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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Jose Angel Giron Rodas,)	CASE NO.: <u>'25CV1912 LL AHG</u>
)	
Petitioner-Plaintiff,)	
)	PETITION FOR WRIT OF HABEAS
v.)	CORPUS PURSUANT TO
)	28 U.S.C. § 2241; COMPLAINT FOR
Todd Lyons, Acting Director,)	DECLARATORY AND INJUNCTIVE
Immigration and Customs)	RELIEF; VERIFIED PETITION
Enforcement; Gregory J.)	
Archambeault, San Diego Field)	Petitioner- Plaintiff DHS No. A209-772-764
Office Director, Immigration and)	
Customs Enforcement Removal)	
Operations, and Christopher J.)	
LaRose, Warden, Otay Mesa)	
Detention Center)	
)	
Respondents-Defendants.)	
)	

INTRODUCTION

1. Petitioner-Plaintiff Jose Giron Rodas (DHS No. ) is in the custody of Immigration and Customs Enforcement (“ICE”) and is held at the Otay Mesa Detention Center (“Otay Mesa”). Since his detention in ICE custody on or around January 27, 2025, Mr. Giron Rodas has experienced worsening symptoms of likely colorectal cancer including severe abdominal, chest and back pain, severe bleeding, dizziness, weakness, and rectal prolapse. He has not received adequate medical care at Otay Mesa, and he suffers and becomes more ill every day he is detained at Otay Mesa without the proper medical intervention.
2. Prior to Mr. Giron Rodas’s criminal arrest and detention in May 2024 and subsequent transfer to ICE custody in January 2025, Mr. Giron Rodas received emergency treatment for likely colorectal cancer. He had experienced chest and back pain, lost a significant amount of blood, and a CT angiogram of his abdomen and pelvis revealed lymphadenopathy that was likely malignant. Mr. Giron Rodas was to obtain follow-up treatment including a colonoscopy to confirm cancer diagnosis, but he was arrested before that occurred.
3. Since the beginning of his detention by ICE at Otay Mesa in January 2025, Otay Mesa medical personnel have been aware of his likely cancer diagnosis, ongoing and increased bleeding from his rectum, dizziness, abdominal, chest and back pain. Yet, for six months, Mr. Giron Rodas has not been provided with the necessary medical treatment.
4. Dr. Jessica Ho, MD, MPH, met and consulted with Mr. Giron Rodas on April 19, 2025 and June 7, 2025. Dr. Ho reviewed Mr. Giron Rodas’s medical records, including his records from a Kaiser emergency room visit prior to his initial arrest, and records of his medical care while at Otay Mesa. Dr. Ho

- 1 determined that Mr. Giron Rodas is not receiving adequate medical care at
- 2 Otay Mesa and is being denied life-saving medical diagnostics and treatment.
- 3 5. Mr. Giron Rodas is in removal proceedings before the immigration judge and
- 4 has been found ineligible for a bond due to his criminal conviction for 8
- 5 U.S.C. §1324(a)(1)(A)(ii) - Transportation of Certain Aliens.
- 6 6. Mr. Giron Rodas's ongoing detention without proper medical care creates an
- 7 enormous risk to his health and safety in violation of the Fifth Amendment
- 8 Due Process Clause. The Government cannot allow a person in its custody to
- 9 suffer and die. *Helling v. McKinney*, 509 U.S. 25, 36 (1993).
- 10 7. This Court should order Defendants to release Mr. Giron Rodas so that he
- 11 may obtain life-saving medical treatment that Defendants will not provide.

12 JURISDICTION AND VENUE

- 13 8. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. § 1331
- 14 (federal question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702
- 15 (waiver of sovereign immunity), 28 U.S.C. § 2241 (habeas corpus
- 16 jurisdiction), and Article I, Section 9, clause 2 of the United States
- 17 Constitution (the Suspension Clause). This Court has the power in equity to
- 18 issue declaratory and injunctive relief for violations of the Constitution by
- 19 federal officials. See *Ex Parte Young*, 209 U.S. 123 (1907); *Philadelphia*
- 20 *Co. v. Stimson*, 223 U.S. 605, 620 (1912) (applying *Ex Parte Young* principle
- 21 to federal government officials); see also *Roman v. Wolf*, 977 F.3d 935, 941
- 22 (9th Cir. 2020) (confirming that “[c]ourts have long recognized the existence
- 23 of an implied cause of action through which plaintiffs may seek equitable
- 24 relief to remedy a constitutional violation.”); 5 U.S.C. § 702.
- 25 9. Venue is proper in the Southern District of California under 28 U.S.C. §
- 26 1391, because at least one federal Defendant resides in this District and
- 27 because the Plaintiff is detained in this District.
- 28

PARTIES

Petitioner-Plaintiff

10. Jose Giron Rodas is a 45-year-old man detained in ICE custody at the Otay Mesa Detention Center in San Diego, California since on or around January 27, 2025. Prior to being subjected to detention by ICE, he was detained in the custody of the U.S. Marshalls Service at the same facility from approximately May 2024 to January 2025.

Respondents-Defendants

11. Todd Lyons is the Acting Director of Immigration and Customs Enforcement, a federal law enforcement agency within the Department of Homeland Security. ICE's responsibilities include operating the immigration detention system. In his capacity as ICE Acting Director, Defendant Lyons exercises control over and is a custodian of persons held at the ICE facilities nationally. At all times relevant to this Complaint, Defendant Lyons was acting within the scope and course of his employment with ICE. He is sued in his official capacity.

12. Gregory J. Archambeault is the Director of the San Diego Field Office of ICE Enforcement and Removal Operations ("ICE ERO"), a federal law enforcement agency within the Department of Homeland Security. ERO is a directorate within ICE whose responsibilities include operating the immigration detention system. In his capacity as ICE ERO San Diego Field Office Director, Defendant Archambeault exercises control over and is a custodian of persons held at the Otay Mesa Detention Center in San Diego, California. At all times relevant to this Complaint, Defendant Archambeault was acting within the scope and course of his employment with ICE. He is sued in his official capacity.

1 13. Christopher J. LaRose is the Warden for the Otay Mesa Detention Center in
2 San Diego, California. At all times relevant to this Complaint Defendant
3 LaRose was acting within the scope and course of his status as the warden of
4 the detention facility. He is sued in his official capacity.

5 **STATEMENT OF FACTS**

6 14. Mr. Giron Rodas is in removal proceedings before an immigration judge, is
7 detained at the Otay Mesa Detention Center, and has been denied a bond
8 hearing by an immigration judge.

9 15. On April 16, 2024, prior to Mr. Giron Rodas's criminal arrest and
10 subsequent immigration detention, he had been treated at the Kaiser
11 Permanente Emergency Room in Los Angeles for severe chest and back pain,
12 significant blood loss, and anemia. Mr. Giron Rodas's radiographic images
13 of his abdomen showed likely cancer which had to be confirmed with a
14 colonoscopy. Mr. Giron Rodas was unable to obtain a colonoscopy before
15 his criminal arrest in May 2024.

16 16. In ICE detention at Otay Mesa, Mr. Giron Rodas has been experiencing
17 debilitating pain in his abdomen, fatigue, rectal prolapse and blood loss that
18 is so significant he can and has collected his blood in a jar.

19 17. Defendants are aware of Mr. Giron Rodas's life-threatening medical
20 condition. Mr. Giron Rodas has requested medical attention numerous times
21 over six months and has been examined by government medical providers.
22 Mr. Giron Rodas has told medical personnel at Otay Mesa that he was
23 diagnosed with cancer and is bleeding daily with pain in abdomen and back.
24 During proceedings before immigration judges and counsel from the ICE
25 Office of the Principal Legal Advisor, Mr. Giron Rodas asked for release
26 because he was dying. In one instance Mr. Giron Rodas brought to court a
27 jar of blood he had collected from his body from one day to show the
28 immigration judge and ICE counsel his extreme need for care. Despite

1 repeated requests for adequate medical care and Mr. Giron Rodas's visible
2 physical suffering, he has not received proper care and required treatment.

3 18. Dr. Jessica Ho, MD MPH, has met with Mr. Giron Rodas twice, most
4 recently on June 7, 2025, and reviewed his medical records and determined
5 that Defendants are not providing Mr. Giron Rodas with "anywhere near
6 adequate care", including life-saving diagnostics and treatment.

7 19. As a result of Defendants' failure to provide adequate medical treatment,
8 Mr. Giron Rodas is experiencing worsening symptoms, extreme suffering,
9 and the progression of a life-threatening illness. The harm is ongoing.

10 20. Mr. Giron-Rodas's release is required to stop his suffering and to enable him
11 to obtain life-saving medical treatment.

12 21. Mr. Giron Rodas is entitled to the Constitutional Due Process protection
13 against substantial harm stemming from his suffering and the life-threatening
14 conditions in federal custody. The Supreme Court has explained, "when the
15 State takes a person into its custody and holds him there against his will, the
16 Constitution imposes upon it a corresponding duty to assume some
17 responsibility for his safety and general well-being." *DeShaney v. Winnebago*
18 *County Dept. of Soc. Servs.*, 489 U.S. 189, 199–200 (1989). The government
19 must provide those in its custody with "food, clothing, shelter, medical care,
20 and reasonable safety." *Id.* at 200.

21 22. Petitioner is entitled to "basic human needs" which includes medical care
22 and "reasonable safety". *Helling v. McKinney*, 509 U.S. at 33.

23 23. If released, Defendants have a range of effective means to supervise Mr.
24 Giron Rodas, including ICE's conditional supervision program, called ISAP
25 (Intensive Supervision Appearance Program), that relies on the use of
26 electronic ankle monitors, biometric voice recognition software,
27 unannounced home visits, and in-person reporting to supervise participants.
28

1 24. The Court has authority to order Mr. Giron Rodas's release to remedy a
2 constitutional violation. *Hutto v. Finney*, 437 U.S. 678, 687 n.9 (1978); *see*
3 *also Hernandez Roman v. Wolf*, 977 F.3d at 941 (ordering the release of
4 immigration detainees to remedy constitutional violations related to failure to
5 protect against COVID 19).

6
7 **FIRST CLAIM FOR RELIEF**

8 **Petitioner-Plaintiff's Detention Violates His Fifth Amendment Right to**
9 **Substantive Due Process (Right to Reasonable Safety in Government Custody)**

10
11 25. Petitioner-Plaintiff repeats and incorporates by reference all allegations
12 above as though set forth fully here.

13 26. The Fifth Amendment requires the federal government to maintain
14 conditions of reasonable health and safety for people in its custody. The
15 federal government violates that requirement when it fails to provide for
16 basic human needs including adequate medical care and reasonable safety.

17 27. "The Fifth Amendment's Due Process Clause forbids the Government to
18 'deprive' any 'person . . . of . . . liberty . . . without due process of law.'"
19 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

20 28. Immigration detainees are civil detainees and therefore cannot be subject to
21 conditions that constitute punishment. *Bell v. Wolfish*, 441 U.S. 520, 535
22 (1979). The federal government also violates the Fifth Amendment when it
23 subjects anyone in its custody to cruel treatment and when it subjects civil
24 detainees to conditions of confinement that amount to punishment.

25 29. By detaining Mr. Giron Rodas without providing adequate medical care and
26 subjecting him to extreme suffering and the risk of substantial harm and
27 potentially life-threatening health conditions, Defendants are failing to ensure
28 Mr. Giron Rodas's basic human needs and reasonable safety and subjecting

1 him to conditions that constitute punishment, thus violating his rights under
2 the Fifth Amendment.

3 30. For these reasons, Defendants' failure to provide adequate medical care for a
4 life-threatening illness violates Mr. Giron Rodas's right to reasonable safety
5 in government custody, rendering Defendants' ongoing detention of Mr.
6 Giron Rodas in violation of the Due Process Clause.

7
8 **SECOND CLAIM FOR RELIEF**
9 **Petitioner-Plaintiff's Detention Violates the**
10 **Administrative Procedure Act, 5 U.S.C. § 706(2)**

11 31. Petitioner-Plaintiff repeats and incorporates by reference all allegations
12 above as though set forth fully here.

13 32. Under the Administrative Procedure Act, a court must "hold unlawful and
14 set aside agency action" that is "arbitrary, capricious, an abuse of discretion,
15 or otherwise not in accordance with the law," that is "contrary to
16 constitutional right [or] power," or that is "in excess of statutory jurisdiction,
17 authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-
(C).

18 33. Defendants' denial of adequate medical care and reasonable safety to Mr.
19 Giron Rodas is arbitrary, violates the Fifth Amendment of the Constitution,
20 and is without statutory authorization and is in violation of 5 U.S.C. § 706(2).

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner-Plaintiff respectfully asks this Court to take
23 jurisdiction over this actual controversy and prays for the following relief:

24 a. A Declaration that the conditions of confinement for Petitioner-Plaintiff
25 are unconstitutional under the Fifth Amendment because they deny
26 Petitioner-Plaintiff adequate medical care, reasonable safety, and
27 protection against substantial risk of harm;
28

- 1 b. A Declaration that the conditions of confinement for Petitioner-Plaintiff
2 are in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2),
3 because the denial of adequate medical treatment is arbitrary and
4 capricious, a constitutional violation, and without statutory authorization;
5 c. The Issuance of a Writ of Habeas Corpus on the grounds that Petitioner-
6 Plaintiff's ongoing detention violates the Due Process Clause and the
7 Administrative Procedure Act, and order the release of Petitioner-Plaintiff
8 so that he may obtain life-saving medical diagnostics and treatment; and
9 d. In the alternative, an Injunction ordering Respondents-Defendants to
10 release Petitioner-Plaintiff from ongoing detention that prevents him from
11 receiving adequate and life-saving medical treatment and subjects him to
12 a substantial risk of harm;
13 e. An award of Petitioner-Plaintiff's costs and reasonable attorneys' fees in
14 this action under the Equal Access to Justice Act, as amended, 5 U.S.C. §
15 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and,
16 f. Any other and further relief that this Court deems just and appropriate.
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18 Dated: July 28, 2025

s/ Jean Reisz

19 JEAN REISZ
20 USC GOULD SCHOOL OF LAW,
21 IMMIGRATION CLINIC

22 Attorney for Petitioner-Plaintiff
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VERIFICATION

I, Jean Reisz, declare as follows:

I am an attorney admitted to practice law in the State of California.

Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner-Plaintiff, I am making this verification on his behalf.

I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on July 28, 2025.

s/ Jean Reisz

JEAN REISZ

USC GOULD SCHOOL OF LAW, IMMIGRATION CLINIC

Attorney for Petitioner-Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 28, 2025, I served a copy of this Petition for Writ of Habeas Corpus by email to the following individual:

Mary Wiggins
Civil Docketing Clerk
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s/ Jean Reisz

Jean Reisz

Counsel for Petitioner-Plaintiff