JAMES M. CHAVEZ
California State Bar No. 255766
LAW OFFICE OF JAMES M. CHAVEZ
501 W. Broadway, Suite 240
San Diego, CA 92101
Telephone: (619) 894-6464
Email: james@jameschavezlaw.com

JAN PETER WEISS (Pro Hac Vice Application Pending)
Law Offices of Jan P. Weiss, P.A.
1926 10th Ave. North
Suite 400
Lake Worth, FL 33461
jan@janpweissesq.com

Attorney for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MEJIA GONZALEZ, Mario Samuel
Alien Number: [redacted]

Petitioner,

v.

TODD BLANCHE, U.S. Attorney General

MARKWAYNE MULLIN, U.S. Secretary of Homeland Security ("DHS"),

TODD LYONS, Acting Director U.S. Immigration and Customs Enforcement,

SIDNEY AKI, Acting Field Office Director of San Diego ICE,

CHRISTOPHER J. LAROSE, Warden of the Otay Mesa Detention Center

IN THEIR OFFICIAL CAPACITIES

Respondents.

Case No.: **'26CV4363 DMS MMP**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, MARIO SAMUEL MEJIA GONZALEZ, is a 19-year-old teenager in the physical custody of Respondents at the Otay Mesa Detention Center in San Diego, California. Petitioner has been detained for over three (3) weeks after Respondents re-detained him pursuant to a warrantless arrest. *See* **Exhibit A,** ICE Detainee Locator. Petitioner seeks immediate release.

2. Petitioner originally entered the United States on November 15, 2023, as an unaccompanied minor. On December 17, 2023, Respondents released Petitioner into the custody of his adult first cousin as an unaccompanied minor. During his years in the United States, Petitioner applied for asylum, attended his biometrics appointments, and has not had any negative encounters with law enforcement.

3. In Orlando, Florida on or about June 28, 2026, Petitioner was a passenger in a work vehicle stopped at a gas station when ICE officers detained the vehicle and placed Petitioner into custody. He was held in Jacksonville, Florida for a short time before being transferred to the Otay Mesa Detention Center where he been incarcerated since.

4. The officers did not provide Petitioner with prior notice that DHS was revoking his release or an opportunity to contest whether his re-detention was warranted. There were no allegations that Petitioner had violated the terms of his release.

5. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

6. Due Process requires the government to provide noncitizens with notice and a hearing prior to re-detention, and that re-detention without prior notice, a showing of changed circumstance, or a meaningful opportunity to respond, violates procedural due process under the Fifth Amendment. *See e.g. Ariza Garcia v. Mullin*, No. 3:26-CV-02241-RBM-MSB, 2026 WL 1142629, at *2 (S.D. Cal. Apr. 27, 2026); *Faizyan v. Casey*, No.: 3:25-cv-02884-RBM-JLB, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025).

7. Petitioner's re-detention therefore violated the Fifth Amendment's Procedural Due Process guarantee. As such, this Court should order Respondents to immediately release him.

8. DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. **Exhibit B**, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission.

9. Judges in this district have consistently held that Petitioner is detained pursuant to 8 U.S.C. 1226(a). *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *See also Maldonado Bautista v. Santacruz,* No. 5:25-CV01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) reconsideration granted in part, --- F. Supp. 3d ---, 2025 WL 3713982 (C.D. Cal. Dec. 18, 2025) ("Maldonado Bautista") (entering final judgment as to the Bond Eligible Class, of which Petitioner is a clear member). As such, Petitioner was arrested pursuant to 8 U.S.C. § 1226(a). [1]

10. Moreover, in *Bautista v. Santacruz*, 813 F. Supp. 3d 1084 (C.D. Cal. 2025), the United States District Court for the Central District of California entered judgment on behalf of a certified nationwide class, declaring unlawful the Government's policy and practice of

[1] 2 Petitioner acknowledges that two circuits have accepted the Government's position: Buenrostro-Mendez v. Bondi, 166 F.4th 494 (5th Cir. 2026), and *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026) respectfully submits that those decisions were wrongly decided and preserves all arguments to the contrary. In any event, both are distinguishable: the noncitizens there were detained after entering without any prior processing by the Government, whereas Petitioner was encountered at entry, designated an unaccompanied minor, processed, and released by the Government itself, and was arrested only years later in the interior.

applying §1225(b)(2) to class members and granting class wide vacatur of DHS's no-bond policy. Id. at *6–7. When the Government continued to apply *Matter of Yajure Hurtado* notwithstanding that judgment, the court granted class counsel's motion to enforce and vacated Matter of Yajure Hurtado. The Government appealed, No. 25-7958 (9th Cir.), and the Ninth Circuit stayed the class wide relief pending appeal in March 2026.

11. The Fourteenth Amendment declares that no person may be deprived of life, liberty, or property without due process of law. U.S. Const. amend. XIV, § 1. The Fourth Amendment forbids unreasonable seizures. U.S. Const. amend. IV. The Fifth Amendment binds the federal government to the same core constitutional command: no person shall be deprived of liberty without due process of law. U.S. Const. amend. V. Those guarantees do not evaporate at the edge of the immigration statutes, nor do they disappear when the Executive relabels a person physically present in the United States as an "applicant for admission" for detention purposes. They protect all persons' liberty against precisely what has occurred here: prolonged civil imprisonment without lawful authority and without the meaningful process the Constitution demands.

12. This case concerns an immigration detainee whom the Government is unlawfully confining under its new interpretation of 8 U.S.C. § 1225(b), as amplified by the Board's recent decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Yajure-Hurtado*, the Board concluded that Immigration Judges lack authority to conduct bond hearings for noncitizens "present in the United States without admission" because, in the Board's view, such persons fall within the mandatory-detention command of § 1225(b)(2)(A). *Id.* at 216. That interpretation stretches the statute beyond its text, collapses the longstanding distinction between recent applicants for admission and persons already arrested within the interior of the United States, and attempts to place broad categories of human beings beyond any meaningful access to an individualized custody determination. Habeas exists precisely to test the legality of that imprisonment.

13. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court treated § 1225(b) as a distinct detention regime for applicants for admission at the threshold of entry, in contrast to § 1226, which governs detention of noncitizens arrested after entry and already present

within the interior of the United States. And well before that, in *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court made clear that immigration power, though substantial, remains constrained by the Constitution, because the Due Process Clause applies to all "persons" within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

14. The *Jennings* principle controls here. Once a person is physically present in this country, the Constitution's protection of liberty is not a matter of executive grace. The Government may not seize a person, hold him in civil detention, and then insulate that detention from meaningful judicial review by invoking an overbroad reading of § 1225(b) and a newly minted administrative decision. The writ of habeas corpus remains available to test whether the government has lawful authority for the restraint. Here, it does not.

15. Indeed, the Court presented the precise question this Court is being asked to answer now to the Solicitor General more than once. For example, Justice Sotomayor asked, "Clarifying question. For an alien who is found in the United States illegally, has not been admitted, are they held under 1225(b) or are they held under 1226(a)?"[2]

16. The Solicitor General responded, "So they are held under – if they are not – if they are not detained within 100 miles of the border or within 14 days... then they are under 1226(a) and not (c).[3]

17. Seeking further clarity, Justice Sotomayor posed a hypothetical of an EWI alien stating, "I'm talking about an alien who has come into the United States illegally without being admitted who takes up residence 50 miles from the border."[4]

[2] *See* **Exhibit C**, Jennings Oral Transcript at p. 7.

[3] (*Id.* at pp. 7-8.)

[4] (*Id.* at p. 8.)

18. Without hesitation, the Solicitor General confirmed: "The answer is they are held under 1226(a) and that they get a bond hearing under it - - and this is at page 156a of the appendix."[5]

19. As will be discussed further below, the simple reality is that the Supreme Court and all the litigants in *Jennings* recognized that § 1225 is a statute applicable at or near the border, and therefore, the warrant requirement of the Fourth Amendment and the due process clause of the Fifth Amendment have little or no application.

20. The Fifth Amendment protects "persons" – not just citizens – from being deprived of liberty without due process of law. As established in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and reaffirmed in *Demore v. Kim*, 538 U.S. 510 (2003), non-citizens in removal proceedings are entitled to constitutional due process, especially where physical liberty is at stake.

21. In *Mathews v. Eldridge*, 424 U.S. 319 (U.S. 1976), the Supreme Court acknowledged that due process is flexible and calls for such procedural protections as the particular situation demands. Accordingly, resolution of the issue whether the administrative procedures are constitutionally sufficient requires analysis of the governmental and private interests that are affected:

    a. **The private liberty interest that is affected by official action.** Here, a 19-year-old teenager with no criminal history whatsoever was arrested without a warrant and has been detained for over two (3) weeks without an opportunity for bond. Petitioner was employed in fiber optic cable installment and he lived with his sister, Briseida, before he was detained with no accompanying criminal or traffic citations whatsoever. The private interest at stake here is great, and each day that Petitioner misses with his family creates an additional irreparable harm.

    b. **The risk of an erroneous deprivation of such interest through the procedures used, and the probable value of additional procedural safeguards.** Here, the risk of erroneous deprivation is great in an agency that is compromised by political actions over adherence to the rule of law. Time and again policy overrides law in

[5] (*Id.* at p. 8-9.)

this administration and people like Petitioner suffer the consequences. Petitioner's detention is a policy choice that broke the law. The agencies administering these decisions are headed by political appointees: the attorney general and the secretary of homeland security. The BIA will not acknowledge these legal errors because they are a part of that same politically compromised agency.

c. **The government's interest, including the fiscal and administrative burden of additional procedural safeguards.** Here, additional procedural safeguards would not be a costly or time-consuming additional expense to the government's agency that is in the business of providing hearings. It is no great additional cost to add additional procedural safeguards, especially when compared against the grave private interest of the Petitioner.

22. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released.

JURISDICTION

23. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

24. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

25. Jurisdiction exists despite 8 U.S.C. § 1252(g) because Petitioner is not seeking direct review of the removal order, instead Petitioner is challenging unlawful custody and removal procedure. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 S. Ct. 1959 (2020); *INS v. St. Cyr*, 533 U.S. 289, 121 S. Ct. 2271 (2001).

26. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

27. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Southern District of California, the judicial district in which Petitioner is currently detained.

28. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

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

30. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

31. Petitioner is "in custody" within the meaning of 28 U.S.C. § 2241 because he is arrested and detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pursuant to immigration detention authority. Petitioner challenges that custody as unlawful under the Constitution, federal law, and applicable treaties.

PARTIES

32. Petitioner is MARIO SAMUEL MEJIA GONZALEZ, a citizen and national of Guatemala who entered the United States on November 15, 2023.

33. Respondent, CHRISTOPHER J. LAROSE, Warden of the Otay Mesa Detention Center has immediate custody over Petitioner and is responsible for his detention.

34. Respondent, SIDNEY AKI, in their official capacity as the San Diego Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, is responsible for the custody, detention, and removal of noncitizens within this jurisdiction.

35. Respondent, TODD LYONS, in their official capacity as Acting Director of the U.S. Department of Homeland Security Immigration and Customs Enforcement.

36. Respondent, MARKWAYNE MULLIN, in their official capacity as Secretary of the U.S. Department of Homeland Security, which oversees ICE and is ultimately responsible for the unlawful detention of Petitioner.

37. Respondent, TODD BLANCHE, in their official capacity as Attorney General of the United States, is charged with the administration and enforcement of the immigration laws and is a proper respondent under 28 U.S.C. § 2243.

STATEMENT OF FACTS

38. Petitioner is a 19-year-old native and citizen of Guatemala. *See* **Exhibit D,** Petitioner's Identity Documents.

39. On November 15, 2023, Petitioner entered the United States and was designated by immigration officials as an Unaccompanied Alien Child ("UAC") pursuant to 6 U.S.C. 279(g)(2) because he was a minor with no parent or legal guardian in the United States. *See* **Exhibit E,** Verification of Release.

40. On December 17, 2023, Respondents released Petitioner into the custody of his adult first cousin, Fredy Artemio Gonzalez Lopez.. During his years in the United States, Petitioner applied for asylum, attended his biometrics appointments, and has no criminal history.

41. Petitioner's removal proceedings began, not at the border, but on November 17, 2024 when his Notice to Appear was filed with the Executive Office of Immigration Review ("EOIR"). *See* **Exhibit F,** Notice to Appear.

42. On February 25, 2025, Petitioner filed his asylum application with the United States Citizenship and Immigration Service ("USCIS"). *See* **Exhibit G,** I-589 Asylum Receipt.

43. As a benefit of that pending application, Respondent applied for an Employment Authorization Card and social security number, which had not yet been issued at the time of his arrest.

44. The encounter that led to Petitioner's current detention took place on June 28, 2026 in Orlando, Florida on his way to work. Petitioner was a passenger in a vehicle that was stopped at a gas station filling up on gas. ICE officers approached the vehicle and requested the identification information of its occupants.

45. Petitioner presented his Guatemalan passport and was subsequently detained by ICE without any accompanying criminal charges or traffic citations. Upon information and belief, Respondents did not issue an administrative warrant at the time of Petitioner's arrest or afterwards.

46. Following Petitioner's detention by ICE, he was transferred away from his friends, family, and legal counsel in South Florida thousands of miles away to the Otay Mesa Detention Center in Southern California.

47. As of the filing of the instant petition, Petitioner has been detained for over 3 weeks with no end to his detention in sight but for the intervention of this Court.

EXHAUSTION

48. Petitioner remains detained without any opportunity for release on bond. Exhaustion under 28 U.S.C. § 2241 is prudential, not jurisdictional, and other courts have repeatedly excused it where administrative review is inadequate, futile, or would cause irreparable harm. *F.-G. v. Noem, No. 25-CV-0243-CVE-MTS*, 2025 U.S. Dist. LEXIS 111539 (N.D. Okla. June 12, 2025) (declining to require exhaustion where immigration detainee was "trapped in prolonged detention without a meaningful opportunity for bond"); *Quintana Casillas v. Sessions*, No. 17-cv-01395, slip op. at 9–11 (D. Colo. 2018) (explaining that when "the question presented is purely legal and has been repeatedly mishandled administratively, exhaustion serves no useful purpose."). Here, the appellate body is the Board of

Immigration Appeals, the same body that issued the decision stripping immigration judges of their jurisdiction to hear bonds.

49. Other districts have held that habeas corpus relief was available despite a pending BIA appeal, because "[e]ach additional day of detention without a bond hearing constitutes irreparable harm that cannot be remedied after the fact" *LG v. Choate*, No. 23-cv00611, slip op. at 14 (D.N.M. 2024).

LEGAL FRAMEWORK

A. Courts Have Regularly Found that Summary Revocation of Release and Re-Detention Deprives Petitioners of Procedural Due Process

50. Consistent with the traditional *Mathews* three-factor test, district courts in the Ninth Circuit have formulated a bright-line Due Process rule: if a noncitizen has been paroled into the U.S., the government may not revoke their parole or re-detain them without first affording pre- deprivation notice and a hearing establishing that the person is now a danger or flight risk—failure to provide this is a violation of the person's Fifth Amendment Due Process rights requiring immediate habeas relief. *See, e.g., Ramirez-Bibiano*, 2025 WL 3632748 (ordering immediate habeas relief; holding the government's summary revocation of parole and re-detention without pre-deprivation notice or a hearing establishing present risk of danger or flight violates Fifth Amendment Due Process); *see also Noori v. LaRose*, 807 F. Supp. 3d. 1146 (S.D. Cal. 2025) (granting immediate habeas release; holding the government's summary revocation of parole and re-detention without pre-deprivation notice, reasons, and a hearing establishing present danger or flight risk violated due process under *Mathews*); *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1135–39 (W.D. Wash. 2025) (granting TRO and ordering immediate release; applying Mathews to hold that even though petitioner's parole had expired, because he had previously been paroled, his re-detention without a pre-deprivation hearing establishing a justification for re-detention violated due process under *Mathews*); *Fernández López v. Wofford*, No. 1:25-CV-01226-KES-SKO (HC), 2025 WL 2959319, at *6 (E.D. Cal. Oct.17, 2025) (ordering immediate habeas release; canvassing seven cases establishing the principle that re-detention of a previously paroled noncitizen without a pre-deprivation hearing establishing a change in

the person's risk of danger or flight violates Due Process and requires immediate habeas relief).

51. Courts have applied this same rationale to individuals released from immigration detention. *See Aguilera v. City of Holtville*, 26-CV-532-LL-MSB, 2026 WL 381633 (S.D. Cal. Feb. 11, 2026); *Escamilla-Alvarado v. Casey*, No. 26-cv-2593-JO-BJW (S.D. Cal. May 7, 2026), Dkt. No. 6; *Magana-Hernandez v. Casey*, No. 26-cv-2952-JLS (MSB) (S.D. Cal. May 18, 2026), Dkt. No. 5. Thus, Mr. Barry's "release from ICE custody after [his] initial apprehension reflected a determination by the government that [he] was neither a flight risk nor a danger to the community, and [Petitioner] has a strong interest in remaining at liberty unless [he] no longer meets those criteria. *Pinchi v. Noem*, 792 F. Supp. 3d. 1025, 1034 (N.D. Cal. 2025).

52. In *Ramirez-Bibiano*, a case from this district, a noncitizen who had been previously paroled into the U.S. was summarily re-detained after ICE revoked his parole without notice, reasons, or an opportunity to be heard. *Ramirez-Bibiano*, 2025 WL 3632748 at *1, 4–5. The Court applied *Mathews*, granted immediate habeas relief and attorneys' fees according to proof, and ordered that any future detention be supported at a hearing with the government bearing the burden to show by clear and convincing evidence that the petitioner was a present danger or flight risk. Id. at *4–5; *see also Aguilera*, 26-CV-532-LL-MSB, 2026 WL 381633 (S.D. Cal. Feb. 11, 2026); *Alegria Palma v. LaRose*, No. 25-CV-1942-BJC (MMP), (S.D. Cal. Aug. 11, 2025); *Navarro Sanchez v. LaRose*, No. 25-CV-2396-JES-MMP, 2025 WL 2770629 (S.D. Cal. Sept. 26, 2025).

53. In *Noori*, an Afghan national paroled into the U.S. after assisting U.S. forces was arrested at a courthouse and re-detained following the government's summary revocation of his humanitarian parole, without any pre-deprivation notice, reasons provided, or opportunity to be heard, despite a clean record and consistent compliance. 807 F. Supp 3d. 1146. The Court held that the government's summary parole revocation and re-detention violated due process under *Mathews* given the lack of justification, notice, and an opportunity to be heard. *Id.* At 1164-65. The Court granted the habeas petition, ordered that the government shall not re-detain the petitioner during the pendency of his removal proceedings, and granted attorneys' fees according to proof. *Id.* at 1169.

54. In *Ramirez Tesara*, a Venezuelan asylum-seeker who had been paroled into the U.S. was re-detained as he appeared for a monitoring appointment, without any pre-deprivation notice or hearing. 800 F. Supp. 3d at 1134. That court assessed the petitioner's due process habeas claim under Mathews and concluded that because he had been previously paroled, ICE could only have re-detained the petitioner after a hearing before an immigration judge at which the government met its burden to justify detention. Id. at 1135–38. ICE's summary re- detention therefore violated Due Process and required the petitioner's immediate release. *Id.* at 1138–39.

55. In *Fernández López*, an asylum-seeker from Chile who had been paroled in 2021 was summarily re-detained by ICE in August 2025 after a credible-fear interview. 2025 WL 2959319 at *1. Once again, applying *Mathews*, and for the same reasons as the courts in *Ramirez-Bibiano*, *Ramirez Tesara*, and *Noori*, that court granted a preliminary injunction as well as the habeas petition at issue, and enjoined the government from re-detaining the petitioner absent a pre-deprivation bond hearing at which the government must prove current danger or flight risk by clear and convincing evidence. Id. at 8. That court also canvassed cases from other district courts in the Ninth Circuit to state the *Mathews*-derived rule that if the government has previously paroled a noncitizen, it may not re-detain that person without first providing pre-deprivation notice and a hearing through which the government establishes a change in the person's risk of danger or flight. *See id.* at 6. Failure to provide this pre-deprivation process is a violation of the person's Fifth Amendment Due Process rights and grounds for immediate habeas relief. *See id.* at 7.

56. Taken together, the district courts of the Ninth Circuit have developed the bright-line rule that if a noncitizen has been paroled into the U.S., the government may not revoke that person's parole or re-detain them without first providing pre-deprivation notice and a hearing establishing a change in danger or flight risk by clear and convincing evidence. To date, the courts to have considered habeas petitions in this context have each applied the three-factor *Mathews* test to reach what has now coalesced into a uniform rule of law. The above rule incorporates and relies upon a *Mathews* analysis but streamlines the statement of law so as not to require a step-by-step in-depth inquiry of each *Mathews* factor.

57. This rule is grounded in the acknowledgment that the government's initial decision to grant release "reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Fernández López*, 2025 WL 2959319 at *2 (citation omitted). Absent "evidence that the noncitizen is in fact dangerous or has become a flight risk," "there is no evidence that these findings have changed" and there is therefore no justification for re-detention. *Ramirez-Bibiano*, 2025 WL 3632748 at *4 (citation omitted). Without establishing a change in circumstances via notice, a hearing, and evidence, parole-revocation or re-detention of a previously paroled person violates Fifth Amendment Due Process. *See id.*

58. Accordingly, where the Court finds that a petitioner has been previously paroled and yet the government summarily revoked his parole or re-detained him, a step-by-step Mathews analysis is unnecessary; it is already incorporated into and performed by the bright-line rule established by *Ramirez-Bibiano*, *Ramirez Tesara*, *Fernández López* and the many district court cases it cites, and *Mathews*.

B. <u>Petitioner is Detained under the Discretionary Bond Provision at 8 § U.S.C. 1226(a)</u>

59. 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).

60. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

61. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

62. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[6] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

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

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

65. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]." *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

66. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

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

[6] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

68. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).

69. Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

70. A contrary reading renders superfluous recent amendments in the *Laken Riley Act*, Pub. L. No. 119-1, 139 Stat. 3 (2025), which added INA § 236(c)(1)(E) mandating detention for noncitizens inadmissible under § 212(a)(6)(A)(present without admission) who are implicated in enumerated crimes. If all such noncitizens were already mandatorily detained under § 235(b)(2)(A), Congress's addition would be meaningless. *See Corley v. United States*, 556 U.S. 303, 314 (2009) (statutes must be construed to give effect to all provisions).

71. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

72. Congress may expand procedural protections through statute, but it cannot legislate away fundamental constitutional guarantees. The Fourth Amendment's protection against unreasonable seizures applies to all persons within the territory of the United States, including noncitizens. Immigration officials may not § 1225(b)(2)(A) detain individuals encountered in the interior indefinitely or without probable cause; the Fourth Amendment simply does not permit it. Likewise, the constitution's due process clause protections must be afforded to all those living in the U.S. before being deprived of their liberty.

73. At the nation's borders, however, the constitution's protections are lowered and almost nonexistent for those who are not in the U.S. (including those who are at the border still under the legal fiction of parole). The absence of a warrant requirement in 8 U.S.C § 1225,

therefore, is in line with the longstanding principle that the search and seizure of persons at our country's borders are not subject to the Fourth Amendment's warrant requirement.[7]

74. Just as established as the border exception to the Fourth Amendment is the fact that immigration stops and arrests elsewhere are subject to the Fourth Amendment's protections. Indeed, "[l]ongstanding precedent establishes that '[t]he Fourth Amendment applies to all seizures of the person, including seizures that involve only a brief detention short of traditional arrest.'" The law in this area is not grey. Rather, since at least 2009, it has been "clearly established . . . that immigration stops and arrests [are] subject to the same Fourth Amendment requirements that apply to other stops and arrests—reasonable suspicion for a brief stop, and probable cause for any further arrest and detention."[8]

75. The clarity of the law in this area is bolstered by the proscriptions of 8 U.S.C. § 1357, which "[c]ourts have consistently held" the inclusion of the phrase "reason to believe" in § 1357 "must be read in light of constitutional standards, so that 'reason to believe' must be considered the equivalent of probable cause."[9]

76. Despite the abundantly clear requirements of the Fourth Amendment, the government now argues that a statute with no warrant requirement (§ 1225(b)(2)(A)), historically applied at or near the border, allows DHS to arrest or detain aliens in the interior of the United States without any concern for the Fourth Amendment's protections. Such an interpretation is unconstitutional and any interpretation that would have such a result must be avoided.

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[7] *See United States v. Flores-Montano*, 541 U.S. 149, 153 (2004) ("Congress, since the beginning of our Government, has granted the Executive Plenary authority to conduct routine searches and seizures at the border, without probable cause or a warrant . . .") (internal citations omitted); *United States v. Cotterman*, 637 F.3d 1068, 1076 (9th Cir. 2011) ("[T]here is [no] room for disagreement over the compelling underpinnings of the doctrine" exempting border searches and seizures from the Fourth Amendment's warrant requirement. "It is well established that the sovereign need not make any special showing to justify its search of persons and property at the international border.").

[8] *Morales v. Chadbourne*, 793 F.3d 208, 215 (2015) (quoting *United States v. Brignoni–Ponce*, 422 U.S. 873, 878, (1975) (citing *Davis v. Mississippi*, 394 U.S. 721 (1969); *Terry v. Ohio*, 392 U.S. 1, 16–19, (1968)); *see also Dunaway v. New York*, 442 U.S. 200, 216 (1979) ("[D]etention for custodial interrogation—regardless of its label—intrudes so severely on interests protected by the Fourth Amendment as necessarily to trigger the traditional safeguards against illegal arrest.").

[9] *Id.* at 216-17 (citing *Au Yi Lau*, 445 F.2d at 222; see, e.g., *Tejeda–Mata v. Immigration & Naturalization Serv.*, 626 F.2d 721, 725 (9th Cir.1980) ("The phrase 'has reason to believe' [in § 1357] has been equated with the constitutional requirement of probable cause."); *United States v. Cantu*, 519 F.2d 494, 496 (7th Cir.1975) ("The words [in § 1357] of the statute 'reason to believe' are properly taken to signify probable cause."); *see also United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir.2010) ("Because the Fourth Amendment applies to arrests of illegal aliens, the term 'reason to believe' in § 1357(a)(2) means constitutionally required probable cause.").

77. The Supreme Court has explained the critical distinction between those outside the U.S. and those within it when it comes to the due process required before they may be deprived of their liberty:

> The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law. It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all "persons" within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent. Indeed, this Court has held that the Due Process Clause protects an alien subject to a final order of deportation, though the nature of that protection may vary depending upon status and circumstance.[10]

78. Moreover, *Zadyvdas* left no doubt that civil detention, including in the immigration context, requires a sufficient justification—namely preventing flight or danger to the community. *Id.* Where no such justification exists detention without due process is unconstitutional. *Id.*

79. This Court should order Petitioner's release.

CLAIMS FOR RELIEF

COUNT I
Unlawful Detention Under 8 U.S.C. § 1225; Custody Properly Governed By 8 U.S.C. § 1226 (Misapplication of Mandatory Detention Statute)

80. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

81. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

[10] *Zadvydas v. Davis*, 533 U.S. 678, 693–94 (2001).

82. Petitioner is currently being detained without the possibility of bond under 8 U.S.C. § 1225(b)(2)(A), based on DHS's argument that he is "an Applicant seeking Admission under the provisions of Sec. 235(b)(2)(A) of the Immigration and Nationality Act ('INA')."

83. This contention is legally erroneous. Section 1225 applies to noncitizens actively "seeking admission" at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention of those "already in the country" pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. *See Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018); *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019).

84. Petitioner plainly falls within § 1226. He entered the United States in November 2023,was processed and released by the Government itself as an unaccompanied minor, has resided continuously in the United States for more than two and a half years, maintains community ties and a pending application for relief, and has no criminal history whatsoever.

85. The charging document itself expressly alleges that Petitioner is "present in the United States without admission or parole," language that presumes residence in the interior and confirms that he was not in the process of seeking admission. Taken together, these contradictions underscore the arbitrariness of Petitioner's detention and the government's mischaracterization of his case.

86. To hold otherwise would effectively erase the statutory line between §§ 1225 and 1226, converting virtually all noncitizens present without admission into mandatory detainees and rendering § 1226(a) a dead letter. Courts have consistently rejected this outcome. See Martinez, 2025 WL 2084238, at *7 (rejecting interpretation that would "nullify" Congress's amendment to § 1226(c)); *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025) (noting that §§ 1225 and 1226 "apply to different classes" of noncitizens).

87. In sum, Petitioner was not "seeking admission" within the meaning of § 1225(b) but was "already in the country" within the meaning of Jennings, 583 U.S. at 288–89. His custody is governed by § 1226(a), under which detention is discretionary and subject to

individualized bond hearings. DHS's argument is contrary to law, unsupported by the record, and must be set aside.

88. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); 5 U.S.C. §§ 702, 706

89. Petitioner re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

90. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

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

93. Here, Respondents have made no finding that Petitioner is a danger to the community as an individual with no criminal history whatsoever. In fact, he has had no opportunity whatsoever to present the equities of his case because the judge declined to hear his custody redetermination request.

94. Respondents have made no finding that Petitioner is a flight risk.

COUNT III
Violation of the Fourth Amendment

95. Petitioner re-alleges and incorporates by reference all the foregoing paragraphs above.

96. On information and belief, Respondents arrested Petitioner without a judicial or administrative warrant. A warrantless immigration arrest is lawful only where the officer has "reason to believe" — that is, probable cause to believe — that the person is in the United States in violation of law and is likely to escape before a warrant can be obtained.

8 U.S.C. § 1357(a)(2). No facts suggested that Petitioner, a working 19-year-old with a pending asylum application, a scheduled immigration case, and a fixed residence, was likely to escape.

97. Petitioner's warrantless arrest therefore violated the Fourth Amendment, and his ongoing detention is the direct fruit of that unlawful seizure.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;
(2) Order that Petitioner shall not be removed from the United States during the pendency of this Petition;
(3) Order that Petitioner shall not be transferred outside the Southern District of California during the pendency of this Petition;
(4) Issue an Order to Show Cause requiring Respondents to show cause why this Petition should not be granted within three days, pursuant to 28 U.S.C. § 2243;
(5) Declare that Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A) violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;
(6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, in the alternative, ordering Respondents to provide Petitioner an individualized bond hearing under 8 U.S.C. § 1226(a) within seven days, at which the Government bears the burden of establishing flight risk or danger to the community; and
(7) Grant any further relief this Court deems just and proper.

Dated: July 30, 2026

Respectfully submitted,

/s/ James M. Chavez

JAMES M. CHAVEZ
Law Office of James M. Chavez
501 W. Broadway, Suite 240
San Diego, CA 92101
Telephone: (619) 894-6464
james@jameschavezlaw.com

JAN PETER WEISS
Pro Hac Vice Application Pending
Law Office of Jan Peter Weiss
1926 10th Avenue North, Suite 400
Lake Worth, FL 33461

Attorneys for Petitioner

MEJIA GONZALEZ, Mario Samuel)
Alien Number: [redacted])
v.) Case No.:
)
TODD BLANCHE, U.S. Attorney General, et al.)

INDEX OF SUPPORTING DOCUMENTS

Attachment No.	Document Title
1	Civil Cover Sheet
2	Evidentiary Exhibits A – G

Counsel for Petitioner

Dated: July 24, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, **MARIO SAMUEL MEJIA GONZALEZ**, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 24th of July 2026

/s/ Jan Peter Weiss