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11 IN THE UNITED STATES DISTRICT COURT

12 IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA

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14
15 JOSE CRUZ CORONA RIOS,
16
17 Petitioner,

18 vs.

19 U.S. Department Of Homeland Security;
20 Kristi Noem, Secretary Of U.S.
21 Department Of Homeland Security, In
22 Her Official Capacity; Pamela Bondi,
23 U.S. Attorney General, In Her Official
24 Capacity; Todd M. Lyons, Acting
25 Director Of U.S. Immigration And
26 Enforcement Operation, And Christopher
J. Larose, Senior Warden at Otay Mesa
ICE Detention Center.

27 Respondents.
28

Case No.: '25CV1796 JES DEB

Agency No. A 

PETITION FOR HABEAS CORPUS

For his complaint against the respondents, petitioner alleges:

PARTIES

1. Petitioner is a Mexican citizen and is currently detained at the Otay Mesa Detention center at 7488 Calzada De La Fuente, San Diego, CA 92154. Petitioner was granted Withholding of Removal Under the Convention Against Torture by Immigration Judge Paula Dixon of the Otay Mesa Immigration Court on April 21, 2025.
2. Respondent U.S. Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA and is an agency within the meaning of the APA, 5 U.S.C. § 551(1). DHS oversees its component agencies, including ICE, U.S. Customs and Border Protection, and U.S. Citizenship and Immigration Services.
3. Respondent Kristi Noem is the Secretary of DHS and she is charged with the administration and enforcement of the INA.
4. Respondent Pamela Bondi is the United States Attorney General. In this capacity, she directs agencies within the United States Department of Justice, including the Executive Office for Immigration Review (EOIR), which houses the immigration courts and Board of Immigration Appeals. Defendant Bondi is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g) and oversees EOIR.

- 1 5. Respondent Todd M. Lyons is the Acting Director Of U.S. Immigration And
2 Enforcement Operation (ICE). He manages and has authority over the
3 actions of all ICE and Enforcement and Operation (ERO) personnels.
4
- 5 6. Respondent Christopher J. Larose is the Senior Warden at Otay Mesa ICE
6 Detention Center where petitioner is currently detained. He has physical
7 custody of Petitioner pursuant to the facility's contract with ICE to detain
8 noncitizens.
9
- 10 7. This petition is commenced against all respondents in their official
11 capacities.
12

13 JURISDICTION AND VENUE 14

- 15 8. Jurisdiction in this matter is proper on the grounds that the petitioner is a
16 federal respondent and these are federal questions. Venue is proper because
17 the petitioner is in federal custody within this jurisdiction.
18

19 FACTUAL BACKGROUND 20

- 21 9. Petitioner is a 39-year-old Mexican citizen. He came to the U.S. on
22 September 13, 2024. He came under the CBP One program.
23
- 24 10. Petitioner's wife and daughter live in Oregon, U.S. His wife is a DACA
25 recipient for over 10 years and their daughter is a 15-year-old U.S. born
26 citizen.
27

1 11. Petitioner was previous in the U.S. illegally from around 2006 to 2012. He
2 left the U.S. around 2012 voluntarily after he was detained by ICE.
3

4 12. Petitioner applied for asylum, withholding, and reliefs under Convention
5 Against Torture with the Otay Mesa Immigration Court on 1/11/2025.
6

7 13. Petitioner had his merit hearing on 4/18/2025. IJ Paula Dixon on 4/21/2025
8 granted Petitioner's application for Withholding of Removal Under the
9 Convention Against Torture. The IJ's Order of Removal to Mexico was
10 withheld with this grant of Withholding.
11

12 14. Petitioner was summoned to ICE office at the Otay Mesa Detention Center
13 and ordered to sign his removal paperwork to Mexico. Petition signed it
14 believing it was his release paperwork. After releasing it was a removal
15 document, he told the ICE ERO officer that he believed he was granted
16 withholding by the IJ the day before. The ICE ERO officer did not respond
17 but took the document with him.
18
19

20 15. Two days later, Petitioner asked an ICE supervisor who told Petitioner that
21 although he was granted withholding of removal, he was being held awaiting
22 removal to a 3rd country.
23
24

25 16. Petitioner's counsel filed a Motion to Reopen and Emergency Motion to
26 Stay Removal. The Motions were granted by IJ Dixon at the Otay Mesa
27 Immigration Court on 6/25/2025.
28

1 17. Petitioner had his master hearing on 7/9/2025 and the next master hearing is
2 on 8/5/2025.
3

4 ARGUMENT

5 Petitioner Should Be Released from Immigration Detention
6

7 18.8 U.S.C.1231(a)(1)(A) states, [E]xcept as otherwise provided in this section,
8 when an alien is ordered removed, the Attorney General shall remove the
9 alien from the United States within a period of 90 days (in this section
10 referred to as the "removal period").
11

12 19. Petitioner was granted withholding of removal on 4/21/2025. The 90-day
13 period ends on July 20, 2025.
14

15 20. During the most recent master hearing on 7/9/2025, DHS counsel stated on
16 the record that DHS inquired about a third country that could accept
17 Petitioner, but they had not found a country, and DHS didn't not foresee it
18 would happen.
19

20 21. Petitioner has been in detention since 9/13/2025. It has been 10 months.
21

22 22.8 U.S.C.1231(a)(1) talks about the 90 period may be extended if an alien
23 fails or refuses to make timely application for travel or other documents
24 necessary to the alien's departure.
25

26 23. It is clear from the DHS Counsel's statement that the reason for Petitioner's
27 continuous detention is DHS has not found a third country for his removal.
28

1 24. Furthermore, mandatory detention under 8 U.S.C. 1231 (2) does not apply to
2 Petitioner's case because Petitioner has not been found inadmissible under
3 section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section
4 1227(a)(2) or 1227(a)(4)(B) of this title.
5

6
7 25. There are other alternatives to detention while DHS looks for a third country
8 for removal. Petitioner's wife and daughter and siblings reside near Portland
9 Oregon. He could be released to Portland ICE office under intensive
10 supervision such as the ankle monitor, ICE APP, and ISAP programs.
11

12 26. Even if DHS finds a third country for removal under the Preliminary
13 Injunction ordered by the Court in *D.V.D et al. v. DHS et al.* They must give
14 him a meaningful opportunity to raise any C.A.T. or asylum claim against
15 the third country removal.
16

17
18 27. No criminal records were alleged in the NTA or any documents filed by the
19 DHS in Petitioner's removal proceedings. He is not a danger to the
20 community or a flight risk.
21

22 CLAIM FOR RELIEF

23 First claim: violation of the due process clause of the U.S. constitution
24

25 28. Petitioner re-alleges and incorporates by reference paragraphs 1-23 above.

26 29. Petitioner's detention violates his right to substantive and procedural due
27 process guaranteed by the Fifth Amendment of the U.S. Constitution.
28

1 30. The Due Process Clause of the Fifth Amendment forbids the government
2 from depriving any “person” of liberty “without due process of law.” U.S.
3 Const. Amend. V.
4

5 31. “[T]he Due Process Clause applies to all ‘persons’ within the United States,
6 including aliens, whether their presence here is lawful, unlawful, temporary,
7 or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). For this
8 reason, even “removable and inadmissible aliens are entitled to be free from
9 detention that is arbitrary and capricious,” *Id.* at 721 (Kennedy, J.,
10 dissenting). That constitutional protection is unaffected by the government’s
11 authority to make rules for “admission” that regulate the immigration status
12 of noncitizens. See 8 U.S.C. § 1101(a)(13)(A) (defining admission as “the
13 lawful entry of the alien”).
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19 Second Claim: Violation of the INA §236(a), 8 U.S.C. § 1226(c).

20
21 32. Petitioner re-alleges and incorporates by reference paragraphs 1-23 above.

22 33. Petitioner’s continued detention violates the Immigration and Nationality
23 Act (INA) and Administrative Procedure Act (APA).
24

25 34. INA §236(c)(1)(A) – (D) states: a) Persons who are inadmissible for having
26 committed an offense described in INA § 212(a)(2) [e.g. crimes of moral
27 turpitude (CIMT) and drug offenses]; b) Persons who are deportable for
28

1 having committed any offense in INA § 237 (a)(2)(A)(ii) [multiple CIMTs],
 2 237(a)(2)(A)(iii) [aggravated felony], 237(a)(2)(B)[drug offense]
 3 237(a)(2)(C)[firearms offenses], or 237(a)(2)(D) [crimes related to
 4 espionage]; c) Persons who are deportable under INA § 237(a)(2)(A)(i) [has
 5 been convicted of a crime of moral turpitude that was committed within five
 6 years of admission] and has been sentenced to a term of imprisonment of at
 7 least one year; and d) Persons who are inadmissible under INA §
 8 212(a)(3)(B) or deportable under INA § 237(a)(4)(B) [involved in terrorist
 9 activities].

10 35. Petitioner's detention violates 8 U.S.C. § 1226(c) because he is not subject
 11 to mandatory detention. Petitioner is not subject to mandatory detention
 12 under 8 U.S.C. § 1226(c) because he is not deportable for "conviction"
 13 under 8 U.S.C. § 1101(a)(48)(A).

14 36. This Court may hold unlawful and set aside an agency action which is
 15 "contrary to constitutional right, power, privilege or immunity." 5 U.S.C. §
 16 706(2)(B).

23 PRAYER FOR RELIEF

24 Wherefore, Petitioner respectfully requests that this court grant the following
 25 relief:

- 26 1. Assume jurisdiction over this matter.

1 2. An order staying his removal during the pendency of these proceedings
2
3 3. an Order granting the Writ of Habeas Corpus and ordering respondents to
4 release petitioner immediately on his own recognizance, parole, or on reasonable
5 conditions of ICE supervision if necessary.
6

7 4. In the alternative, issue an order directing Respondents to show cause why
8 the writ should not be granted.
9

10 5. In the alternative, conduct a bond hearing at which (1) the government bears
11 the burden of proving flight risk and dangerousness by clear and convincing
12 evidence and (2) alternatives to detention that could mitigate flight risk are
13 considered.
14

15 6. In the alternative, hold that petitioner's detention is governed by 8 U.S.C. §
16 1226(a), entitling petitioner to a bond hearing upon request before an immigration
17 judge.
18

19 7. Award petitioner his costs and reasonable attorneys' fees in this action as
20 provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, other statute;
21 and,
22

23 8. Grant such further relief as the Court deems just and proper.
24

25 Dated this 14th day of July, 2025.

26 S/ Curtis Lee Morrison
27 Curtis Lee Morrison, Esq. (CA BN 321106)
28 Attorney for Petitioner

1 *s/ Jimmy Namgyal*

2
3 Jimmy Namgyal, OR BN 853094
4 Attorney for Petitioner

5 Verification

6
7 I, Jimmy Namgyal, have made suitable inquiry into the facts and
8 circumstances underlying this petition, and to the best of my knowledge and belief
9 every factual allegation in it is true, and the legal claim for relief is sound.
10

11 Dated this 14nd day of July, 2025.

12 s/ Jimmy Namgyal

13 Jimmy Namgyal, OSB#121246

14 Attorney for Petitioner.
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