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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10  
11 JUNIOR RODRIGUEZ  
12 GONZALES,  
13 *Petitioner*

14 v.

15 U.S. IMMIGRATION AND  
16 CUSTOMS ENFORCEMENT;  
17 KRISTI NOEM, Secretary, U.S.  
18 Department of Homeland Security;  
19 TODD LYONS, Acting Director,  
20 U.S. Immigration and Customs  
21 Enforcement; CHRISTOPHER  
22 CHESTNUT, Warden, California  
23 City Detention Facility,  
24 Respondents,

25 *Respondents*

Case No.: 3:25-cv-10838

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

**(Filed concurrently with Motion  
for Emergency Temporary  
Restraining Order)**

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**I. INTRODUCTION**

1. Petitioner Junior Rodriguez Gonzales is a 40-year-old native and citizen of Guatemala, currently detained by U.S. Immigration and Customs Enforcement (ICE) at the California City Detention Facility, a former state prison in the Mojave Desert now repurposed as an ICE detention center.
2. Petitioner’s continued detention is unlawful. The sole ground for his removal—his January 9, 2023 conviction for attempted second-degree robbery under California Penal Code §§ 664/211—was vacated by the Los Angeles County Superior Court on November 6, 2025. Petitioner is no longer “convicted of an aggravated felony,” eliminating the only basis for his removability.
3. Petitioner moves this Court for a stay of removal pending his motion to reopen removal proceedings and for an order compelling his release from prolonged detention, or, in the alternative, for a bond hearing before a neutral Magistrate.

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**II. JURISDICTION AND VENUE**

4. This action arises under the Constitution of the United States, 28 U.S.C. §2241(c)(1), and the Immigration and Nationality Act (“INA”), 8 U.S.C. §1101 et seq. This Court has subject matter jurisdiction under 28 U.S.C. §2241, Art. I §9, cl. 2 of the United States Constitution (“Suspension

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8. Respondent ICE is the federal agency responsible for the detention and removal of immigrants and is a legal custodian of Petitioner.

9. Respondent Todd Lyons is the Acting Director of ICE, responsible for ICE's policies and practices, including those relating to detention. He is a legal custodian of Petitioner and is sued in his official capacity.

10. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS), responsible for the administration of immigration laws and a legal custodian of Petitioner. She is sued in her official capacity.

11. Respondent Christopher Chestnut is the Warden of the California City Detention Facility and Petitioner's immediate custodian. He is sued in his official capacity.

**V. EXHAUSTION OF REMEDIES**

12. Petitioner has exhausted all available administrative remedies. The Ninth Circuit has denied his petitions for panel rehearing, en banc rehearing, remand, and, on December 15, 2025, his motion for a stay of the mandate. There is no further administrative relief available prior to removal.

13. Further, no statutory exhaustion requirements apply to Petitioner's claim of unlawful detention. Additionally, the Ninth Circuit has made clear that there is no jurisdictional requirement that plaintiffs exhaust their administrative remedies before pursuing their claims in federal court. *See Hernandez v.*

1 *Sessions*, 872 F.3d 976, 988–89 (9th Cir. 2017).

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3 14. Moreover, even if there were administrative remedies which could provide  
4 relief, exhaustion would be futile. Petitioner claims his detention is  
5 unconstitutional, claims over which the immigration agency has no  
6 jurisdiction. *Matter of Fuentes-Campos*, 21 I&N Dec. 905, 912 (BIA 1997).

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8 15. Last, the custody review procedures for detained aliens such as Petitioner are  
9 constitutionally insufficient both as written and as applied. A number of  
10 courts have identified a substantial bias within ICE toward the continued  
11 detention of aliens, raising the risk of an erroneous deprivation to  
12 constitutionally high levels. *See, e.g., Phan v. Reno*, 56 F. Supp. 2d 1149,  
13 1157 (W.D. Wash. 1999) (“INS does not meaningfully and impartially review  
14 the Petitioners’ status.”); *St. John v. McElroy*, 917 F. Supp. 243, 251  
15 (S.D.N.Y. 1996) (“Due to political and community pressure, INS, an  
16 executive agency, has ever incentive to continue to detain aliens with  
17 aggravated felony convictions, even though they have served their sentences,  
18 on the suspicion that they may continue to pose a danger to the community.”);  
19 see also *Rivera v. Demore*, No. C 99-3042 THE, 199 WL 521177, \*7 (N.D.  
20 Cal. Jul. 13, 1999) (procedural due process requires that aliens release  
21 determination be made by impartial adjudicator due to agency bias). Because  
22 of the substantial bias within ICE toward the continued detention of aliens,  
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1 exhaustion in this case would likely be futile.

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3 **VI. STATEMENT OF FACTS**

4 16. Petitioner entered the United States in 2005 after being threatened and  
5 extorted by  in Guatemala, in connection with his family's  
6 business. He made police reports regarding gang violence and suffered direct  
7 threats and physical harm. (See Exhibit 1, true and correct copies of filings  
8 and orders in *Rodriguez Gonzales v. Bondi*, Case No. 24-4794; *supra*, Dkt. No  
9 62 "TEXT CLERK ORDER. Petitioner's motion to stay the mandate (DE 61),  
10 is denied.")  
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13 17. Petitioner was ordered administratively removed based solely on his January  
14 9, 2023 conviction for attempted second-degree robbery under California  
15 Penal Code §§ 664/211, treated as an aggravated felony "theft" attempt. He  
16 completed a 16-month sentence for that conviction. *Id.*  
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19 18. After passing a reasonable fear interview, Petitioner's case proceeded as a  
20 reinstatement/withholding-only case before the Immigration Court. The  
21 Immigration Judge found Petitioner credible and not convicted of a  
22 particularly serious crime, but denied withholding and CAT relief. *Id.*  
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25 19. On November 6, 2025, the Los Angeles County Superior Court vacated  
26 Petitioner's §§ 664/211 conviction under Penal Code section 1473.7.  
27 Petitioner is no longer "convicted of an aggravated felony," extinguishing the  
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1 only ground of removability. *Id.*

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3 20. The Ninth Circuit has denied Petitioner’s motion to stay the mandate, and the  
4 mandate is set to issue on December 22, 2025, creating grave exigency as  
5 Petitioner faces imminent removal despite the vacatur of his conviction. *Id.*

6  
7 **21. Petitioner has retained counsel to file a motion to reopen his removal**  
8 **proceedings, but will be unable to do so if removed when the mandate**  
9 **issues, on Monday December 19, 2025. *Id.***

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11 **VII. LEGAL FRAMEWORK**

12 22. A writ of habeas corpus is available to individuals detained within the United  
13 States. *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004); *Preiser v. Rodriguez*,  
14 411 U.S. 475, 484 (1973); 28 U.S.C. § 2241(c)(3).

15  
16 23. Challenges to immigration-related detention are within the purview of a  
17 district court’s habeas jurisdiction. *Zadvydas v. Davis*, 533 U.S. 678, 687  
18 (2001); *Demore v. Kim*, 538 U.S. 510, 517 (2003).

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20 24. The habeas statute requires expeditious determination of petitions. *Fay v.*  
21 *Noia*, 372 U.S. 391, 400 (1963); *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir.  
22 2000).

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25 25. The Supreme Court has recognized that “the writ of habeas corpus has served  
26 as a means of reviewing the legality of Executive detention, and it is in that  
27 context that its protections have been strongest.” *I.N.S. v. St. Cyr*, 533 U.S.  
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1 289, 301 (2001).

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3 26. Under *Thuraissigiam v. United States Dep't of Homeland Sec.*, 287 F. Supp.

4 3d 1077 (S.D. Cal. 2018), aff'd in part, rev'd in part, 591 U.S. 103 (2020),

5 habeas review is available for claims enumerated in 28 U.S.C. § 1252(e)(2),

6 including whether the petitioner was ordered removed under expedited

7 removal.

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9 27. The Due Process Clause of the Fifth Amendment forbids the government

10 from depriving any “person” of liberty “without due process of law.”

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12 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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14 **VIII. CLAIMS FOR RELIEF**

15 **GROUND ONE: UNLAWFUL DETENTION IN VIOLATION OF 28 U.S.C. §**

16 **2241 AND THE DUE PROCESS CLAUSE**

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18 28. Petitioner’s continued detention is unlawful because the sole ground for his

19 removal—his conviction for an aggravated felony—has been vacated. There

20 is no longer any valid basis for his removal *or* continued detention.

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22 29. The government’s continued detention of Petitioner without a bond hearing or

23 individualized determination of flight risk or danger violates due process. See

24 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510,

25 523 (2003).

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27 30. Due process requires that the government provide bond hearings to

1 noncitizens facing prolonged detention. *See Zadvydas v. Davis*, 533 U.S. 678,  
2 690 (2001).  
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4 **GROUND TWO: RIGHT TO JUDICIAL REVIEW UNDER**

5 **28 U.S.C. § 1252(e)(2)**  
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7 31. Petitioner's removal order was premised solely on a conviction that no longer  
8 exists. Under 28 U.S.C. § 1252(e)(2), habeas corpus proceedings are available  
9 to determine whether Petitioner was ordered removed under expedited  
10 removal, and whether that order is valid in light of the vacatur of the predicate  
11 conviction.  
12

13 **GROUND THREE: REQUEST FOR STAY OF REMOVAL AND**

14 **OPPORTUNITY TO REOPEN**  
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16 32. Petitioner faces imminent removal despite the vacatur of his conviction and  
17 the elimination of the sole ground of removability. Removal at this juncture  
18 would irreparably deprive Petitioner of the opportunity to move to reopen and  
19 terminate his proceedings.  
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21 **IX. PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner respectfully requests that the Court:  
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- 24 A. Assume jurisdiction over this matter;  
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26 B. Issue a Writ of Habeas Corpus and order Petitioner's immediate release from  
27 custody, or, in the alternative, order Respondents to provide Petitioner with a  
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1 bond hearing before a neutral Magistrate;

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3 C. Stay Petitioner's removal pending resolution of his motion to reopen and  
4 termination of proceedings;

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6 D. Declare that Petitioner's ongoing detention violates the Due Process Clause of  
7 the Fifth Amendment;

8  
9 E. Award Petitioner his costs and reasonable attorneys' fees as provided by 28  
10 U.S.C. § 2412;

11 F. Grant such further relief as the Court deems just and proper.

12 Dated: December 19, 2025

Respectfully submitted,

13  
14 THE BROOKS LAW FIRM, APC

By: /s/ Carlo Brooks

15 Carlo Brooks

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18 carlo@carlobrooks.com

19 *Attorneys for Petitioner*

**STATEMENT OF RELATED CASES**

Pursuant to L.R. 3-12, there are no known interested parties other than those participating in this case.

DATED: December 19, 2025

Respectfully submitted,

/s/ Carlo Brooks  
CARLO BROOKS

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**CERTIFICATE OF SERVICE**

I certify that I served a copy of this document and its attachments on the Court and all parties by filing this document with the Clerk of the Court through the CM/ECF system, which will provide electronic notice and an electronic link to this document to all counsel of record.

DATED: December 19, 2025

Respectfully submitted,

/s/ Carlo Brooks  
CARLO BROOKS