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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MARVIN ARIEL RUIZ-GARMENDIA,
Petitioner,

v.

CHRISTOPHER J. LAROSE, in his official capacity as Warden of Otay Mesa Detention Center; GREGORY J. ARCHAMBEAULT, in his official capacity as San Diego Field Office Director, Immigration and Customs Enforcement's Enforcement and Removal Operations; DAVID J. VENTURELLA, in his official capacity as Acting Director of Immigration and Customs Enforcement; MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security;

CASE NO.: '26CV4431 LEK BJW

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

IMMIGRATION HABEAS
(Immediate Custodian:
OTAY MESA DETENTION CENTER)

TODD BLANCHE, in his official capacity as Acting Attorney General; and the EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Respondents.

INTRODUCTION

1. Petitioner, Marvin Ariel Ruiz-Garmendia, is in the physical custody of Respondents at the Otay Mesa Detention Center located at 7488 Calzada De La Fuente, San Diego, CA 92154. He now faces unlawful detention because the Department of Homeland Security ("DHS") and the Executive Office of Immigration Review ("EOIR") have concluded Petitioner is subject to mandatory detention.

2. 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).

3. On July 8, 2025, DHS issued a new policy 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.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals ("BIA" or "the Board") 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 individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and, therefore, ineligible to be released on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

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

7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

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

9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. 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 judicial district in which Petitioner currently is detained.

11. Venue is proper in this district pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1391 because Petitioner is detained at the Otay Mesa Detention Center located at 7488 Calzada De La Fuente, San Diego, CA 92154, within the Southern District of California, and Petitioner's immediate physical custodian is in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

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

13. 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).

PARTIES

14. Petitioner, Marvin Ariel Ruiz-Garmendia, is a Nicaraguan citizen who has been in immigration detention since approximately June 26, 2026. He is currently detained at the Otay Mesa Detention Center located at 7488 Calzada De La Fuente, San Diego, CA 92154.

15. Respondent, Christopher J. LaRose, is named in his official capacity as Warden of Otay Mesa Detention Center. In this capacity, he is responsible for the immediate execution of detention over Petitioner and is the immediate custodian of Petitioner. Respondent Christopher J. LaRose's address is 7488 Calzada De La Fuente, San Diego, CA 92154.

16. Respondent, Gregory J. Archambeault, is named in his official capacity as San Diego Field Office Director of the ICE Enforcement and Removal Operations. In this capacity, he is responsible for the administration of immigration laws, the execution of immigration confinement, and the institution of removal proceedings in San Diego, California, which is the jurisdiction where Petitioner is confined. As such, he is a custodian of Petitioner. Respondent Gregory J. Archambeault's address is 880 Front Street #2242, San Diego, CA 92101.

17. Respondent, David J. Venturella, is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States, and is legally responsible for pursuing any effort to remove Petitioner and confine him pending removal. As such, he is a custodian of Petitioner. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5902, Washington, DC 20536-5900.

18. Respondent, Markwayne Mullin, is named in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, he is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); is legally responsible for pursuing any effort to confine and remove the Petitioner; and, as such, is a custodian of Petitioner. Respondent Markwayne Mullin's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

19. Respondent, Todd Blanche, is named in his official capacity as Acting Attorney General of the United States. In this capacity, he is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g); and, as such, is a custodian of Petitioner. Respondent Todd Blanche's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

20. Respondent, Executive Office for Immigration Review ("EOIR"), is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings. The address for Respondent is 5107 Leesburg Pike, Falls Church, VA 22041.

LEGAL FRAMEWORK

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

22. 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).

23. 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).

24. Last, the INA also provides for the detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

25. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

26. 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).

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

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

29. 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.

30. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] 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.

31. 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.

32. 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.

33. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings

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

for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

34. Subsequently, courts adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); *Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025); *Maldonado v. Olson*, 795 F. Supp. 3d 1134 (D. Minn. 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, 795 F. Supp. 3d 271 (D. Mass. 2025); *Samb v. Joyce*, No. 25 CIV. 6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957 (D. Minn. 2025); *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771 (E.D. Mich. 2025); *Vasquez Garcia v. Noem*, No.

25-cv-02180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, 799 F. Supp. 3d 14 (D. Mass. 2025); *see also, e.g.*, *Palma Perez v. Berg*, 798 F. Supp. 3d 955, 960 (D. Neb. 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, 796 F. Supp. 3d 584, 589–90 (D. Neb. 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

35. Several courts have overwhelmingly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

36. While Petitioner acknowledges the split-court decisions in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026) and *Herrera Avila v Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026), in which the courts adopted the minority position on this issue, those decisions are not binding on this Court. Moreover, Petitioner maintains that the decisions were wrongly decided and should not be followed.

37. The Second, Sixth, and Eleventh Circuits have ruled that no-bond detention generally applies to arriving aliens seeking lawful entry to the country, and not to aliens who are simply present here. *See Alvarez v. Warden, Federal*

Detention Center Miami, Nos. 25-14065 & 25-14075, *5-6 (11th Cir. May 6, 2026); *Lopez-Campos v. Raycraft*, No. 25-1965/25-1969/25-1978/25-1982, 2026 LX 250200, *33-34 (6th Cir. May 11, 2026); *Da Cunha v. Freden*, No. 25-3141-pr, 2026 LX 255042 (2d Cir. Apr. 28, 2026).

38. 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]."

39. 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.

40. 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.

41. 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).

42. 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).

43.The Ninth Circuit issued a precedential decision where it found that noncitizens who entered through the border and are arrested in the interior are *not* subject to §1225 mandatory detention but are detained under §1226 and are eligible for bond. *Rodriguez Vasquez v. Bostock, et al.,* No. 25-6842, 2026 WL 2196424 (9th Cir. July 30, 2026).

44. 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.

FACTS

45. Mr. Marvin Ariel Ruiz-Garmendia is a Nicaraguan native who has resided in the United States since approximately April 22, 2022, when he was paroled.

46. Upon information and belief, Petitioner has had no criminal record. This fact demonstrates that Petitioner is not a danger to the community or a flight risk.

47. On June 26, 2026, Petitioner was detained during his routine, mandatory check-in with ICE. This further demonstrates that Petitioner is not a flight risk, given that he came into contact with ICE while complying with the annual requirement to present himself to ICE.

48. On April 10, 2023, Petitioner's wife filed an asylum application, with Petitioner included as a derivative beneficiary. Petitioner has remained involved in his immigration proceedings and has pursued relief available under the immigration laws.

49. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without admission or parole.

50. On July 14, 2026, Petitioner's request for bond was denied pursuant to *Matter of Yajure Hurtado*. Therefore, Petitioner remains detained without an individualized consideration of his eligibility for release on bond.

51. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community, despite his lack of criminal history, his

compliance with immigration obligations, and his pursuit of lawful immigration relief.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

52. Petitioner entered the United States on April 22, 2022, without inspection or admission.

53. Petitioner has resided in the United States for approximately four years before he was detained by ICE on June 26, 2026.

54. Petitioner has been present in the United States for approximately four years, which makes his detention governed by 8 U.S.C. §1226(a), which allows for the release of noncitizens on bond. *Puga v. Assistant Field Off. Dir., Krome North Serv. Processing Center*, No. 25-24535, 2025 WL 2938369, at *3 (S.D. Fla. Oct. 15, 2025).

55. The plain language and structure of the statutes indicate that § 1225 applies to arriving aliens at borders or ports of entry, while § 1226 applies to those already in the country, such as the Petitioner, who entered in 2005.

56. 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.

57. Respondents' interpretation of the INA to expand the scope of 8 U.S.C. § 1225 detention "directly contravenes the statute, disregards decades of settled precedent," and is erroneous. *Hernandez Alvarez v. Morris*, No. 25-24806 (S.D. Fla. Oct. 27, 2025), ECF No. 6 at 5.

58. This statutory issue has been decided by the Ninth Circuit in *Rodriguez Vasquez v. Bostock.* The Ninth Circuit found that noncitizens who entered through the border and are arrested in the interior are not subject to §1225 mandatory detention but are detained under §1226 and are eligible for bond. *Rodriguez Vasquez v. Bostock, et al.*, No. 25-6842, 2026 WL 2196424 (9th Cir. July 30, 2026).

59. Thus, the erroneous application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of the Bond Regulations

60. Mr. Marvin Ariel Ruiz-Garmendia entered the United States approximately four years ago without inspection or admission.

61. For decades following the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), the agencies charged with interpreting and enforcing the Immigration and Nationality Act ("INA") consistently applied 8 U.S.C. § 1226(a) to noncitizens like Petitioner—those who entered without inspection and were later apprehended while residing in the United States.

62. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

63. Notwithstanding this longstanding interpretation, EOIR now applies 8 U.S.C. § 1225(b)(2) to individuals like Petitioner pursuant to *Matter of Yajure Hurtado*.

64. Under this policy, the immigration judge would be unable to consider a bond request if Petitioner were to apply for bond, effectively precluding the Petitioner from obtaining a bond hearing.

65. This statutory issue has been decided by the Ninth Circuit in *Rodriguez Vasquez v. Bostock.* The Ninth Circuit found that noncitizens who entered through the border and are arrested in the interior are not subject to §1225 mandatory detention but are detained under §1226 and are eligible for bond. *Rodriguez Vasquez v. Bostock, et al.*, No. 25-6842, 2026 WL 2196424 (9th Cir. July 30, 2026).

66. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Procedural Due Process

67. Petitioner has been detained at Otay Mesa Detention Center since approximately June 26, 2026.

68. On July 14, 2026, Petitioner's request for bond was denied pursuant to *Matter of Yajure Hurtado*.

69. With the denial of a bond hearing, Petitioner has not had an opportunity to be heard.

70. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

71. 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).

72. Freedom from imprisonment, including government detention, is central to the liberty protected by the Fifth Amendment. *Id.*

73. When the Government interferes with a liberty interest, "the procedures attendant upon that deprivation [must be] constitutionally sufficient." *Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The constitutional sufficiency of procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government's interest. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

74. All of these factors weigh in Petitioner's favor.

75. Petitioner has a fundamental interest in liberty and being free from official restraint given that the freedom of physical restraint "lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690.

76. The risk of erroneous deprivation of Petitioner's liberty interest is extremely high, given that Petitioner is being held under a statute that is inapplicable to him, because he has resided in the United States for approximately

four years before his apprehension by ICE. Especially considering he is being detained without the opportunity for release on bond.

77. Releasing Mr. Ruiz-Garmendia or granting him a bond hearing would have no meaningful costs to the government. *See Alvarez-Rico v. Noem*, 4:26-CV-00729, 2026 WL 522322, at *6 (S.D. Tex. Feb. 25, 2026). Considering the substantial financial costs of detention, the fiscal and administrative burden of affording such individuals some form of hearing is minimal compared to the burden of detaining thousands of noncitizens who have resided in the United States for decades. *See id.*

78. Further, there is no other "sufficiently strong special justification" for Petitioner's detention. *See Zadvydas*, 533 U.S. at 690–91.

79. Given Petitioner's weighty interest in his liberty, the high risk of erroneous deprivation of that liberty, and the minimal weight of the Government's interest, it is evident that Petitioner has raised a substantial claim that his continued confinement without the opportunity for a bond hearing violates his procedural due process rights.

COUNT IV
Violation of Substantive Due Process

80. Indeed, "civil commitment for any purposes constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979).

81. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). With respect to immigration confinement, the Supreme Court has recognized two special justifications: (1) preventing flight and (2) preventing danger to the community. *See id* at 690.

82. Petitioner has been detained since June 26, 2026, and will continue to be detained into the indefinite future.

83. Mr. Ruiz-Garmendia is not and has never been a flight risk, as evidenced by his continued presence in the United States, his compliance with ICE reporting requirements for approximately two years.

84. Petitioner has shown no indication that he is a flight risk or that he would refuse to comply with a final order of removal should his legal challenges fail.

85. Further, Petitioner does not pose a danger to society, as demonstrated by his no criminal record, and is not a flight risk, as demonstrated by his ICE reporting compliance.

86. Mr. Ruiz-Garmendia's detention appears to be purely punitive as it bears no reasonable relation to any legitimate government purpose, given that he is being detained without the opportunity for his release on bond to be considered by an immigration judge due to *Yajure Hurtado*. *See Matter of Yajure Hurtado*, 29 I &

N Dec. 216 (BIA 2025) (finding immigration detention is civil and thus assumed to be "nonpunitive in purpose and effect").

87. Thus, Petitioner's detention violates substantive due process. *See Garcia Abanil v. Baltazar*, No. 25-cv-4029, 2026 WL 100587 at *19 (Col. Jan. 14, 2026) ("The Court similarly concludes here that, because [petitioner] is statutorily entitled under § 1226 to more process than he has thus far received, his continued detention without an individualized bond hearing necessarily violates his Fifth Amendment right to due process.") (citing *Lopez Benitez*, 795 F. Supp. 3d at 495) (holding petitioner was "entitled to more process than he received pursuant to § 1226(a) and its implementing regulations" and thus a due process violation was clearly established).

88. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner shall not be transferred outside the Southern District of California while this habeas petition is pending;

(3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

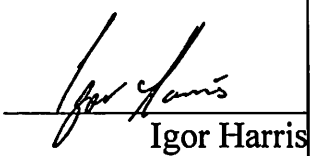
(4) Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

(5) Declare that Petitioner's detention is unlawful; and

(6) Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

/s/ Kenia Garcia
Kenia Garcia, Esq.
Florida Bar No. 102561
Counsel for Petitioner
Pro Hac Vice Pending



Igor Harris
CA Bar # 335884
Counsel for Petitioner
Local Counsel

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

I represent Petitioner, Marvin Ariel Ruiz-Garmendia, 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.

Respectfully submitted,

/s/ Kenia Garcia
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Dated: August 3, 2026