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9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 Luis Antonio RAMOS VILLANUEVA,  
12  
13 Petitioner,

14 v.

15 Christopher J. LAROSE, Senior Warden,  
16 Otay Mesa Detention Center, San Diego,  
17 California;  
18 Daniel A. BRIGHTMAN, Field Office  
19 Director, San Diego Office of Detention  
20 and Removal, U.S. Immigrations and  
21 Customs Enforcement; U.S. Department  
22 of Homeland Security;  
23 Todd M. LYONS, Acting Director,  
24 Immigration and Customs Enforcement,  
U.S. Department of Homeland Security;  
Sirce OWEN, Acting Director for  
Executive Office for Immigration Review;  
Kristi NOEM, Secretary, U.S. Department  
of Homeland Security;  
Pam BONDI, Attorney General of the  
United States;

Respondents.

Case No.: '25CV3679 CAB SBC

**PETITION FOR WRIT OF HABEAS  
CORPUS AND ORDER TO SHOW  
CAUSE WITHIN THREE DAYS;  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Agency Doc. No.:



1 Petitioner LUIS ANTONIO RAMOS VILLANUEVA petitions this Court for a  
2 writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents’ detaining him  
3 unlawfully, and states as follows:

4 **INTRODUCTION**

5  
6 1. Petitioner, LUIS ANTONIO RAMOS VILLANUEVA (“Mr. Ramos Villanueva”  
7 or “Petitioner”), by and through his undersigned counsel, hereby petitions this Court  
8 under 28 U.S.C. § 2241, et seq., to issue a Writ of Habeas Corpus ordering Mr. Ramos  
9 Villanueva’s release from immigration detention by the Department of Homeland  
10 Security, United States Immigration and Customs Enforcement (“ICE”). Mr. Ramos  
11 Villanueva seeks immediate release from custody because Respondents have held him  
12 since Ramos January 9, 2025—a prolonged period—even though he has hired counsel  
13 and has acted diligently to have his asylum application heard by an immigration judge  
14 (“IJ”), and his proceedings have been continued through no fault of his own. His  
15 continued detention without a hearing as to flight risk and danger to the community  
16 violates the U.S. Constitution and federal law.

17 **CUSTODY**

18  
19 2. Mr. Ramos Villanueva is currently in Respondents’ legal and physical custody.  
20 They are detaining him at the Otay Mesa Detention Center in San Diego, California. He  
21 is under Respondents’ and their agents’ direct control.

22 **PARTIES**

23 3. Mr. Ramos Villanueva is a 54-year-old citizen of Mexico, born in Guadalajara,  
24 Jalisco, Mexico. He is currently detained at the Otay Mesa Detention Center in San

1 Diego, California. Mr. Ramos Villanueva is seeking asylum in the United States due to  
2 persecution on account of his political opinion and membership in a particular social  
3 group.

4 4. Mr. Ramos Villanueva is currently in Respondents' legal and physical custody at  
5 the Otay Mesa Detention Center in San Diego, California. CoreCivic, Inc., a Maryland  
6 corporation, operates that facility.

7 5. Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention  
8 Center where Petitioner is being held. Respondent Christopher LaRose oversees the day-  
9 to-day operations of the Otay Mesa Detention Center and acts at the Direction of  
10 Respondents Brightman, Lyons and Noem. Respondent Christopher LaRose is a  
11 custodian of Petitioner and is named in his official capacity.

12 6. Respondent Daniel A. BRIGHTMAN is the Field Office Director of ICE in San  
13 Diego, California and is named in his official capacity. ICE is the component of the DHS  
14 that is responsible for detaining and removing noncitizens according to immigration law  
15 and oversees custody determinations. In his official capacity, he is the legal custodian of  
16 Petitioner.

17 7. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his  
18 official capacity. Among other things, ICE is a component of the DHS, 6 U.S.C. § 271,  
19 and an "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. §  
20 701(b)(1). It is the agency responsible for enforcing immigration laws, and it is detaining  
21 Mr. Ramos Villanueva. Respondent Lyons has custodial authority over Mr. Ramos  
22 Villanueva, who names him in his official capacity.  
23  
24

1 8. Respondent Sirce OWEN is the Acting Director of EOIR and has ultimate  
2 responsibility for overseeing the operation of the immigration courts and the Board of  
3 Immigration Appeals, including bond hearings. Executive Office for Immigration Review  
4 (EOIR) is the federal agency responsible for implementing and enforcing the INA in  
5 removal proceedings, including for custody redeterminations in bond hearings. She is  
6 sued in her official capacity.

7  
8 9. Respondent Kristi NOEM is the Secretary of the DHS and is named in her official  
9 capacity. DHS is the federal agency responsible for enforcing immigration laws and  
10 granting immigration benefits. See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent Noem  
11 has ultimate custodial authority over Mr. Ramos Villanueva, who names her in her  
12 official capacity.

13 10. Respondent Pam BONDI is the Attorney General of the United States and the  
14 most senior official in the U.S. Department of Justice (DOJ) and is named in her official  
15 capacity. She is responsible for the Immigration and Nationality Act's implementation  
16 and enforcement (see 8 U.S.C. §§ 1103(a)(1), (g)), and oversees the Executive Office for  
17 Immigration Review, the office that administers Mr. Ramos Villanueva's removal  
18 proceedings and is responsible for adjudicating Mr. Ramos Villanueva's asylum  
19 application. Mr. Ramos Villanueva names her in her official capacity.  
20

## 21 JURISDICTION AND VENUE

22 11. This action arises under the United States Constitution and the Immigration and  
23 Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Mr. Ramos  
24

1 Villanueva’s detention under the INA and any inherent or plenary powers the government  
2 may claim to continue holding him.

3 12. This Court has jurisdiction under 28 U.S.C. § 1331, § 2241; 5 U.S.C. §§ 701–706  
4 (Administrative Procedure Act, “APA”); and the Suspension Clause, U.S. Const. art. I, §  
5 9, cl. 2, and the Fifth and Eighth Amendments of the United States Constitution.

6 Jurisdiction is not limited by a petitioner’s nationality, immigration status, or any other  
7 classification. *See Boumediene v. Bush*, 553 U.S. 723, 747 (2008). The Court may grant  
8 relief under the Suspension Clause; the Fifth and Eighth Amendments; 5 U.S.C. § 706  
9 (APA); and 28 U.S.C. §§ 1361 (Mandamus Act), 1651 (All Writs Act), 2001  
10 (Declaratory Judgment Act), and 2241 (habeas corpus).

11  
12 13. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Mr.  
13 Ramos Villanueva’s detention. Federal district courts possess broad authority to issue  
14 writs of habeas corpus when a person is held “in custody in violation of the Constitution  
15 or laws or treaties of the United States” (28 U.S.C. § 2241(c)(3)), and this authority  
16 extends to immigration detention challenges that survived the REAL ID Act’s  
17 jurisdictional restrictions. Because Mr. Ramos Villanueva seeks the traditional habeas  
18 remedy of release from allegedly unlawful detention, his petition presents precisely the  
19 type of threshold legality-of-detention question that § 2241 was designed to address. *See*  
20 *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *see also Lopez-Marroquin v. Barr*, 955 F.3d  
21 759, 759 (9th Cir. 2020) (citing *Singh v. Holder*, 638 F.3d 1196, 1211-12 (9th Cir.  
22 2011)). And federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See*,

1 e.g., *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). No court has ruled on the legality of  
2 Mr. Ramos Villanueva’s detention.

3 14. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a  
4 substantial part of the events or omissions giving rise to this claim have happened here,  
5 Mr. Ramos Villanueva is detained here, and his custodian resides here. Venue is also  
6 proper under 28 U.S.C. § 2243 because Mr. Ramos Villanueva’s immediate custodian  
7 resides in this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451-52 (2004) (Kennedy,  
8 J., concurring).

### 10 **FACTUAL BACKGROUND**

11 15. Mr. Ramos Villanueva is a 54-year-old married man born in Guadalajara, Jalisco,  
12 Mexico. He is seeking asylum in the United States based on his political opinion and  
13 membership in a particular social group.

14 16. Mr. Ramos Villanueva is a member and supporter of the National Action Party or  
15 “PAN” (Partido Accion Nacional). PAN is a political organization in Mexico with  
16 ideology based on family values, good customs, religious traditions, human dignity,  
17 respect of laws, and public freedom. Mr. Ramos Villanueva supported the party by  
18 voting, helping deliver flyers and bumper stickers, and actively participated in the rallies  
19 defending democracy on the streets of Guadalajara.

20 17. Mr. Ramos Villanueva was terminated from his employment due to have political  
21 differences with his former boss at the company. Mr. Ramos Villanueva’s former boss is  
22 a member and supporter of the rival party, the Institutional Revolutionary Party or “PRI”  
23 (“Partido Revolucionario Institucional”). Following his termination, Mr. Ramos  
24

1 Villanueva filed and won a lawsuit settlement against his former boss and employer. In  
2 return his former boss retaliated against Mr. Ramos Villanueva by threatening to kill him.  
3 His former boss, [REDACTED] also  
4 filed a frivolous lawsuit and fraud allegations against Mr. Ramos Villanueva which are  
5 pending. Based on Mr. Ramos Villanueva's attorney's investigation, the judge assigned  
6 to the case was given instructions to incarcerate Mr. Ramos Villanueva and give him  
7 "special treatment," Fearing for his life, Mr. Ramos Villanueva fled Mexico and arrived  
8 in the United States and sought asylum.  
9

10 18. Mr. Ramos Villanueva arrived in the U.S. on January 9, 2025 at the San Ysidro,  
11 California port of entry, where he expressed a fear of returning to Mexico and requested  
12 asylum. He was ultimately transferred to the Otay Mesa Detention Center where he has  
13 been detained ever since.

14 19. On January 30, 2025, an asylum officer interviewed Mr. Ramos Villanueva and  
15 found him to be credible and made a positive determination of credible fear of  
16 persecution in Mexico.

17 20. On February 11, 2025, the government issued Mr. Ramos Villanueva a Notice to  
18 Appear before an immigration judge on February 27, 2025.

19 21. At his first Master Calendar hearing on February 11, 2025, Mr. Ramos Villanueva  
20 appeared with counsel and the IJ took pleadings. The IJ adjourned the proceedings to  
21 March 20, 2025 for preparation time.

22 22. On March 20, 2025, the IJ reset the matter for a further Master Calendar hearing on  
23 April 24, 2025 for additional preparation time, including preparing of relief application.  
24

1 23. Prior to the next scheduled hearing date, Mr. Ramos Villanueva retained new  
2 counsel who filed a motion to substitute on April 15, 2025.

3 24. On April 24, 2025, Mr. Ramos Villanueva appeared with his new counsel and the  
4 IJ set a filing deadline for his newly retained counsel to file his asylum application and  
5 adjourned the proceedings to June 11, 2025. Prior to that hearing, Mr. Ramos  
6 Villanueva's counsel filed his asylum application.

7 25. At the June 11, 2024, Mr. Ramos Villanueva's counsel requested the soonest  
8 available individual merits hearing date and the IJ set the matter for an individual merits  
9 hearing on July 30, 2025.

10 26. At the July 30, 2025 hearing, although the hearing was limited to two hours, Mr.  
11 Ramos Villanueva presented his case within that timeframe in order to avoid causing any  
12 further delays. At the conclusion of that hearing, since there was no further time left, the  
13 IJ adjourned the matter to August 1, 2025 in order to issue the oral decision.

14 27. At the August 1, 2025, the IJ denied all forms of relief and ordered Mr. Ramos  
15 Villanueva removed to Mexico. Mr. Ramos Villanueva reserved appeal, the filing  
16 deadline for which was 30 days from the date of the decision.

17 28. On August 7, 2025, Mr. Ramos Villanueva filed his appeal with the Board of  
18 Immigration Appeals (BIA). Although Mr. Ramos Villanueva has filed his appeal brief  
19 on November 6, 2025 (within the deadline set by the BIA), the government's briefing  
20 deadline has expired and it has not filed its brief and the appeal is presently pending.  
21

22 29. Mr. Ramos Villanueva has not moved for a custody redetermination because the  
23 IJ's in this jurisdiction have consistently ruled that they do not have jurisdiction to  
24

1 redetermine the conditions of custody over individuals who have been apprehended at the  
2 border of the United States and who have been processed under Section 235(b)(1)  
3 expedited removal statute, and who have been placed in removal proceedings following a  
4 positive credible fear determination by an asylum officer.

5 30. While in detention, due to his prolonged detention, Mr. Ramos Villanueva has  
6 developed serious psychological symptoms, including anxiety, depression, paranoia,  
7 hopelessness and emotional numbness, for which there is no adequate treatment in the  
8 detention facility.

9 31. Mr. Ramos Villanueva's continued detention without a tenable justification and  
10 without a demonstration that removal is significantly likely in the reasonably foreseeable  
11 future violates constitutional due process. Zadvydas v. Davis, 533 U.S. 678 (2001);  
12 Kydyrali v. Wolf, 499 F. Supp. 3d 768 (S.D. Cal. 2020).

13 32. The government has failed to effectuate Mr. Ramos Villanueva's removal within a  
14 reasonable period of time or present any evidence that his removal is significantly likely  
15 to occur in the reasonably foreseeable future.

16 33. Mr. Ramos Villanueva's detention without a tenable justification violates his rights  
17 under the Due Process Clause of the Fifth Amendment.

### 18 **EXHAUSTION OF REMEDIES**

19 34. Mr. Ramos Villanueva has exhausted all administrative remedies, and no further  
20 ones are available. Furthermore, for habeas claims, exhaustion of administrative remedies  
21 is prudential, not jurisdictional. Hernandez, 872 F.3d at 988. A court may waive the  
22 prudential exhaustion requirement if "administrative remedies are inadequate or not  
23  
24

1 efficacious, pursuit of administrative remedies would be a futile gesture, irreparable  
2 injury will result, or the administrative proceedings would be void.” *Id.* (quoting Laing v.  
3 Ashcroft, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).

4 Petitioner asserts that exhaustion should be waived because administrative remedies are  
5 (1) futile and (2) his continued detention results in irreparable harm.

6 35. Exhausting administrative remedies here is futile because Respondents contend  
7 Mr. Ramos Villanueva is subject to mandatory detention. As such, no request to release  
8 him from custody would be considered by ICE and Mr. Ramos Villanueva’s repeated  
9 requests for parole release have been denied. Moreover, immigration judges in this  
10 district claim to have no jurisdiction to conduct a custody redetermination hearing as to  
11 individuals procedurally situated like Mr. Ramos Villanueva. Indeed, in contravention to  
12 the INA and long-standing precedent and practice, the Board of Immigration Appeals and  
13 Attorney General have deemed no noncitizen eligible for bond before an immigration  
14 judge (with the exception of only noncitizens who entered the U.S. on a visa). As such,  
15 any attempts to exhaust administrative remedies would be entirely futile.  
16

17 36. Moreover, no statutory exhaustion requirements apply to Petitioner’s claim of  
18 unlawful custody in violation of his due process rights, and there are no administrative  
19 remedies that he needs to exhaust. See Am.-Arab Anti-Discrimination Comm. v. Reno,  
20 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a “futile exercise because  
21 the agency does not have jurisdiction to review” constitutional claims); In re Indefinite  
22 Det. Cases, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).  
23  
24

1 37. More importantly, every day that Petitioner remains detained causes him harm  
2 that cannot be repaired. His continued detention puts his physical and mental health at  
3 greater risk, further warranting a finding of irreparable harm and the waiver of the  
4 prudential exhaustion requirement. As explained above, Mr. Ramos Villanueva has  
5 developed serious psychological symptoms, including anxiety, depression, paranoia,  
6 hopelessness and emotional numbness, for which there is no adequate treatment in the  
7 detention facility..

8  
9 38. The Court must consider this in its irreparable harm analysis of the effects on  
10 Petitioner as his detention continues. See De Paz Sales v. Barr, No. 19-CV-07221-KAW,  
11 2020 WL 353465, at \*4 (N.D. Cal. Jan. 21, 2020) (noting that the petitioner “continues to  
12 suffer significant psychological effects from his detention, including anxiety caused by  
13 the threats of other inmates and two suicide attempts,” in finding that petitioner would  
14 suffer irreparable harm warranting waiver of exhaustion requirement).

15  
16 **FIRST CAUSE OF ACTION**  
**Fifth Amendment Due Process Violation**

17 39. Mr. Ramos Villanueva re-alleges and incorporates by reference, as if fully set forth  
18 herein, the allegations in paragraphs 1-38 above.

19 40. The Supreme Court has long recognized that the Fifth and Fourteenth  
20 Amendments refer to all “persons,” not just “citizens.” Aliens, even inadmissible or  
21 removable aliens, must be afforded due process protection. See Yick Wo v. Hopkins, 118  
22 U.S. 356, 369 (1886) (“The Fourteenth Amendment to the Constitution is not confined to  
23 the protection of citizens.”). As stated by the Court, the provisions of the Fourteenth  
24

1 Amendment “are universal in their application, to all persons within the territorial  
2 jurisdiction, without regard to any differences of race, of color, or of nationality” Id.  
3 (emphasis added).

4 41. The Supreme Court has held that “even one whose presence in this country is  
5 unlawful, involuntary, or transitory is entitled to that constitutional protection [of the Due  
6 Process Clauses of the Fifth and Fourteenth Amendments]” Mathews v. Diaz., 426 U.S.  
7 67, 75 n.7 (1976); see also Plyler v. Doe., 457 U.S. 202, 210 (1982) (“Whatever his status  
8 under the immigration laws, an alien is surely a ‘person’ in any ordinary sense of that  
9 term.”); Wong Wing v. United States., 163 U.S. 228, 238 (1896) (“Persons within the  
10 territory of the United States... even aliens... [may not]... be deprived of life, liberty or  
11 property without due process of law.”).

12 42. As there is no final order of removal, and there doesn’t appear to be one in the  
13 reasonably foreseeable future, Mr. Ramos Villanueva may not be removed from the  
14 United States. His removal is not reasonably foreseeable, and his detention no longer  
15 serves any legitimate purpose under the INA.

16 43. In Kydyrali v. Wolf, 499 F. Supp. 3d 768 (S.D. Cal. 2020), a judge in this District  
17 granted habeas relief in a substantially similar case, applying a six-factor balancing test  
18 first articulated in Banda v. McAleenan, 385 F. Supp. 3d 1099 (W.D. Wash. 2019), which  
19 considers: (1) total length of detention to date; (2) likely duration of future detention; (3)  
20 conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5)  
21 delays in the removal proceedings caused by the government; and (6) the likelihood that  
22 the removal proceedings will result in a final order of removal. The court determined that  
23  
24

1 prolonged detention, when considered alongside other due process concerns, can rise to  
2 the level of a constitutional violation warranting release. Kydyrali, 499 F. Supp. 3d at  
3 773.

4 44. Applying the Banda six-factor framework here supports granting Mr. Ramos  
5 Villanueva's petition.

6 45. The final factor—finality—strongly supports the grant of this habeas petition and  
7 request for a bond hearing. Mr. Ramos Villanueva is statutorily eligible to apply for  
8 asylum, and until that application is finally adjudicated, he cannot be removed from the  
9 United States, even to a third country.

10 46. Any delays in this case are attributable to the government, and none are  
11 attributable to Mr. Ramos Villanueva. Mr. Ramos Villanueva promptly applied for  
12 asylum at the border, he has timely attended all of his interviews and court hearings and  
13 has worked diligently to prepare his case with counsel. He has retained counsel at a very  
14 early stage of his case to represent him.

15 47. Mr. Ramos Villanueva has now been detained by ICE for almost one year since  
16 his arrival in the United States on January 9, 2025. His appeal before the BIA is still  
17 pending and it is unknown when the BIA will complete its adjudication of the appeal, and  
18 in the event the BIA affirms the IJ's decision, Mr. Ramos Villanueva will file a petition  
19 for review before the Ninth Circuit Court of Appeals, which could take many money  
20 additional months if not years to be completed. If the BIA reverses the IJ, then his case  
21 will be remanded back to a the IJ which will take several additional months if not over a  
22 year. This period is well beyond the presumptively reasonable six-month period set forth  
23  
24

1 in Zadvydas, 533 U.S. at 701. Courts consistently find detention beyond this threshold  
2 triggers due process scrutiny. See Kydyrali, 499 F.Supp. 3d at 774–75.

3 48. Conditions of confinement also raise constitutional concerns as the medical  
4 treatment available at the Otay Mesa Detention Center is not adequate to address Mr.  
5 Ramos Villanueva’s health conditions.

6 49. Mr. Ramos Villanueva poses no risk of flight and no danger to the community. He  
7 has no criminal history, has demonstrated compliance with all prior immigration  
8 requirements, and has community support in the United States.

9 50. Mr. Ramos Villanueva’s continued detention without a tenable justification  
10 violates his Fifth Amendment right to due process.

11  
12 **PRAYER FOR RELIEF**

13 Mr. Ramos Villanueva asks this Court to grant the following relief:

- 14
- 15 1. Issue a Writ of Habeas Corpus ordering Respondents to release Mr.  
16 Ramos Villanueva from custody immediately;
  - 17 2. Declare the continued detention of Mr. Ramos Villanueva without a  
18 tenable justification a violation of the Due Process Clause of the U.S.  
19 Constitution;
  - 20 3. Alternatively, order an immediate bond hearing before a neutral  
21 decisionmaker where DHS bears the burden of justifying Mr. Ramos  
22 Villanueva’s continued detention by clear and convincing evidence and  
23 where alternatives to detention and Mr. Ramos Villanueva’s ability to pay a  
24

1 bond are considered

2 4. Order Respondents to show cause why Mr. Ramos Villanueva is being  
3 subjected to unlawful and unconstitutional detention; and

4 5. Grant any other relief that may be fit and proper.

6 Dated: December 19, 2025

7 Respectfully submitted,

8 By: /s/ Bashir Ghazialam  
9 Bashir Ghazialam

10 Attorney for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in the Petition and have reviewed his immigration file. Based on those discussions and review of his file, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this December 19, 2025, in San Diego, California.

/s/ Bashir Ghazialam  
Bashir Ghazialam  
Attorney for Petitioner