Clause of the Fifth Amendment makes it unlawful for Respondents
16 to detain Petitioner without first providing a hearing before a neutral decisionmaker to determine
17 whether detention is justified by a risk of flight or danger to the community.

18 21. Civil immigration detention must be justified by a permissible purpose, and must be
19 reasonably related to that purpose. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The two
20 permissible regulatory goals are "ensuring the appearance of [noncitizens] at future immigration
21 proceedings" and "preventing danger to the community." *Id.*; *see also Matter of Patel*, 17 I&N
22 Dec. 597, 666 (BIA 1976) ("[A noncitizen] generally is not and should not be detained or
23 required to post bond except on a finding that he is a threat to the national security, or that he is a
24 poor bail risk.") (internal citations omitted).
25

22. ICE's power to arrest a noncitizen who is at liberty is also constrained by the demands of due process. *See Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process"). "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.").

Petitioner's Strong Interest in His Liberty Required a Hearing Before He Was Incarcerated By ICE

23. If a petitioner identifies a protected liberty interest, the Court must then determine what process is due. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey v. Brewer*, 408 U.S. 471, 481-82 (1972)). To determine the process due in this context, courts use the flexible balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). *See, e.g., Ortega*, 415 F. Supp. 3d at 970; *Jorge M. F.*, 534 F. Supp. 3d at 1055.

24. Under the *Mathews* test, the Court balances three factors: "first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government's interest, including the function involved and

1 the fiscal and administrative burdens that the additional or substitute procedural requirements
2 would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335
3 (1976)).

4 25. Importantly, the Supreme Court “usually has held that the Constitution requires some
5 kind of a hearing before the State deprives a person of liberty or property.” *Zinerman v. Burch*,
6 494 U.S. 113, 127-28 (1990).

7 26. Here, applying the *Mathews* balancing test demonstrates that due process requires an
8 individualized bond hearing. Petitioner’s detention without any opportunity to challenge the
9 necessity of his confinement creates a substantial risk of erroneous deprivation of liberty.
10

11 27. First, Petitioner’s private interest in his liberty is extraordinarily strong. Freedom
12 from bodily restraint “has always been at the core of the liberty protected by the Due Process
13 Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Petitioner has now spent more than two
14 weeks in civil immigration detention without a bond hearing, despite the non-punitive nature of
15 immigration custody.

16 28. Second, the risk of erroneous deprivation of liberty is high if ICE can unilaterally
17 detain Petitioner without a hearing before a neutral adjudicator that would determine whether
18 detention serves a permissible purpose, i.e. preventing danger or flight risk. *See Zadvydas*, 533
19 U.S. at 690. These developments show that detention is likely not warranted.
20

21 29. DHS’s choice to detain Petitioner without a hearing has deprived him of his liberty
22 and separated him from his family and community without any opportunity for Petitioner to
23 contest this unilateral action.

24 30. By contrast, the value of a deprivation hearing before a neutral decision-maker is
25 high. “A neutral judge is one of the most basic due process protections.” *Castro-Cortez v. INS*,

1 239 F.3d 1037, 1049 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v.*
2 *Gonzales*, 548 U.S. 30 (2006). Indeed, the Ninth Circuit has noted that the risk of an erroneous
3 deprivation of liberty under *Mathews* can be decreased where a neutral decisionmaker, rather
4 than ICE alone, makes custody determinations. *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081,
5 1091-92 (9th Cir. 2011). A hearing before a neutral decisionmaker is much more likely than
6 ICE’s unilateral decision to produce accurate determinations regarding factual disputes, and to
7 determine whether Petitioner actually currently poses a flight risk or danger such that detention is
8 justified. *See, e.g., Doe*, 2025 U.S. Dist. LEXIS 37929, at *15 (“At a hearing, a neutral
9 decisionmaker can consider all of the facts and evidence before her to determine whether
10 Petitioner in fact presents a risk of flight or dangerousness.”). Requiring such a hearing serves to
11 protect his liberty interest, facilitate his right to counsel and to gather evidence, and ensure that
12 ICE’s decision to incarcerate Petitioner’s release does not evade review. *See Zinermon*, 494 U.S.
13 at 127; *Hurd*, 864 F.3d at 683.

15 31. Third, the government’s interest in detaining Petitioner without a hearing is low. The
16 government cannot plausibly assert it has any basis for detaining Petitioner now. In any event,
17 providing Petitioner with a hearing before this Court (or another neutral decisionmaker) to
18 determine whether there is evidence that Petitioner currently poses any risk of flight or danger to
19 the community imposes a de minimis, if any, burden on the government. Such a hearing is far
20 less costly and burdensome for the government than keeping Petitioner detained at what the
21 Ninth Circuit described as a “staggering” cost to the public of \$158 each day per detainee in
22 2017, “amounting to a total daily cost of \$6.5 million” (the current cost now is likely
23 significantly higher). *Hernandez*, 872 F.3d at 996.

25 32. Because the government has failed to provide Petitioner with the notice and hearing

1 required under the *Mathews* factors, the Court should order his release unless and until the
2 government provides a constitutionally compliant bond hearing.

3 33. At a pre-deprivation hearing, due process requires that the government justify
4 continued detention of Petitioner by clear and convincing evidence that he poses a flight risk or
5 danger. *See Singh*, 638 F.3d at 1204 (“[D]ue process places a heightened burden of proof on the
6 State in civil proceedings in which the individual interests at stake . . . are both particularly
7 important and more substantial than mere loss of money.”) (internal quotation marks omitted);
8 *Ixchop Perez v. McAleenan*, 435 F. Supp. 3d 1055, 1062 (N.D. Cal. 2020) (noting the “consensus
9 view” among District Courts concluding that, “where . . . the government seeks to detain [a
10 noncitizen] pending removal proceedings, it bears the burden of proving that such detention is
11 justified); *Jorge M.F.*, 534 F. Supp. 3d at 1057 (where noncitizen was due a pre-deprivation
12 hearing before being returned to custody, ordering that the government bear the burden at the
13 hearing by clear and convincing evidence); *Doe*, 2025 U.S. Dist. LEXIS 37929, at *21 (same).

14
15 **Detention Bears No Reasonable Relationship to any Legitimate Purpose As Petitioner’s**
16 **Removal is not Reasonably Foreseeable**

17 34. To comport with due process, detention must bear a reasonable relationship to its two
18 regulatory purposes: to ensure the appearance of noncitizens at future hearings and to prevent
19 danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-91;
20 *Diop v. ICE*, 656 F.3d 221, 233-234 (3d Cir. 2011); *Gordon v. Shanahan*, No.15-CIV-261, 2015
21 WL 1176706 at*10 (S.D.N.Y. Mar. 13, 2015). Such a justification for detention is required to be
22 particularly strong once detention is presumptively unconstitutional.

23 35. The detention of Petitioner is arbitrary on its face. ICE must determine whether he
24 was a danger to the community or whether he was a flight risk. Without any explanation or new
25 basis as to why he is subject to detention, his detention is arbitrary and violates due process.

Petitioner's Detention is Governed by 8 U.S.C. § 1226(a)

36. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas*, 533 U.S. at 690; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

37. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

38. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

39. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)-(b). This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

40. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

41. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;

1 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

2 42. Thus, in the decades that followed, most people who entered without inspection and
3 were placed in standard removal proceedings received bond hearings, unless their criminal
4 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
5 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
6 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
7 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
8 “restates” the detention authority previously found at § 1252(a)).
9

10 43. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
11 rejected well-established understanding of the statutory framework and reversed decades of
12 practice.

13 44. The new policy, entitled “Interim Guidance Regarding Detention Authority for
14 Applicants for Admission,” claims that all persons who entered the United States without
15 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
16 policy applies regardless of when a person is apprehended, and affects those who have resided in
17 the United States for months, years, and even decades.

18 45. On September 5, 2025, the Board adopted this same position in a published decision,
19 *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United
20 States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
21 ineligible for IJ bond hearings.
22

23 46. Since Respondents adopted their new policies, dozens of federal courts have rejected
24 their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter*
25 *of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

1 47. Even before ICE or the Board introduced these nationwide policies, IJs in the
2 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
3 entered the United States without inspection and who have since resided here. There, the U.S.
4 District Court in the Western District of Washington found that such a reading of the INA is
5 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
6 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
7 1239 (W.D. Wash. 2025).

8
9 48. Subsequently, court after court has adopted the same reading of the INA's detention
10 authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-
11 CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-
12 11613-BEM, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v.*
13 *Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025),
14 report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133
15 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL
16 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025
17 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW
18 (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM,
19 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025
20 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF,
21 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-
22 JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JEK-
23 KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
24 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v.*
25

1 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
 2 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
 3 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
 4 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
 5 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
 6 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
 7 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
 8 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
 9 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
 10 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

12 49. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
 13 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
 14 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

15 50. Section 1226(a) applies by default to all persons “pending a decision on whether the
 16 [noncitizen] is to be removed from the United States.” These removal hearings are held under §
 17 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

18 51. The text of § 1226 also explicitly applies to people charged as being inadmissible,
 19 including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph
 20 (E)’s reference to such people makes clear that, by default, such people are afforded a bond
 21 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
 22 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,
 23 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
 24 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025

1 WL 1869299, at *7.

2 52. Section 1226 therefore leaves no doubt that it applies to people who face charges of
3 being inadmissible to the United States, including those who are present without admission or
4 parole.

5 53. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
6 recently entered the United States. The statute's entire framework is premised on inspections at
7 the border of people who are "seeking admission" to the United States. 8 U.S.C. §1225(b)(2)(A).
8 Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the
9 Nation's borders and ports of entry, where the Government must determine whether a[]
10 [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281,
11 287 (2018).
12

13 54. In this case, Petitioner has been detained since June 05, 2026.

14 **Respondents' Fourth Amendment Violation**

15 55. The Fourth Amendment protects "[t]he right of the people to be secure in their
16 persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV.

17 56. Immigration detention is a form of civil confinement that "constitutes a significant
18 deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418
19 (1979).
20

21 57. "Except at the border and its functional equivalents," immigration agents may stop
22 individuals in public only after identifying "specific articulable facts, together with rational
23 inferences from those facts, that reasonably warrant suspicion" of a violation of immigration law.
24 *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975); *Benitez-Mendez v. I.N.S.*, 752 F.2d
25 1309, 1311 (9th Cir. 1983), amended, 760 F.2d 907 (9th Cir. 1983); *see also* 8 C.F.R. §

1 287.8(b)(2) (allowing officer to “briefly detain” a noncitizen for questioning if the officer “has a
2 reasonable suspicion, based on specific articulable facts” that the noncitizen is engaged in an
3 offense or is unlawfully in the United States).

4 58. Reasonable suspicion for an immigration stop cannot be based “on broad profiles
5 which cast suspicion on entire categories of people without any individualized suspicion of the
6 particular person to be stopped.” *United States v. Rodriguez Sanchez*, 23 F.3d 1488, 1492 (9th
7 Cir. 1994). Rather, reasonable suspicion must be “particularized and objective,” *United States v.*
8 *Arvizu*, 534 U.S. 266, 273 (2002), meaning the officer has reasonable suspicion as to “the
9 particular person being stopped.” *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th
10 Cir. 2000) (en banc). Information obtained from an officer’s lawful questioning “may provide
11 the basis for a subsequent arrest.” 8 C.F.R. § 287.8(b)(3).

12 59. Immigration officers may arrest an individual without a warrant in limited
13 circumstances. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012) (noting strong
14 Congressional preference, as expressed in INA, for immigration arrests to be based on warrants).

15 60. The INA permits warrantless arrest if an immigration officer has reason to believe
16 that a noncitizen (1) is in the United States in violation of the immigration laws and (2) “is likely
17 to escape before a warrant can be obtained for his arrest”. 8 U.S.C. § 1357(a)(2); accord, 8
18 C.F.R. § 287.8(c)(2)(i)-(ii). An officer “has reason to believe” when they have the equivalent of
19 “the constitutional requirement of probable cause.” *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th
20 Cir. 1980).

21 61. The Fifth Amendment right to remain silent may be properly invoked during a civil
22 immigration arrest. *See U.S. Const., amend. V. See Kastigar v. United States*, 406 U.S. 441, 444-
23 45 (1972) (The privilege against self-incrimination “can be asserted in any proceeding, civil or
24
25

1 criminal, administrative or judicial, investigatory or adjudicatory . . . This Court has been zealous
2 to safeguard the values which underlie the privilege.”). An immigration officer may not establish
3 probable cause on the basis of a noncitizen’s silence pursuant to his Fifth Amendment rights. *See*
4 *Hurd v. Terhune*, 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming “the fundamental principle that
5 a suspect’s silence in the face of questioning cannot be used as evidence against her at trial”).

6 62. If an immigration officer makes a warrantless arrest, at the time of an arrest and “as
7 soon as it is practical and safe to do so,” immigration officers must identify themselves as
8 immigration officers authorized to make arrests, inform the person arrested that they are under
9 arrest, and state the reason for the arrest. 8 C.F.R. § 287.8(c)(2)(iii). The noncitizen must then
10 “be taken without unnecessary delay for examination before an officer of the Service having
11 authority to examine [noncitizens] as to their right to enter or remain in the United States.” 8
12 U.S.C. § 1357(a)(2).

14 VI. FACTS

15 63. Petitioner, Navarro Gomez, is a citizen of Mexico who entered the United States in or
16 around January 2023. He was not apprehended upon entry. Since arriving in the United States,
17 Petitioner has established substantial ties to the community. Prior to his detention, he was
18 steadily employed as a warehouse worker and has no criminal history. Petitioner was placed in
19 removal proceedings on June 10, 2026. Petitioner intends to apply for U visa based on a 2025
20 incident reported to law enforcement, during which his neighbor pointed a firearm at his head in
21 the presence of his former stepchildren. Additionally, Petitioner has close family ties in the
22 United States, including uncles who are lawful permanent residents and U.S. citizens.

23 64. On or about June 5, 2026, Petitioner was detained by U.S. Immigration and Customs
24 Enforcement (“ICE”) in Stockton, California, while driving his truck. According to Petitioner,
25 ICE officers stopped his vehicle without providing any reason for the stop. The officers asked

1 only for his name and driver's license before taking him into custody. He has remained in ICE
2 custody since June 5, 2026, and is currently detained at the Mesa Verde Detention Facility in
3 Bakersfield, California.

4 **VII. CLAIMS FOR RELIEF**

5 **COUNT I**

6 **Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution**
7 **Procedural Due Process**

8 65. Petitioner incorporates by reference the allegations of fact set forth in the preceding
9 paragraphs.

10 66. The Due Process Clause of the Fifth Amendment forbids the government from
11 depriving any "person" of liberty "without due process of law." Fifth Amendment of the U.S.
12 Constitution.

13 67. Petitioner has a vested liberty interest in his release from immigration custody. Due
14 Process does not permit the government to strip him of that liberty without a hearing before a
15 neutral adjudicator. *See Morrissey*, 408 U.S. at 487-488.

16 **COUNT II**

17 **Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution**
18 **Substantive Due Process**

19 68. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation
20 in the preceding paragraphs as if fully set forth herein.

21 69. The government may not deprive a person of life, liberty, or property without due
22 process of law. Fifth Amendment of the U.S. Constitution. "Freedom from imprisonment—from
23 government custody, detention, or other forms of physical restraint—lies at the heart of the
24 liberty that the Clause protects." *Id. See Zadvydas*, 533 U.S. at 690.

25 70. Petitioner has a fundamental interest in liberty and being free from official restraint.

1 Civil detention that is unrelated to a valid regulatory purpose or excessive in relation to that
2 purpose is punitive, in violation of substantive due process. *See Jones*, 393 F.3d at 934.

3 71. The government's arrest of Petitioner is untethered from any valid basis for civil
4 immigration detention, is excessive in relation to any risk that does exist, and is therefore
5 punitive in violation of substantive due process. Petitioner's continued detention is unlawful and
6 violates due process.

7 72. The government's detention of Petitioner without a bond redetermination hearing to
8 determine whether he is a flight risk or danger to others violates his right to due process.

9 73. Immigration detention is constitutionally permissible only when it furthers the
10 government's legitimate goals of ensuring the noncitizen's appearance during removal
11 proceedings and preventing danger to the community. *Zadvydas*, at 690.

12 74. Petitioner is not a flight risk or danger to the community. Respondents' detention
13 of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in
14 violation of the Due Process Clause of the Fifth Amendment.

15 75. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to
16 any legitimate government purpose. *Id.* (finding immigration detention is civil and thus
17 ostensibly "nonpunitive in purpose and effect"). Here, the purpose of Petitioner's detention
18 appears to be "not to facilitate deportation, or to protect against risk of flight or dangerousness,
19 but to incarcerate for other reasons". *Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (Kennedy, J.,
20 concurring).

21 **COUNT III**

22 **Violation of the INA**

23 76. Petitioner incorporates by reference the allegations of fact set forth in the preceding
24
25

1 paragraphs.

2 77. The mandatory detention provision at 8 U.S.C. § 1225(b) does not apply to all
3 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
4 relevant here, it does not apply to those who are placed into full removal proceedings following
5 entry into the United States. Such noncitizens are detained under § 1226(a), unless they are
6 subject to § 1225(b)(1), § 1226(c), or § 1231.

7 78. The application of § 1225(b) to Petitioner unlawfully mandates his continued
8 detention and violates the INA.

9
10 **COUNT IV**

11 **Arbitrary and Capricious Agency Action (APA, 5 U.S.C. § 706)**

12 79. Petitioner incorporates by reference the allegations of fact set forth in the preceding
13 paragraphs.

14 80. Respondents DHS and ICE have acted arbitrarily, capriciously, and contrary to law
15 when they detained Petitioner and failed to consider the totality of his immigration history.

16 81. By detaining Petitioner, without considering the totality of his immigration history,
17 Respondents acted in a manner that was arbitrary, capricious, and an abuse of discretion, in
18 violation of 5 U.S.C. § 706(2)(A).

19 82. Respondents' conduct further violates administrative due process and the Fifth
20 Amendment, as they failed to provide Petitioner with notice, a meaningful opportunity to
21 respond, or any fair consideration of his pending application.

22 83. The government's inconsistent and self-contradictory treatment, without considering
23 Petitioner's immigration history constitutes a fundamental violation of due process and
24 administrative fairness that warrants judicial correction under the APA and the Constitution.
25

84. Petitioner is entitled to injunctive relief to avoid any further injury.

COUNT V

**Violation of the Fourth Amendment of the United States Constitution
Unreasonable Seizures**

85. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

86. Except at the border and its functional equivalents, the Fourth Amendment to the U.S. Constitution prohibits Respondents from conducting a detentive stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States.

87. Likewise, the Fourth Amendment prohibits Respondents from making an arrest without probable cause to believe that a person is a noncitizen unlawfully in the United States.

88. “A person’s mere propinquity to others independently suspected of [unlawful] activity does not, without more, give rise to probable cause to search [or seize] that person.” *Perez Cruz v. Barr*, 926 F.3d 1128, 1138 (9th Cir. 2019) (quotation omitted). “‘Reasonable suspicion’ is no different.” *Id.*

89. Respondents detained Petitioner without a warrant.

90. Petitioner was arrested despite officers’ lack of probable cause to believe that Petitioner was either a flight risk or present unlawfully in the United States.

91. Respondents’ arrest of Petitioner without probable cause violate the Fourth Amendment to the U.S. Constitution.

COUNT VI

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2)(ii)
Warrantless Arrests Without Probable Cause of Likelihood of Escape**

92. Petitioner realleges and incorporates by reference each allegation contained in the

preceding paragraphs as if set forth fully herein.

93. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless arrest only if that officer has “reason to believe” that an individual is “likely to escape before a warrant can be obtained for [their] arrest.” To meet this requirement, officers must have “grounds for a reasonable belief that they were particularly likely to escape.” *Mountain High Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995). A “reason to believe” is equivalent to “the constitutional requirement of probable cause.” *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

94. 8 C.F.R. § 287.8(c)(2)(ii) requires that before making a warrantless arrest, an immigration officer must make an individualized determination that an individual is “likely to escape before a warrant can be obtained.”

95. Respondents’ warrantless arrests of Petitioner without an individualized determination that Petitioner was “likely to escape” before a warrant is issued is “final agency action” that is “in excess of statutory jurisdiction, authority, or limitations” under 8 U.S.C. § 1357(a)(2) and federal regulations. 5 U.S.C. §§ 704, 706(2)(C).

96. Separate from the APA, Respondents’ warrantless arrests of Petitioner without probable cause that Petitioner was likely to escape before a warrant could be obtained are ultra vires.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests the Court to:

- a. Assume jurisdiction over this matter;

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- b. Order that Petitioner shall not be transferred outside of the Eastern District of California and the United States while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Order Respondents to immediately release Petitioner;
- e. Declare that Petitioner's warrantless arrests without probable cause violate the Fourth Amendment, the APA, the INA, and implementing regulations;
- f. Enjoin Respondents from re-detaining Petitioner in the future until and unless they provide Petitioner with an individualized bond hearing before a neutral decisionmaker within seven (7) days, at which the government bears the burden of proving by clear and convincing evidence that Petitioner poses a flight risk or danger to the community;
- g. Enjoin Respondents from imposing additional conditions of release such as electronic monitoring or home visits;
- h. Order that Respondents shall return all of Petitioner's property and documents to him at the time of release;
- i. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, to the extent permitted by law; and
- j. Grant any other and further relief that this Court deems just and proper.

///

Respectfully submitted,

Date: July 9, 2026

/s/ Connie Chan

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