

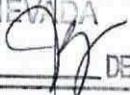
1 Jesus Verdugo-Carrasco

2 Alien No. 

3 Nevada Southern Detention Center

4 2190 East Mesquite Avenue

5 Pahrump, Nevada 89060

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL PARTIES OF RECORD	
DEC 01 2025	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
	 DEPUTY

7 **IN THE UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9  
10 Jesus Verdugo-Carrasco, )

Case No.

11 -Petitioner, *Pro Se*, )

INS No. A 

12 v. )

13 THE UNITED STATES OF AMERICA, )

Custody Status: **DETAINED**

14 Kristi NOEM, in her Official Capacity, )  
15 Secretary of the Department of Homeland Security )

16 Pamela J. BONDI, in her Official Capacity, )  
17 Attorney General, Department of Justice, )

18 Kerri Ann QUIHUIS, in her Official Capacity, )  
19 ICE Field Office Director, Detention and Removal, )  
20 Las Vegas, Nevada (ICE Local) )

**Petition for Writ of Habeas  
Corpus Pursuant to  
28 U.S.C. § 2241**

21 Michael BERNACKE, in his Official Capacity, )  
22 Field Office Director, Salt Lake City Field Office, )  
23 U.S. Immigration and Customs Enforcement, )

24 Todd M. LYONS, in his Official Capacity, )  
25 Acting Director, Immigration & Customs Enforcement, )

**2:25-cv-02374-CDS-BNW**

26  
27 John MATTOS, in his Official Capacity, )  
28 Warden of Immigration Detention Facility, )  
29 Nevada Southern Detention Center; )

30 -Respondents. )  
31 )  
32

**PETITION FOR WRIT OF HABEAS CORPUS**

**PURSUANT TO 28 U.S.C. § 2241**

COMES NOW JESUS VERDUGO-CARRASCO, as the Petitioner, appearing *Pro Se*, and hereby respectfully petitions this Honorable Court for a Writ of Habeas Corpus to remedy Petitioner's unlawful detention by Respondents. Alternatively, Petitioner respectfully seeks an emergency injunction relief ordering his immediate release from ICE custody.

The Petition of Mr. Jesus Verdugo-Carrasco respectfully shows:

**INTRODUCTION**

1. Petitioner, Mr. Jesus Verdugo-Carrasco, is a married male born in Mexico and is currently detained by the Respondents, including the Department of Homeland Security, Immigration and Customs Enforcement ("DHS/ICE"). Here, Petitioner is challenging his continued detention by Respondent's, including ICE, and not his removal order.
2. On November 5, 2025, Petitioner was going to work when he was surrounded by unmarked vehicles where unidentified agents had guns pointed directly at him. Petitioner was apprehended and placed under ICE custody.
3. Petitioner has a total of four children who depend on him for significant practical support, including financial and emotional support. Out of the four children, three are US citizens.
4. Petitioner has two children from his prior marriage. Petitioner has remarried and build a family. Petitioner's current wife and children are facing economic harm as they struggle to make it day by day.
5. Petitioner is a father of 4 children, 3 of whom are US citizens. Petitioner was granted protection under the Convention Against Torture ("CAT") by an Immigration Judge ("IJ") on October 7, 2016, and was accordingly released from ICE custody on October 8, 2016, because CAT protection legally prohibits ICE from removing him from Mexico

- 1 6. Petitioner respectfully requests that the Court use its authority under 28 U.S.C. § 2243 to  
2 order the Respondents to file a return within three days, unless they can show good cause  
3 for additional time. *See* 28 U.S.C. § 2243 (stating that an order to show cause why a  
4 petition for a writ of habeas corpus should be denied is returnable "within three days  
5 unless for good cause additional time, not exceeding twenty days, is allowed").
- 6 7. In order to permit full judicial review of the claims herein and requested relief, Petitioner  
7 respectfully requests that the Court order Respondents not to transfer Petitioner outside  
8 the jurisdiction of this Court pending consideration of this Petition.

9 **CUSTODY**

- 10 8. Currently, Petitioner is in the physical custody of the Respondents and U.S. Immigration  
11 and Customs Enforcement ("ICE"). Petitioner is detained in the United States at the  
12 Nevada Southern Detention Center ("NSDC") in Pahrump, Nevada, where ICE has  
13 contracted with "NSDC" to house immigration ICE detainees such as Petitioner.
- 14 9. Petitioner is under the direct control of Respondents and their agents. Petitioner was been  
15 detained for about three months without a bond hearing, to date.

16 **PARTIES**

- 17 10. Petitioner (also referred to as Mr. Verdugo-Carrasco) a married male who is a citizen of  
18 Mexico. Petitioner was ordered removed on October 7, 2016. The Department ("DHS")  
19 did not appeal from the order of the IJ, thereby making the decision Final. Yet on October  
20 7, 2016, the IJ Granted Petitioner's application for deferral of removal under CAT.
- 21 11. Respondent, UNITED STATES OF AMERICA, issued pursuant to 5 U.S.C. § 703, in  
22 which the Administrative Procedures Act provides "[i]f no special statutory review  
23 proceeding is applicable, the action for judicial review may be brought against the United  
24 States, the agency by its official title, or the appropriate officer".

- 1 12. Respondent Kristi NOEM is sued in her official capacity as the Secretary of the  
2 Department of Homeland Security (herein after referred to as “DHS”). In her official  
3 capacity she has the responsibility for administration and enforcement of the immigration  
4 laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. 296, 116  
5 Stat. 2135 (Nov. 25, 2002). *See Armentero v. INS*, 340 F.3d 1058 (9th Cir. 2003).
- 6 13. Respondent Pamela J. BONDI is sued in her official capacity as the Attorney General of  
7 the United States. She has responsibility for the administration and enforcement of the  
8 immigration laws pursuant to 8 U.S.C. § 1103, and Immigration and Nationality Act §  
9 103. As the “INA” has not been amended to reflect the designation of the Secretary of  
10 the DHS as the administrator and enforcer of the immigration laws. Equally important,  
11 Respondent Pamela J. BONDI is sued in her official capacity to the extent that 8 U.S.C.  
12 § 1102 gives her the authority to detain Petitioner. *See Armentero v. INS*, supra. Thus,  
13 Pamela J. BONDI is considered a legal custodian of Jesus Verdugo-Carrasco.
- 14 14. Respondent Kerri Ann QUIHUIS is sued in her official capacity as ICE Field Office  
15 Director, Detention and Removal, DHS at Las Vegas, Nevada (ICE Local), who is  
16 responsible for the day-to-day operation of detaining and removing noncitizens in Las  
17 Vegas, Nevada.
- 18 15. Respondent, Michael BERNACKE is the Field Office Director responsible for the Salt  
19 Lake City Field Office of ICE Enforcement and Removal Operations, which has  
20 administrative jurisdiction over Petitioner’s case. He is a legal custodian of Mr. Jesus  
21 Verdugo-Carrasco and is named in his official capacity.
- 22 16. Respondent, Todd M. LYONS is the Acting Director of ICE. As the head of ICE, an  
23 agency within the U.S. Department of Homeland Security that detains and removes  
24 certain noncitizens, Respondent Todd M. LYONS is a legal custodian of Mr. Jesus

1 Verdugo-Carrasco. He is named in his official capacity.

2 17. Respondent, John MATTOS, Warden of Nevada Southern Detention Center, where  
3 Petitioner is currently detained under the authority of ICE, alternatively may be  
4 considered to be Petitioner's immediate custodian.

5 18. Respondents are the legal custodian of Petitioner and are named in their official capacity.

6 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

7 19. Petitioner need not exhaust his administrative remedies. The statute in question, 8 U.S.C.  
8 § 1231(a)(6), has no exhaustion requirement. Exhaustion is required only when Congress  
9 specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In all other  
10 instances, "sound judicial discretion governs." *Id.* This Court should not require  
11 Petitioner to exhaust his administrative remedies. Petitioner has CAT protection.

12 20. Petitioner is being held under mandatory detention without a bond hearing. Even if  
13 Petitioner would move for such a bond hearing, it would be futile as the Las Vegas  
14 Immigration Court does not hold proper jurisdiction. As such, Petitioner is challenging  
15 the constitutionality of the procedures by which ICE reviews the custody status of aliens  
16 who cannot be removed within six months, and whose removal is not significantly likely  
17 to occur in the reasonably foreseeable future. The administrative remedy is inadequate to  
18 address these constitutional grounds for recovery.

19 **JURISDICTION**

20 21. This Nevada District Court holds proper jurisdiction under the Suspension Clause, U.S.  
21 Const. art. I § 9, cl. 2. This action arises under the United States Constitution, the  
22 Immigration and Nationality Act of 1952, as amended (herein after referred to as "INA"),  
23 8 U.S.C. § 1101 *et. seq.*, and the Administrative Procedures Act (herein after referred to  
24 as "APA"), 5 U.S.C. §§ 701 *et. seq.*

1 22. This Honorable U.S. District Court for the District of Nevada has proper Habeas Corpus  
2 jurisdiction pursuant to 28 U.S.C. §§ 2241 *et. seq.*; Article 1, Clause 2 of the United States  
3 Constitution (herein referred to as “Suspension Clause”); and the Common Law. This  
4 Court may also exercise jurisdiction pursuant to 28 U.S.C. § 1331, as Petitioner is  
5 presently in custody under color of the authority of the United States, and such custody  
6 is in violation of the Constitution, laws, and/or treaties of the United States. This Court  
7 may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, 28  
8 U.S.C. § 2241, 5. U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

9 23. This Court has authority to order Petitioner’s immediate release. *See Zadvydas v. Davis*,  
10 533 U.S. 678 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069 (9th Cir. 2006).

11 **VENUE**

12 24. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(c) because the Respondents  
13 are employees or officers of the United States, acting in their official capacity, and an  
14 agency of the United States. Venue is additionally proper in this U.S. District Court  
15 because Petitioner is detained in the District of Nevada, and pursuant to *Braden v. 30th*  
16 *Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973). A substantial part of  
17 the events giving rise to the claims in this action took place within this District.

18 **STATEMENT OF THE FACTS AND STATEMENTS OF THE CASE**

19 25. This is a special case, where Petitioner was Granted CAT protection. Petitioner, Mr. Jesus  
20 Verdugo-Carrasco, is a native and citizen of Mexico. Petitioner has been in ICE custody  
21 since November 5, 2025 without a bond hearing.

22 26. This Court should hold that a CAT grant, by law, prohibits Respondents from removing  
23 a noncitizen to the country of feared torture. *See* 8 C.F.R. § 208.16(c)(4).

24 27. Despite the passage of over nine years, and because Petitioner has CAT protection, DHS

1 has been unable to effectuate Petitioner's removal to Mexico. Under *Zadvydas v. Davis*,  
2 533 U.S. 678 (2001), Petitioner's detention is not reasonably related to removal and has  
3 become arbitrary, indefinite, and unlawful. It is important to stress out that DHS has not  
4 removed Petitioner from the US, but instead has released him from ICE detention.  
5 Petitioner has been in full compliance with ICE and the Courts.

6 **a. Petitioner Warrants Habeas Relief Because He Was Granted CAT & DHS**

7 **Did Not Appeal and the IJ Retains No Jurisdiction Over Bond**

8 28. The Department ("DHS") did not appeal, therefore the IJ retains no jurisdiction over  
9 bond. The upshot, DHS did not appeal the IJ's CAT determination and thus, the decision  
10 became final. Even more, under the Immigration Court Practice Manual § 9.3(b)(2): No  
11 Jurisdiction by mootness—"A bond becomes moot, and the Immigration Judge loses  
12 jurisdiction to conduct a bond hearing, when an alien... is granted relief from removal  
13 by the Immigration Judge, and the Department of Homeland Security does not appeal".  
14 See ICPM § 9.3(b)(2). Therefore, Petitioner cannot seek bond from the Immigration  
15 Court and the only remedy available is a federal habeas petition.

16 29. Pursuant to definition of the federal law, Petitioner does not have any serious violent  
17 crimes and does not have an extensive criminal record. Respondents have not executed  
18 removal since 2016. There is no indication that Petitioner will be removed in the future.

19 30. Here, Petitioner has CAT protection and Respondents cannot remove Petitioner in the  
20 reasonably foreseeable future.

21 31. Petitioner's wife and children are being affected by his absence. Both his wife and  
22 children are suffering irreparable harm if Petitioner remains detained indefinitely.

23 **b. DHS/ICE's Re-Arrest of Petitioner Was Arbitrary, Capricious and Violent.**

24 32. In this case, on or about November 5, 2025, Petitioner was surrounded by unmarked ICE

1 vehicles, where agents pointed guns at him, and forcibly detained him.

2 33. Petitioner has never posed a threat, had no violent criminal history and fully complied  
3 with all requirements imposed on him since 2016. The tactics employed by the ICE  
4 agents were excessive, unnecessary and unconstitutionally unreasonable. Respondents  
5 has been unable to remove Petitioner to any other country.

6 34. Petitioner has lived in the United States for decades. He is married and the father of four  
7 children, three who are US citizens, who depend on him emotionally and financially.

8 35. His arrest has caused severe hardship to his US citizen children.

9 **c. This Court Should Grant Habeas Relief on the Grounds that Detention is**  
10 **Unlawful Because Deferral of Removal Under CAT Bars Removal.**

11 36. This is a special case where Respondents cannot remove Petitioner to Mexico due to the  
12 binding CAT order. Detention for the purpose of removal is lawful only when removal is  
13 reasonably foreseeable. *See Zadvydas*, 533 U.S. at 699-700. Where removal is legally  
14 impossible, detention is unlawful. *See Nadarajah*, 443 F.3d at 1080-81. Respondents has  
15 been unable to remove Petitioner from the United States. Respondents are unlikely to  
16 remove Petitioner in the reasonably foreseeable future to Mexico. No other country has  
17 accepted Petitioner, nor can Respondents produce otherwise that he will be removed.

18 37. Again, there is no clear indication that ICE will remove Petitioner in the foreseeable  
19 future. This case warrants an emergency injunction relief.

20 38. This Court should hold that Respondents have no legitimate immigration purposes for  
21 detaining Petitioner. The upshot, Petitioner is protected by CAT.

22 **LEGAL ARGUMENT**

23 39. Respondents cannot execute Petitioner's removal in the reasonably foreseeable future  
24 and has not been unable to remove Petitioner since October 7, 2016. Given the protection

1 under CAT that Petitioner has, it makes removal practically impossible. Under *Zadvydas*,  
2 this Court should conclude that detention is indefinite and unlawful.

3 40. Despite Petitioner's compliance with immigration proceedings and full cooperation, the  
4 Respondents, including DHS, has been unable—and remains unable—to remove him. It  
5 is important to stress out that under *Zadvydas*, the government may not detain a  
6 noncitizen indefinitely when removal is not reasonably foreseeable.

7 41. The Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), held that post-  
8 removal detention is constitutionally permissible only for a period reasonably necessary  
9 to effectuate removal, presumptively six months. Detention beyond that period violates  
10 due process where there is no significant likelihood of removal in the reasonably  
11 foreseeable future.

12 42. The Ninth Circuit has consistently applied *Zadvydas* to prohibit prolonged and indefinite  
13 detention absent evidence of imminent removal. Here, Respondents have provided no  
14 credible evidence that Petitioner's removal is likely in the reasonably foreseeable future.

15 43. The prolonged detention—now extending more than thirteen years since the final order—  
16 has become indefinite and punitive, in violation of *Zadvydas* and the Fifth Amendment's  
17 due process protections. The government's failure to effectuate removal despite ample  
18 time underscores that continued detention serves no legitimate purpose.

19 44. Further, Nevada jurisprudence reinforces that punishment or restraint must always be  
20 proportionate to the underlying conduct and the legitimate objectives of confinement. *See*  
21 *Keys v. State*, 104 Nev. 736, 738, 766 P.2d 270 (1988) (holding that isolated and dated  
22 offenses must be viewed in full context and cannot alone justify harsh or prolonged  
23 consequences).

24 45. Accordingly, when viewed in light of *Zadvydas*, the absence of serious or recent criminal

1 conduct, his detention is unlawful, excessive, and unsupported by any constitutionally  
2 valid justification. Petitioner's immediate release or a bond hearing is warranted under  
3 established federal and Ninth Circuit precedent. This Court should conclude that  
4 Petitioner's prolonged detention violates due process. In this case, Petitioner's continued  
5 detention serves no legitimate government purpose once removal is not achievable.

6 46. This action arises under the Constitution of the United States and the Immigration and  
7 Nationality Act ("INA") §§ 101-507, 8 U.S.C. § 1101-1537, amended by the Illegal  
8 Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208,  
9 110 Stat. 3009-1570. Petitioner was under ICE's supervision and in full compliance.

10 47. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), non-citizens  
11 cannot be detained indefinitely if the government is unable to carry out their removal.  
12 Instead, detention after a final order of removal is authorized only when removal is  
13 reasonably foreseeable. Because Petitioner is under CAT protection, removal is not  
14 reasonably foreseeable, continued detention violates the Due Process Clause.

15 48. The Ninth Circuit has consistently applied *Zadvydas* to require release where removal is  
16 not significantly likely in the reasonably foreseeable future. *See Diouf v. Mukasey*, 542  
17 F.3d 1222 (9th Cir. 2008); *Nadarajah v. Gonzales*, 443 F.3d 1069 (9th Cir. 2006).

18 49. This Court should hold that detention after a final order may be unlawful even when six  
19 months have not passed, particularly if it is clear that the United States will not be able  
20 to affect a non-citizen's removal. But after that six-month period, once a non-citizen  
21 provides "good reason to believe that there is no significant likelihood of removal in the  
22 reasonably foreseeable future, the Government must respond with evidence sufficient to  
23 rebut that showing." And the longer a non-citizen has been detained, the stronger the  
24 government's showing must be.

1 50. Petitioner is entitled to release under the framework of *Zadvydas* unless the government  
2 promptly demonstrates that there is a significant likelihood of removal in the reasonably  
3 foreseeable future. However, after a non-citizen meets his or her initial burden to show  
4 that no such likelihood of removal exists, the burden shifts to the Government to "respond  
5 with evidence sufficient to rebut [the alien's] showing." *Id.* at 701.

6 51. The Due Process clause applies to all persons in the United States, "whether their  
7 presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

8 52. In *Zadvydas*, the Supreme Court emphasized, "[f]reedom from imprisonment—from  
9 government custody, detention, or other forms of physical restraint—lies at the heart of  
10 the liberty that [the Due Process] Clause protects." 533 U.S. at 690 (citing *Foucha v.*  
11 *Louisiana*, 504 U.S. 71, 80 (1992)). That Court noted, "[a] statute permitting indefinite  
12 detention of an alien would raise a serious constitutional problem." *Id.*; *see also, Plyer v.*  
13 *Doe*, 457 U.S. 202, 210 (1982) ("Aliens, even aliens whose presence in this country is  
14 unlawful, have long been recognized as 'persons' guaranteed due process of law by the  
15 Fifth and Fourteenth Amendments.").

16 53. Under 8 U.S.C. § 1231(a)(2), non-citizens subject to final orders of removal "shall" be  
17 detained during the first 90 days—the "removal period"—and they "shall" be removed  
18 during that period under § 1231(a)(1). Under 8 U.S.C. § 1231(a)(6), the government  
19 "may" continue detention beyond the 90-day removal period if a non-citizen falls within  
20 certain broad categories of removability or is determined "to be a risk to the community  
21 or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).

22 54. Courts have rejected conclusory claims by ICE agents which claim, without submitting  
23 concrete factual information about scheduled flights or repatriation agreements, that  
24 removal is imminent. "[A] theoretical possibility of eventually being removed does not

1 satisfy the government's burden once the removal period has expired and the petitioner  
2 establishes good reason to believe his removal is not significantly likely in the reasonably  
3 foreseeable future." *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at \*5 (W.D.  
4 La. Sept. 17, 2020) (internal quotation marks and citation omitted).

5 55. "[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated,  
6 [a] Court certainly cannot conclude that [a] removal is likely to occur—or even that it  
7 might occur—in the reasonably foreseeable future." *Id.* at \*5 (internal quotation marks  
8 and citation omitted). *See also, Gomez Barco v. Witte*, No 6:20-CV-00497, 2020 WL  
9 7393786 (W.D. La. Dec. 16, 2020) (ordering release of a petitioner who was detained  
10 longer than six months because ICE had not been able to secure necessary travel  
11 documents, noting that the ICE officer "clearly has no factual basis for his 'belief' that  
12 there is no foreseeable impediment to Petitioner's removal or that her removal is  
13 imminent," and that there was no foundation for the "expectation" that the COVID-19  
14 related travel restrictions in place would soon be lifted); *Balza v. Barr*, No. 6:20-CV-  
15 00866, 2020 WL 6064881 (W.D. La. Oct. 14, 2020) (same).<sup>1</sup> In granting Ms. Balza's  
16 release, the court considered and rejected a conclusory declaration by a local ICE  
17 Assistant Field Officer that removal was imminent. *Id.* at \*5.

---

<sup>1</sup> Other district courts in the Fifth Circuit and elsewhere have similarly granted habeas relief when the noncitizen has shown that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g., Carreno v. Gillis*, No. 5:20-cv-44-KS-MTP, 2020 WL 8366735 (S.D. Miss. Dec. 16, 2020) (granting habeas relief to petitioner detained for approximately sixteen months due to lack of diplomatic relations with Venezuela); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d 703 (S.D. Tex. 2020) (granting habeas relief to petitioner initially detained for three years, released and detained again for four months when petitioner could not be removed due to travel restrictions to Pakistan); *Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen months after Iranian officials failed to respond to a travel document request for more than seven months).

1 56. In *Alexis v. Smith*, the petitioner, Mr. Alexis, had been in detention for almost a year and  
2 subject to a removal order for over a year. An ICE official testified to an informal  
3 agreement that permitted removals but acknowledged that there were far fewer removals  
4 to Haiti in the aftermath of the 2010 hurricane. The Haitian government had an issue with  
5 identity documents and it was unknown when that would be resolved. The magistrate did  
6 not credit ICE's vague statements that it was "endeavoring to rectify the issue" and  
7 concluded there was no end in sight for detention, and recommended release. The District  
8 Court Judge agreed and ordered released. ICE then released Mr. Alexis on an Order of  
9 Supervised Release and moved to get the judgment vacated on mootness, which it was.  
10 However, this does not invalidate the reasoning and conclusions of the Magistrate Judge  
11 and District Court Judge on this subject, and this case is still informative and persuasive  
12 to the body of law on this subject. *Alexis v. Smith*, No. CIV.A. 11-0309, 2011 WL 3924247  
13 (W.D. La. Aug. 3, 2011), report and recommendation adopted, No. CIV.A. 11-0309, 2011  
14 WL 3954945 (W.D. La. Sept. 6, 2011), vacated, No. CV 11-00309 2011 WL 13386020  
15 (W.D. La. Sept. 15, 2011).

16 57. As the length of detention grows, the period of time that would be considered the  
17 "reasonably foreseeable future" shrinks. *See, e.g., Zadvydas*, 533 U.S. at 701 (stating that  
18 as the length of time in detention grows "what counts as the 'reasonably foreseeable  
19 future' conversely would have to shrink"); *Senor*, 401 F. Supp. 3d at 430 ("[T]he passage  
20 of time combined with' the 'government [being] no closer to . . . repatriating [a detainee]  
21 than they were once they first took him into custody' [is] sufficient to meet that 'initial  
22 burden.'"); *Lawrikow*, 2009 WL 2905549, at \*12. Here, Respondents have not removed  
23 Petitioner to Mexico and there is no likelihood that his removal will occur in the future.

24 58. Petitioner's continued detention is unlawful, and Petitioner is unlikely to be removed in

1 the reasonably foreseeable future. Therefore, Petitioner's detention violates the statute  
2 and he is entitled to immediate release.

3 59. This Court should hold that civil immigration detention violates due process if it is not  
4 reasonably related to its statutory purpose. *See id.* (citing *Jackson v. Indiana*, 406 U.S.  
5 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only  
6 two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to  
7 the community. *Id.* Petitioner's prolonged civil detention, which is likely to continue  
8 indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring  
9 imminent removal. Thus, Petitioner's detention violates his right to due process.

10 60. To the extent ICE may argue that it can continue indefinitely detaining Petitioner on the  
11 grounds that he is "specially dangerous", ICE has not even attempted to comply with its  
12 own extensive procedures to obtain such a classification. *See* 8 C.F.R. § 241.14(f)-(g),  
13 (i). *See also, Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss.  
14 Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen months after  
15 Iranian officials failed to respond to a travel document request for more than seven  
16 months). Respondents have not removed Petitioner since 2016 and Respondents cannot  
17 provide a date where Petitioner would be removed in the foreseeable future.

18 61. This is a case where ICE has not obtained a certification of special dangerousness from  
19 the Commissioner, it has not ordered that Petitioner undergo a medical examination, and  
20 it has not initiated a reasonable cause proceeding in Immigration Court. In fact, ICE's  
21 own regulations provide that without proving "special dangerousness" by clear and  
22 convincing evidence before an IJ, ICE does not have the ability to indefinitely detain an  
23 alien who has no significant likelihood of being removed within a six-month period.

24 62. In short, ICE has not followed its own rules, or the due process demanded by the United

1 States Constitution and by *Zadvydas*. Thus, given the underlying fact that Petitioner is  
2 protected by CAT, he cannot be removed to Mexico.

3 63. Thus, given the underlying fact that Petitioner has been granted protection under the CAT,  
4 he cannot be removed to Mexico as a matter of law. CAT protection imposes a *mandatory*  
5 *prohibition* on the United States government from returning an individual to the country  
6 where torture is more likely than not to occur. *See* 8 C.F.R. § 208.16(c)(4) (CAT  
7 withholding or deferral “*prohibits the removal of the applicant to the country of feared*  
8 *torture*”).

9 64. The Ninth Circuit has consistently reaffirmed that CAT relief is absolute and non-  
10 discretionary, and that it unequivocally bars the government from removing the applicant  
11 to the country of persecution or torture. In *Nuru v. Gonzales*, the court held that CAT  
12 protection creates a “clear, categorical, and mandatory” bar to removal to the country of  
13 torture. 404 F.3d 1207, 1221–23 (9th Cir. 2005). The agency may not disregard or  
14 undermine the Immigration Judge’s binding factual findings regarding the likelihood of  
15 torture. Similarly, in *Avendano-Hernandez v. Lynch*, the Ninth Circuit emphasized that  
16 once an Immigration Judge concludes the applicant is more likely than not to be tortured,  
17 DHS is prohibited from effectuating removal to that country. 800 F.3d 1072, 1080–82  
18 (9th Cir. 2015). DHS must “strictly comply” with CAT obligations and cannot treat the  
19 grant of protection as discretionary or subject to unilateral revision.

20 65. Moreover, in *Madrigal v. Holder*, the court reiterated that CAT determinations are  
21 grounded in factual findings supported by substantial evidence and must be respected  
22 unless DHS successfully appeals—which did not occur here. 716 F.3d 499, 508 (9th Cir.  
23 2013). Because the Department of Homeland Security did **not** appeal the Immigration  
24 Judge’s October 7, 2016 CAT order, that decision is final and binding.

1 66. Where removal is legally impossible—as here—detention lacks any valid immigration  
2 purpose. The Ninth Circuit has made clear that the government cannot detain an  
3 individual for removal purposes when removal is not reasonably foreseeable or legally  
4 permissible, as such detention violates due process. *See Zadvydas v. Davis*, 533 U.S. 678,  
5 699–701 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1080–81 (9th Cir. 2006)  
6 (ordering immediate release of asylum applicant with CAT issues; “indefinite—and  
7 potentially permanent—detention” violates due process)

8 67. Thus, because Petitioner is protected by CAT, the law forbids DHS from removing him  
9 to Mexico, and his detention—premised on a removal that cannot legally occur—is  
10 unlawful, arbitrary, and unconstitutional.

11 68. Taken as a whole, Petitioner's indefinite detention violates the detention statute and is  
12 unconstitutional. Here, Petitioner respectfully requests that this Court order Respondents  
13 to show cause why the writ should not be granted "within three days unless for good  
14 cause additional time, not exceeding twenty days, is allowed," and set a hearing on this  
15 Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ  
16 of Habeas Corpus ordering Respondents to immediately release Petitioner.

17 **IN THE ALTERNATIVE, AN EMERGENCY INJUNCTION RELIEF IS**

18 **WARRANTED TO PREVENT IRREPARABLE HARM**

19 69. Petitioner respectfully requests that this Court issue an emergency injunction ordering  
20 his release from ICE custody. Petitioner respectfully requests that this Honorable Court  
21 issue an emergency injunction ordering his immediate release from ICE custody.

22 70. Despite this extensive passage of time, Respondents have not provided any evidence—  
23 nor identified any concrete date—indicating that Petitioner’s removal is likely to occur  
24 in the reasonably foreseeable future.

1 71. This Court should grant immediate release because once it becomes evident that removal  
2 is not significantly likely in the reasonably foreseeable future, continued detention  
3 violates the Fifth Amendment's guarantee of due process.

4 72. In Nevada, federal courts have consistently applied *Zadvydas* to grant relief where  
5 removal was not reasonably foreseeable and detention became punitive. *Mendoza v. Barr*,  
6 No. 2:19-cv-00364-JAD-BNW, 2019 WL 6310259, at 3 (D. Nev. Nov. 25, 2019)  
7 (granting habeas relief and ordering release where removal was not reasonably  
8 foreseeable and petitioner posed no flight risk or danger).

9 73. Here, as in *Zadvydas* and its progeny, Respondents' continued detention of Petitioner  
10 serves no legitimate government purpose. The prolonged and indefinite nature of his  
11 confinement—despite more than a decade of non-removability—has transformed an  
12 administrative measure into unconstitutional punishment. The Court's equitable and  
13 inherent authority empowers it to grant immediate injunctive relief where federal  
14 detention exceeds lawful bounds and violates due process.

15 74. Accordingly, Petitioner respectfully requests that this Court issue an **emergency**  
16 **injunction ordering his immediate release** from ICE custody.

17 75. Injunctive relief is appropriate where the petitioner demonstrates: (1) a likelihood of  
18 success on the merits, (2) irreparable harm absent relief, (3) that the balance of equities  
19 tips in his favor, and (4) that the public interest supports relief. *Winter v. Nat. Res. Def.*  
20 *Council*, 555 U.S. 7, 20 (2008); *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127,  
21 1131 (9th Cir. 2011) (a serious question going to the merits plus a balance of hardships  
22 that tips sharply toward the petitioner also supports injunctive relief).

23 **A. Likelihood of Success on the Merits**

24 76. Petitioner's CAT protection and indefinite detention without a constitutionally adequate

1 bond hearing violates the Fifth Amendment’s Due Process Clause. *See Zadvydas v. Davis*,  
2 533 U.S. 678, 690 (2001) (civil detention must bear a reasonable relation to its purpose  
3 and cannot be indefinite). Because Respondents has failed to justify Petitioner’s  
4 continued detention under the appropriate legal standard, success on the merits is likely.

5 **B. Irreparable Harm**

6 77. Petitioner and his family suffer irreparable harm every day that his liberty is restrained  
7 in violation of due process. Indefinite detention imposes significant psychological and  
8 physical hardship and impedes Petitioner’s ability to meaningfully participate in his  
9 defense. The Ninth Circuit has recognized that “prolonged detention without adequate  
10 procedural protections would raise serious constitutional concerns.” *Rodriguez v.*  
11 *Robbins*, 804 F.3d 1060, 1074 (9th Cir. 2015), *vacated on other grounds*, 138 S. Ct. 830  
12 (2018). The deprivation of liberty is the quintessential form of irreparable harm.

13 78. Courts have recognized that the loss of family unity and the resulting emotional trauma  
14 constitute irreparable harm warranting judicial intervention. *See Leiva-Perez v. Holder*,  
15 640 F.3d 962, 968 (9th Cir. 2011) (per curiam) (irreparable harm established where  
16 removal or detention would cause separation from family and loss of stability); *Ramos v.*  
17 *Nielsen*, 321 F. Supp. 3d 1083, 1114 (N.D. Cal. 2018) (holding that family separation and  
18 loss of parental support amount to irreparable injury).

19 79. In light of these authorities and because the IJ granted deferral of removal, which gives  
20 CAT protection, Petitioner’s continued confinement serves no legitimate government  
21 interest and inflicts grave, irreparable harm upon a vulnerable family. Immediate release  
22 or injunctive relief is warranted to prevent further suffering.

23 80. Here, the government’s continued detention of Petitioner serves no legitimate purpose  
24 and inflicts profound harm on his vulnerable family members—harm that cannot be

1 undone by later judicial relief. Because these facts demonstrate both a constitutional  
2 violation and the existence of irreparable injury, the Court should exercise its equitable  
3 authority under 28 U.S.C. § 2241 to grant habeas relief and Order Petitioner's immediate  
4 release.

5 **C. Balance of Equities**

6 81. The balance of equities strongly favors Petitioner's release. The government's interest in  
7 ensuring attendance at removal proceedings can be met through less restrictive means,  
8 such as bond or supervision, particularly where Petitioner has taken steps of rehabilitation  
9 and no record of absconding. *See Valdez-Jimenez v. Eighth Judicial Dist. Ct.*, 460 P.3d  
10 976, 992 (Nev. 2020) (holding that due process requires individualized findings before  
11 continued pretrial detention). Continued detention imposes significant hardship on  
12 Petitioner, while release under reasonable conditions poses no harm to the government.

13 **D. Public Interest**

14 82. The public interest is always served by upholding constitutional rights and preventing  
15 unlawful detention. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (recognizing  
16 that enforcement of constitutional rights is in the public interest). Prompt judicial  
17 intervention will preserve the integrity of removal proceedings and reinforce the rule of  
18 law. Public interests favor Petitioner's release as DHS has yet to deport him to Mexico.

19 **i. ICE's Custody Review Process Is Constitutionally Inadequate,**  
20 **Leaving Habeas Corpus as the Only Available Remedy.**

21  
22 83. This Court should conclude that ICE's post-order custody reviews at 90 and 180 days are  
23 not meaningful substitutes for judicial review. These reviews are conducted entirely  
24 within the agency, lack transparent standards, provide no guaranteed opportunity to  
25 present evidence or rebut government assertions, and result in decisions that are

1 unappealable. Such a process fails to meet the minimum requirements of due process.

2 84. Even if Petitioner were to wait for the 180-day custody review, there is no assurance that  
3 ICE would provide a fair hearing or a reasoned decision, leaving Petitioner at risk of  
4 indefinite and unreviewable detention—a result the Supreme Court condemned in  
5 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

6 85. The lack of an effective administrative remedy underscores the need for this Court's  
7 intervention through habeas corpus. As the Supreme Court reaffirmed in *Boumediene v.*  
8 *Bush*, 553 U.S. 723, 745 (2008), the Great Writ is a critical safeguard against unlawful  
9 executive detention and ensures that no person is deprived of liberty without judicial  
10 review. Again, the IJ granted Petitioner's application for deferral of removal under CAT.

11 86. Because no other remedy exists to challenge ICE's arbitrary detention decisions, habeas  
12 corpus relief is proper and necessary to protect Petitioner's constitutional rights.

13 ii. **Respondents' Arbitrary Detention Decisions Are Unlawful**  
14 **and Deprive Petitioner of Due Process.**  
15

16 87. DHS and ICE have acted in an arbitrary and capricious manner by cherry-picking arrests  
17 and selectively detaining noncitizens like Petitioner without a reasoned basis or  
18 individualized assessment. Administrative detention must be rationally related to its  
19 purpose—to secure attendance at proceedings or protect the public—and cannot be  
20 punitive or arbitrary. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must  
21 bear a reasonable relation to its purpose); *Judulang v. Holder*, 565 U.S. 42, 53 (2011)  
22 (agency action must be based on a reasoned explanation and not arbitrary decision-  
23 making). DHS has failed to deport Petitioner since 2012 and thus warrants release.

24 88. DHS denied Petitioner's 90-day custody review without any meaningful explanation and  
25 with no opportunity to present evidence or rebut allegations. This lack of procedural

1 safeguards renders the review process constitutionally deficient. The Ninth Circuit has  
2 consistently held that the government must provide individualized determinations and  
3 consider less restrictive alternatives to detention.

4 89. Moreover, even if Petitioner were to wait until the 180-day custody review, there is no  
5 guarantee that DHS would provide a fair opportunity to seek release. ICE's post-order  
6 custody reviews are entirely discretionary, lack transparent standards, and provide no  
7 mechanism for appeal if denied. This leaves Petitioner in a state of indefinite and  
8 unreviewable detention, a situation the Supreme Court condemned in *Zadvydas*, 533 U.S.  
9 at 690 (holding that indefinite detention raises serious constitutional concerns).

10 90. Because no other adequate remedy exists to challenge this unlawful detention—and  
11 because continued detention without judicial oversight would result in irreparable harm  
12 and injury—this Court's intervention through habeas corpus relief is not only proper but  
13 necessary. The writ of habeas corpus serves as a critical check on executive overreach  
14 and unlawful deprivation of liberty. *See Boumediene v. Bush*, 553 U.S. 723, 745 (2008)  
15 (habeas corpus is a fundamental safeguard against arbitrary detention).

16 91. DHS's failure to provide a fair custody review or viable appeal rights leaves Petitioner in  
17 prolonged detention without meaningful process, warranting this Court's intervention  
18 and immediate release through the Great Writ of habeas corpus.

19 **iii. Respondents' Cherry-Picking Arrests Are Arbitrary,**  
20 **Capricious, and Violate Petitioner's Rights as a Refugee.**  
21

22 92. Targeting Petitioner for arrest and detention under these circumstances amounts to  
23 impermissible **“cherry-picking” enforcement**—a practice in which the agency  
24 selectively targets compliant, law-abiding individuals while ignoring others similarly  
25 situated, without articulating any rational or lawful basis for the disparate treatment. Such

1 arbitrary and inconsistent enforcement contravenes the constitutional guarantee of due  
2 process and equal protection under the Fifth Amendment.

3 93. The Supreme Court and Ninth Circuit have long condemned arbitrary exercises of  
4 executive power that lack rational justification or are applied in a discriminatory or  
5 inconsistent manner. Similarly, Nevada federal courts have recognized that selective and  
6 capricious detention practices violate fundamental fairness where the agency fails to  
7 justify why one compliant individual is detained while others in comparable  
8 circumstances are released. *See Mendoza v. Barr*, No. 2:19-cv-00364-JAD-BNW, 2019  
9 WL 6310259, at 3 (D. Nev. Nov. 25, 2019) (holding that continued detention without  
10 reasonable justification violated due process).

11 94. Here, Petitioner has consistently complied with all ICE directives, attended every check-  
12 in, and maintained open communication with enforcement officers. Yet, instead of  
13 rewarding compliance, the agency has singled him out for re-detention without  
14 explanation, while others with similar or greater removal exposure remain at liberty. This  
15 arbitrary and selective enforcement undermines the integrity of the immigration system,  
16 offends basic principles of justice, and violates the constitutional prohibition against  
17 arbitrary governmental action recognized in *County of Sacramento v. Lewis*, 523 U.S.  
18 833, 845–46 (1998). *See Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency action must  
19 not be arbitrary or capricious but must rest on a reasoned explanation).

20 95. Accordingly, the agency's conduct constitutes an abuse of discretion and a violation of  
21 substantive due process. Petitioner's detention should therefore be declared unlawful,  
22 and his immediate release ordered, as continued confinement under such capricious  
23 enforcement serves no legitimate governmental purpose and directly contravenes  
24 controlling Ninth Circuit and Nevada precedent.

1 96. Such selective enforcement is constitutionally suspect and undermines the integrity of  
2 the immigration system. The Supreme Court has emphasized that agency actions must be  
3 guided by intelligible principles and consistent application of law. *Encino Motorcars,*  
4 *LLC v. Navarro*, 579 U.S. 211, 221 (2016) (agency decisions must reflect reasoned  
5 analysis and avoid arbitrary departures from settled policy). ICE's decision here reflects  
6 no individualized assessment of danger or flight risk, as required by due process.

7 97. Moreover, Petitioner is protected by statute and international law from removal to  
8 Mexico. *See* INA § 241(b)(3)(A), 8 U.S.C. § 1231(b)(3)(A) (prohibiting removal of a  
9 noncitizen to a country where life or freedom would be threatened); *see also, INS v.*  
10 *Cardoza-Fonseca*, 480 U.S. 421, 449 (1987) (refugee protections reflect the  
11 humanitarian purpose of U.S. asylum law). By arresting Petitioner without cause or  
12 justification, and despite knowing he cannot be deported to Mexico, ICE's conduct is not  
13 only futile but punitive, rendering the detention unlawful under *Zadvydas v. Davis*, 533  
14 U.S. 678, 690 (2001) (detention must be reasonably related to its purpose and cannot be  
15 indefinite where removal is not reasonably foreseeable).

16 98. Because ICE's arrest and detention decisions lack a rational connection to a legitimate  
17 governmental objective and instead reflect arbitrary "cherry-picking" enforcement, this  
18 Court should grant the writ of habeas corpus and order Petitioner's immediate release.  
19 Judicial intervention is necessary to prevent further constitutional injury and to ensure  
20 that agency discretion is exercised within lawful bounds.

21 99. Further, there is no response from a country designated for removal and this follows a  
22 significant delay in receiving a response. *See, e.g., Gonzalez-Rondon v. Gillis*, 5:19-cv-  
23 109-DCB-MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (granting habeas relief to  
24 petitioner detained thirteen months where there was no response from Venezuelan

1 officials). The Ninth Circuit requires release where ICE cannot show a “significant  
2 likelihood of removal in the reasonably foreseeable future.” *Diouf v. Mukasey*, 542 F.3d  
3 1222, 1234 (9th Cir. 2008). *See also Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir.  
4 2018) (due process prohibits “unreasonably prolonged” immigration detention without  
5 individualized justification). Because Petitioner has CAT protection, the government is  
6 legally prohibited from removing him to Mexico. No alternative country has been  
7 identified. Therefore, this Court should conclude that detention violates due process and  
8 grant this habeas petition. This Court should grant Habeas relief based on the grounds  
9 that detention is arbitrary and capricious in violation of the APA. Agency action that  
10 disregards binding legal obligations is arbitrary and capricious under the APA, 5 U.S.C.  
11 § 706(2)(A). DHS/ICE’s decision to re-detain Petitioner, who has a final CAT protection  
12 is contrary to CAT regulations, 8 C.F.R. § 208.16, binding IJ findings, and *Zadvydas*.  
13 These actions “entirely fail to consider an important aspect of the problem” and are  
14 unlawful. *See Motor Vehicle Mfrs. Ass’n v. State Farm*, 463 U.S. 29, 43 (1983).

15 100. Surrounding Petitioner with unmarked vehicles and pointing guns at him  
16 constitutes excessive force, particularly against a complaint, non-dangerous individual.  
17 The Fifth Amendment prohibits arbitrary deprivations of liberty. This Court should grant  
18 immediate release based on due process violations where excessive use of force and  
19 improper arrest procedures occurred against Petitioner. Because Petitioner was granted  
20 CAT relief and DHS did not appeal, the IJ cannot hear a bond request. *See Immigration*  
21 *Court Practice Manual* § 9.3(b)(2). Thus, continued detention serves no legitimate  
22 governmental purpose and contravenes fundamental due process protections. This Court  
23 should grant relief and order Petitioner’s immediate release or, at least, require a  
24 constitutionally adequate bond hearing where DHS bears the burden of proof.

**CLAIMS FOR RELIEF**

**COUNT ONE: PETITIONER'S DETENTION IS IN VIOLATION OF DUE PROCESS**

**CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTIONAL**

101. This Court should order Petitioner's immediate release because Respondents arbitrary and capricious detention decisions violate the Fifth Amendment's guarantee of due process. All persons, including non-citizens, residing in the US are protected by the Due Process Clause of the Fifth Amendment to the US Constitution. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1982). The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be ... deprived 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 liberty that Clause protects". *Zadvydas*, 533 U.S. at 690.

102. Detention by the Respondents puts at risk Petitioner's protected life and liberty interest. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of life and liberty "without due process of law". *See U.S. Const., amend. V*. Again, Respondents have been cherry-picking arrests and detention and Respondents cannot produce a removal date in the foreseeable future.

**COUNT TWO: STATUTORY VIOLATIONS**

103. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. Petitioner has CAT protection and continues to languish in ~~de~~ detention. Petitioner's removal to his country of origin, which would be Mexico, or any country is not significantly likely to occur in the foreseeable future. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone like Petitioner under such circumstances is unlawful.

**COUNT THREE: SUBSTANTIVE DUE PROCESS VIOLATION**

104. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

105. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining him in order to effectuate removal, that interest does not justify his indefinite detention where he is not likely to be deported in the reasonably foreseeable future. *Zadvydas* recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal.

**COUNT FOUR: PROCEDURAL DUE PROCESS VIOLATIONS**

106. Under the Due Process Clause of the Fifth Amendment, Petitioner is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity. Petitioner respectfully notes that ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondent to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process.

107. Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.

108. Even if Petitioner's detention is authorized under Section 1231, 1225 or 1226, Petitioner's continued detention must comport with due process. Petitioner respectfully argues his indefinite detention violates his due process rights; he requests immediate release from Respondents.

1 109. Respondents have failed to effectuate Petitioner's removal and have produced no  
2 credible or substantial evidence indicating that removal is likely to occur in the  
3 reasonably foreseeable future.

4 110. This Court should grant his Habeas petition and Order Respondents to release  
5 Petitioner on the grounds that the Supreme Court has made clear that continued detention  
6 under such circumstances violates the constitutional limits established in *Zadvydas v.*  
7 *Davis*, 533 U.S. 678, 699–701 (2001), where the Court held that detention is no longer  
8 lawful once removal is no longer reasonably foreseeable. *See also Clark v. Martinez*, 543  
9 U.S. 371, 384 (2005) (extending *Zadvydas* to all noncitizens facing indefinite detention).

10 111. Because Respondents have not met their burden of showing a significant  
11 likelihood of removal in the reasonably foreseeable future, this case is ripe for habeas  
12 review. *See Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (recognizing the  
13 six-month presumptively reasonable detention period under *Zadvydas*). Petitioner's  
14 continued confinement thus constitutes an arbitrary and unlawful deprivation of liberty  
15 in violation of the Fifth Amendment's Due Process Clause. Accordingly, this Court  
16 should grant the writ of habeas corpus and order Petitioner's immediate release under  
17 appropriate supervision.

18 112. Respondents have failed to produce any evidence—such as travel documents,  
19 consular coordination, or assurances from the destination country—indicating that  
20 removal is imminent or even plausible. This indefinite detention therefore falls squarely  
21 within the unconstitutional framework condemned by *Zadvydas* and its progeny.

22 113. Because Respondents have not met their burden of demonstrating a significant  
23 likelihood of removal in the reasonably foreseeable future, Petitioner's detention has  
24 become unlawful and unconstitutional.

1 114. Petitioner warrants immediate release based on the underlying fact that he is  
2 protected by CAT and thus, indefinite detention no longer serves any legitimate  
3 governmental purpose and instead constitutes an arbitrary deprivation of liberty contrary  
4 to the principles articulated in *Zadvydas* and its Ninth Circuit progeny.

5 115. Accordingly, this case is ripe for habeas review, and this Court should grant this  
6 present Habeas Corpus petition and issue an emergency injunction ordering Petitioner's  
7 immediate release from ICE custody under, if applicable, appropriate conditions of  
8 supervision.

9 **PRAYER FOR RELIEF**

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

11 116. Assume jurisdiction over this present matter;

12 117. Issue a declaration that Petitioner's ongoing detention violates the Due Process  
13 Clause of the Fifth Amendment and the Eighth Amendment;

14 118. Grant Petitioner a Writ of Habeas Corpus directing the Respondents to  
15 immediately release Petitioner from custody;

16 119. Enter preliminary and permanent injunctive relief enjoining Respondents from  
17 further unlawful detention of Petitioner under *Zadvydas* or any further applicable law; or

18 120. This Court should grant a Writ of Habeas Corpus and order Petitioner's release  
19 within twenty ("20") days, unless the Respondents schedule a bond hearing before an  
20 immigration judge where the IJ holds proper jurisdiction and where: (1) to continue  
21 detention, DHS must establish by *clear and convincing* evidence that Petitioner presents  
22 a *flight risk* or *danger to the public*, even after consideration of alternatives to detention  
23 that could mitigate any risk that Petitioner's release would present; and (2) if DHS cannot  
24 meet its burden, then the IJ should order Petitioner's custody release under a reasonable

1 Bond taking into account Petitioner's financial circumstances and ability to pay;

2 121. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act  
3 ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis  
4 justified under law;

5 122. Grant any further relief as this Court deems just and proper.

6  
7 I, Jesus Verdugo-Carrasco, hereby affirm under penalty of perjury and under the laws of the  
8 United States of America that the foregoing is true and correct to the best of my knowledge  
9 and belief.

10  
11 **DATED and executed on this 25th day of November, 2025.**

12  
13  
14 Jesus Verdugo

15 Jesus Verdugo-Carrasco

16 Alien No. 

17 Nevada Southern Detention Center

18 2190 East Mesquite Avenue

19 Pahrump, NV 89060

20 / / /

21 / / /

22 / / /

23 / / /

24 / / /

1 / / /

2 / / /

3 / / /

4 / / /

**ACKNOWLEDGEMENT AND VERIFICATION**

Under penalty of perjury, the undersigned declares that he is the named Petitioner in the foregoing petition. I have read the foregoing petition and its contents. The statements in the petition are true and correct to the best of my knowledge, except as to any statements alleged on information and belief, and as to those statements, I believe them to be true.

**DATED** this 25th day of November, 2025.

**EXECUTED** in Pahrump, Nevada.

Jesus Verdugo

Jesus Verdugo-Carrasco

Alien No. 

Nevada Southern Detention Center

2190 East Mesquite Avenue

Pahrump, NV 89060

**EXHIBIT A**

**IJ's DECISION: GRANTED**

**CAT DEFERRAL**

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
3365 PEPPER LANE, SUITE 200  
LAS VEGAS, NV 89120

Law Office of Xavier Gonzales  
Gonzales, Xavier  
528 S Casino Center Blvd,  
2nd Floor  
Las Vegas, NV 89101

Date: Oct 7, 2016

File 

In the Matter of:  
VERDUGO-CARRASCO, JESUS

Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before \_\_\_\_\_. The appeal must be accompanied by proof of paid fee (\$110.00).

Enclosed is a copy of the oral decision.

Enclosed is a transcript of the testimony of record.

You are granted until \_\_\_\_\_ to submit a brief to this office in support of your appeal.

Opposing counsel is granted until \_\_\_\_\_ to submit a brief in opposition to the appeal.

Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,



Immigration Court Clerk

cc:

UL

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
UNITED STATES IMMIGRATION COURT  
LAS VEGAS, NEVADA

FILE: A   
IN THE MATTER OF  
Jesus Verdugo-Carrasco, Respondent

)  
)  
) IN REMOVAL PROCEEDINGS  
)  
)

CHARGE: § 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA" or "the Act")—Present without having been admitted or paroled

APPLICATIONS: Asylum; Withholding of Removal; Deferral of Removal under the Convention Against Torture ("CAT")

ON BEHALF OF THE RESPONDENT:

Xavier Gonzalcz, Esquire  
528 S. Casino Center Blvd., 2nd Floor  
Las Vegas, NV 89101

ON BEHALF OF THE DHS:

Mindy Hoepfner  
Assistant Chief Counsel

WRITTEN DECISION OF THE IMMIGRATION JUDGE

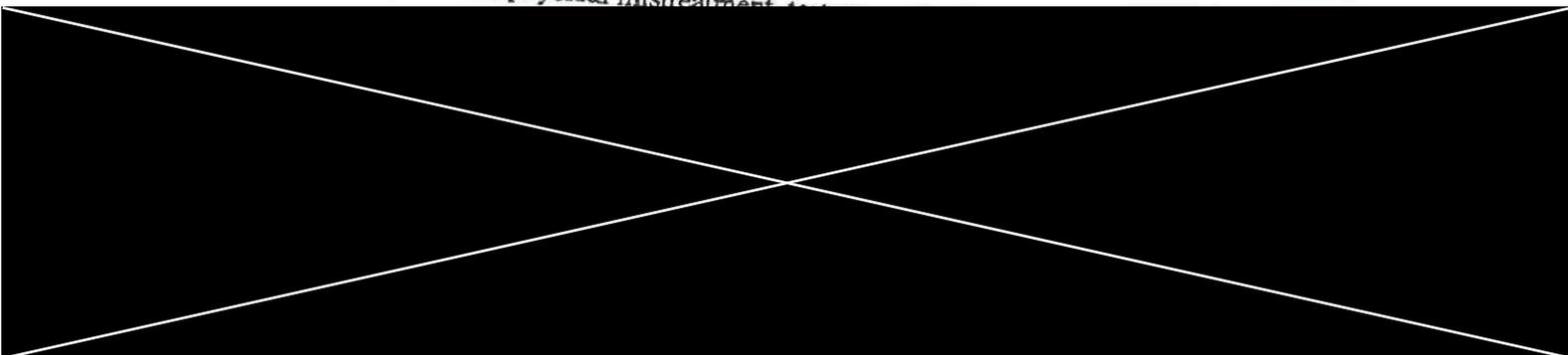
The respondent is a 30-year-old male who is a native and citizen of Mexico. On August 23, 2016, the Board of Immigration Appeals ("Board") remanded the record for further proceedings and the entry of a new decision.

The Immigration Court now considers, in light of the Board majority opinion, the following matters as constituting the law of the case: 1) the respondent is not eligible for asylum and withholding of removal because he has committed a serious nonpolitical crime; 2) the respondent is not eligible for asylum due to the 1-year issue; and 3) the Court's finding that the respondent was not a credible witness with respect to his CAT deferral request was "clearly erroneous."

Moreover, because the Board reversed the finding of the Court that the respondent was not credible, his request for deferral of removal under the Convention Against Torture (CAT) will now be adjudicated under the premise that he is a credible witness. When the respondent is deemed credible, the conclusion necessarily follows that he has met his burden to establish that he qualifies for protection under the CAT.

Under the regulations, a CAT deferral applicant may meet his burden of proof where he is found credible, without the necessity of submitting corroborating evidence. 8 C.F.R. § 1208.16(c)(2). In this case, the respondent submitted as a part of a motion to remand, corroborating evidence regarding the existence of a Commander Rojas--the police official whom the respondent alleged is corrupt and would seek to torture or kill him in the event of his removal to Mexico.

The Human Rights Report for Mexico for 2014 is consistent with the respondent's claim that he will be targeted for physical mistreatment.



§ 1208.16(c)(3)(ii). However, the Court would emphasize that this is a case where the respondent was denied voluntary departure, and his removal to Mexico therefore would necessarily mean that he is being handed over directly to the Mexican authorities. When the respondent's account of his experiences in Mexico is credited as being truthful, he would appear to have no option with respect to the possibility of relocation within Mexico, in order to avoid torture.

ORDERS

IT IS HEREBY ORDERED that the respondent's application for asylum be DENIED.

IT IS FURTHER ORDERED that the respondent's application for withholding of removal to Mexico pursuant to section 241(b)(3) of the Act be DENIED.

IT IS FURTHER ORDERED that the respondent's application for deferral of removal to Mexico under the CAT be GRANTED.

IT IS FURTHER ORDERED that the respondent shall be removed from the United States to any country which is willing to accept him; he shall not be removed to Mexico.

**APPEAL RIGHTS:** Both parties have the right to appeal. Any appeal is due at the Board of Immigration Appeals on or before 30 calendar days from the date of service of this decision.

October 7, 2016

Date



Jeffrey L. Romig  
Immigration Judge

RE: VERDUGO-CARRASCO, JESUS

File: A 

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)

TO:  ALIEN  ALIEN c/o Custodial Officer  ALIEN'S ATT/REP **P** DHS

DATE: 10.7.16 BY: COURT STAFF [Signature]

Attachments:  EOIR-32  EOIR-28  Legal Services List  Other

*Faxed*

C1

**CERTIFICATE OF SERVICE**

I, Jesus Verdugo-Carrasco, hereby certify that the foregoing documents has been submitted on November 25, 2025. Further, I personally served a true, complete and correct copy of the foregoing documents by placing it in a pre-paid stamped envelope through the institutional internal legal mail system at Nevada Southern Detention Center and mailing it to the following individuals:

**Michael Bernacke**  
Salt Lake City ICE Field Office Director  
2975 Decker Lake Drive, Ste 100  
West Valley City, UT 841179-6096

**Todd M. Lyons**  
ICE Deputy Director  
500 12th St. SW  
Washington, DC 20536

**Kristi Noem**  
Secretary of the Department of  
Homeland Security  
2707 Martin Luther King Jr. Ave SE,  
Washington, DC 20528

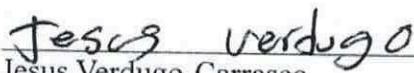
**Kerri Ann Quihuis**  
DOJ-USAO  
501 South Las Vegas Blvd., South  
Ste # 1000  
Las Vegas, NV 89101

**Pamela J. Bondi**  
Attorney General of the United States  
950 Pennsylvania Avenue, NW,  
Washington, DC 20530-0001

**John Mattos**  
Warden, Nevada Southern Detention Center  
2190 East Mesquite Avenue  
Pahrump, NV 89060

**Respectfully submitted on this 25th day of November, 2025.**

**Executed in Pahrump, Nevada.**

  
\_\_\_\_\_  
Jesus Verdugo-Carrasco  
Alien No.   
Nevada Southern Detention Center  
2190 East Mesquite Avenue  
Pahrump, NV 89060

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

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

**JESUS VERDUGO-CARRASCO**  
**ALIEN No. [REDACTED]**  
**PETITIONER, PRO SE**  
**CUSTODY STATUS: DETAINED**