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2
3 UNITED STATES DISTRICT COURT
4 MIDDLE DISTRICT OF FLORIDA
5 ORLANDO DIVISION

6 Domenico VITALE ROSAMILIA,

7
8 Petitioner,

Case No. 6:26-cv-209

9 v.

10 John MINA, *in his official capacity as Sheriff*
11 *of Orange County, Florida;*

12 Louis A. QUINONES, JR., *in his official*
13 *capacity as Warden of the Orange County Jail;*

14 UNITED STATES DEPARTMENT OF
15 HOMELAND SECURITY;

16 IMMIGRATION AND CUSTOMS
17 ENFORCEMENT; and

18 Garrett J. RIPA, *in his official capacity as*
19 *Field Office Director of Enforcement and*
20 *Removal Operations, Miami Field Office,*
21 *Immigration and Customs Enforcement.*

22 Respondents.
23
24

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND
COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

INTRODUCTION

1
2 1. This is a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 and a
3 complaint for injunctive and declaratory relief challenging on behalf of Petitioner Domenico
4 Vitale Rosamilia, booking number [REDACTED] who is being unlawfully detained in the physical
5 custody of Respondents at the Orange County Jail in Orlando, Florida, without criminal charges,
6 judicial process, or lawful authority, and challenging Respondent's threatened transfer of
7 Petitioner to an ICE facility. Petitioner seeks immediate release.

8 2. Petitioner was granted release on bond by the Immigration Judge ("IJ") at the
9 Otero Immigration Court on December 15, 2025. *See* Exhibit A, IJ Order Granting Bond.
10 Petitioner has complied with all terms of his release, but Respondent's unilaterally, arbitrarily
11 and unlawfully have re-detained Petitioner.

12 3. Petitioner has been confined at the Orange County Jail since January 9th, 2026,
13 following an arrest by the ICE for allegedly "falsifying documents," despite having no criminal
14 charges and receiving no written notice stating the legal basis for his continued detention.

15 4. Petitioner has no criminal record and no pending criminal charges. Respondents
16 have not filed any criminal charge in state court and Petitioner has received no written notice
17 stating the legal basis for his continued detention.

18 5. Upon information and belief, Respondents are holding Petitioner solely on an ICE
19 immigration detainer ("Immigration Hold") and intend to transfer Petitioner to an immigration
20 detention facility absent intervention of this Court.

21 6. Petitioner has filed for asylum and his application (I-589) remains pending before
22 US Citizenship and Immigration Services ("USCIS"). Petitioner appeared for an interview at the
23 Miami Asylum Office on or about May 22, 2025; although a "draft" approval notice and I-94
24

1 dated June 6, 2025 exists, his asylum application remains pending and therefore is not properly
2 subject to local civil-immigration confinement absent lawful federal process. *See* Exhibit B,
3 Petitioner's I-589 Interview Notice, Exhibit C, Draft USCIS Approval Notice, and Exhibit D,
4 USCIS Case Status for Petitioner's Asylum Application.

5 7. Petitioner seeks immediate release and temporary and permanent injunctive relief
6 preventing Respondents from continuing to restrain his liberty (or transferring him) without lawful
7 authority.

8 8. The Court should expeditiously grant this petition.

9 **JURISDICTION**

10 9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
11 Orange County Jail in Orlando, Florida under an "immigration hold."

12 10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
13 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
14 Constitution (the Suspension Clause).

15 11. This Court is authorized to grant the writ and to dispose of the matter as law and
16 justice require. *See* 28 U.S.C. § 2243.

17 12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
18 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

19 **VENUE**

20 13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
21 500 (1973), venue lies in the United States District Court for the Middle District of Florida, the
22 judicial district in which Petitioner currently is detained.

1 14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
2 Respondents are employees, officers, and agencies of the United States, and because a
3 substantial part of the events or omissions giving rise to the claims occurred in the Middle
4 District of Florida.

5 **REQUIREMENTS OF 28 U.S.C. § 2243**

6 15. The Court must grant the petition for writ of habeas corpus or order Respondents
7 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
8 order to show cause is issued, Respondents must file a return “within three days unless for good
9 cause additional time, not exceeding twenty days, is allowed.” *Id.*

10 16. Habeas corpus is “perhaps the most important writ known to the constitutional
11 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
12 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
13 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
14 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
15 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

16 **PARTIES**

17 17. Petitioner Domenico Vitale Rosamilia is a citizen of Venezuela who has been in
18 immigration detention since January 9, 2026. He is currently detained at the Orange County Jail,
19 3723 Vision Blvd., Orlando, FL 32839. Petitioner has resided in the United States since May 4,
20 2014 and has a pending asylum case before USCIS.

21 18. Respondent Sheriff John Mina is the Sheriff of Orange County, Florida, and has
22 ultimate authority over the custody of individuals detained by the Orange County Sheriff’s
23 Office and housed at the Orange County Jail. He is sued in his official capacity.
24

1 19. Respondent Louis A. Quinines, Jr., Warden of the Orange County Jail is the
2 official responsible for the day-to-day custody and confinement of detainees at the Orange County
3 Jail. He is sued in his official capacity.

4 20. Respondent Department of Homeland Security (DHS) is the federal agency
5 responsible for implementing and enforcing the INA, including the detention and removal of
6 noncitizens.

7 21. Respondent Immigration and Customs Enforcement is the federal agency
8 responsible for enforcing the INA, including the detention and removal of noncitizens.

9 22. Respondent Garrett J. Ripa, is the Field Office Director of ICE's Enforcement and
10 Removal Operations Division, Miami Field Office. The Miami Field Office's area of
11 responsibility covers enforcement operations throughout the State of Florida, including Orlando.
12 As such, he is Petitioner's immediate custodian and is responsible for Petitioner's detention. He
13 is named in his official capacity.

14 **CUSTODY AND EXHAUSTION OF ADMINISTRATIVE REMEDIES**

15 23. Petitioner is "in custody" for purposes of federal habeas review. See 28 U.S.C. §
16 2241(c).

17 24. No exhaustion is statutorily required for Petitioner's habeas claim because
18 "Section 2241 itself does not itself impose an exhaustion requirement," *Santiago-Lugo v.*
19 *Warden*, 785 F.3d 467, 474 (11th Cir. 2015).

20 25. Regardless, "[w]here Congress does not say there is jurisdictional bar, there is
21 none." *Id.* at 473. "The fact that it did not limit courts' subject matter jurisdiction to decide
22 unexhausted § 2241 claims compels the conclusion that any failure of [the petitioner] to exhaust
23 administrative remedies is not a jurisdictional defect." *Id.* at 474.

26. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision that rests soundly within the broad discretion of district courts. *See J.N.C.G. v. Warden, Stewart Detention Ctr.*, No. 4:20-CV-62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); *see also Richardson v. Reno*, 163 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm'n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

27. To Petitioner's knowledge, no administrative remedy exists within the Orange County Jail to challenge a detention premised on alleged immigration concerns with no criminal charge. To the extent exhaustion might be considered, it is not required or would be futile under these circumstances.

28. Accordingly, Petitioner urgently seeks, and is entitled to, habeas relief because he has no meaningful opportunity to challenge the constitutionality of his detention through any available administrative process. *See Boumediene*, 553 U.S. 723, 783 (2008).

FACTUAL ALLEGATIONS

29. Petitioner is a native and citizen of Venezuela who lawfully entered the United States on May 4, 2014 with a valid B-2 visitor visa. On November 16, 2014, he timely filed an affirmative application for asylum with USCIS.

30. USCIS scheduled Petitioner for an asylum interview on May 22, 2025 at the Miami Asylum Office. Following that interview, Petitioner did not receive a decision, and USCIS's online case status continued to reflect his application as "pending."

31. On or about November 22, 2025, Petitioner was detained at the airport solely because he was unable to present evidence of lawful status. Petitioner remained unaware of any

1 adjudication of his asylum application because USCIS had not issued or served a written
2 decision. Petitioner was transferred to ICE detention.

3 32. On December 15, 2025, an Immigration Judge granted Petitioner release on a
4 \$10,000 bond. Soon after, Petitioner posted bond and was released from ICE custody.

5 33. On January 7, 2026, Petitioner received a USCIS FOIA-responsive record. The
6 FOIA response included a document styled as an asylum approval and I-94 notice dated June 6,
7 2025, which appeared to reflect that USCIS had granted Petitioner asylum.

8 34. Relying on the USCIS FOIA-produced approval notice, Petitioner appeared at
9 ISAP on January 9, 2026 to present the document and request removal of his ankle monitor. The
10 ISAP officer contacted ICE, after which ISAP detained Petitioner, alleging, without any forensic
11 review or verification, that the FOIA-released asylum approval was a “fraudulent document.”

12 35. That same day, January 9, 2026, ICE transferred Petitioner to the Orange County
13 Jail, where he has remained detained ever since under an immigration hold. Petitioner has not
14 been charged with any crime, nor has ICE initiated any criminal proceedings related to the
15 alleged “fraudulent” document.

16 36. Petitioner has been detained without a criminal charge being filed in state court.

17 37. Petitioner has not received any written notice or documentation from Respondents
18 regarding the legal authority or basis for his continued detention.

19 38. Upon information and belief, the sole basis for Petitioner’s continued
20 confinement is an ICE immigration detainer—an administrative request that the jail keep
21 Petitioner in custody so ICE may assume custody later. See 8 C.F.R. § 287.7 (detainer “is a
22 request”).

1 39. Since his detention, Petitioner has been subjected to a pattern of continuous
2 72-hour transfers and re-processing, whereby he is moved out of the jail and then returned for the
3 purpose of restarting the 72-hour detention clock. This practice has resulted in Petitioner being
4 held for weeks without charges, without a custody redetermination, and without any lawful basis
5 for continued detention.

6 40. Upon information and belief, Respondents are detaining Petitioner without a
7 judicial warrant, without a pending criminal charge, and without lawful authority to hold him on
8 the basis of suspected civil immigration issues.

9 41. On January 26, 2026, an attorney, on behalf of Petitioner, visited the USCIS
10 Miami Asylum Office to request confirmation of the asylum approval reflected in the FOIA
11 response. The supervising officer stated that the document contained in the FOIA production was
12 a draft, that the asylum decision had not yet been officially issued, and that USCIS had not
13 finalized the approval.

14 42. Despite this representation, USCIS has not corrected or clarified the
15 FOIA-released document, has not updated the online case status, and has not communicated with
16 ICE or DHS OPLA regarding the status of Petitioner's asylum application. This lack of action
17 has directly contributed to ICE's continued detention of Petitioner based on an unverified
18 allegation of document fraud.

19 43. Petitioner's continued detention lacks probable cause of any crime and violates
20 fundamental due process. If any civil immigration inquiry exists, local jailors lack authority to hold
21 Petitioner in noncriminal custody absent a lawful basis and due process safeguards.

22 44. Petitioner remains detained at the Orange County Jail at the time of filing. His
23 continued detention is arbitrary, punitive, and without statutory authority, as it is based solely on
24

1 ICE's unsubstantiated accusation that a FOIA-produced government document is fraudulent,
2 combined with USCIS's failure to issue, clarify, or update the status of Petitioner's asylum
3 adjudication.

4 45. Petitioner is not a criminal detainee and is not properly subject to indefinite civil
5 detention by local jailers without lawful authority.

6 **LEGAL FRAMEWORK**

7 46. Habeas relief under § 2241 is available where custody violates the Constitution or
8 laws of the United States, including unlawful restraints imposed by state actors acting "under
9 color" of federal authority or in coordination with federal immigration enforcement.

10 47. A detainer under 8 C.F.R. § 287.7 is not a judicial warrant and, by its terms, is a
11 request.

12 48. Numerous federal courts have held that prolonged custody or post-release
13 detention based solely on an ICE detainer can violate the Fourth Amendment and due process. See,
14 *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2014); *Miranda-Olivares v. Clackamas County*, No.
15 3:12-cv-02317-ST, 2014 WL 1414305 (D. Or. Apr. 11, 2014); *Morales v. Chadbourne*, 793
16 F.3d 208 (1st Cir. 2015).

17 49. Detaining Petitioner without a criminal charge, without a judicial warrant, and
18 solely for civil immigration purposes constitutes an unreasonable seizure under the Fourth
19 Amendment.

20 50. The threatened transfer to ICE custody, absent any judicial warrant or lawful
21 criminal process, is itself a seizure that will extend and intensify the constitutional violation.

22 51. Petitioner has been deprived of liberty with no notice of authority, no judicial
23 process, and no meaningful opportunity to challenge detention, violating due process.
24

52. Local jailors lack independent authority to hold a person for civil immigration enforcement absent lawful process.

CLAIMS FOR RELIEF

COUNT I

**Unlawful Custody in Violation of the Constitution and Laws of the
United States (28 U.S.C. § 2241)**

53. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

54. Petitioner's detention is unlawful because it lacks criminal charges, judicial process, and lawful authority.

COUNT II

Fourth Amendment (Unreasonable Seizure)

55. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

56. Petitioner is being detained and is threatened with transfer without a warrant and without probable cause of any criminal offense.

COUNT III

Due Process (Fifth/Fourteenth Amendments)

57. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

58. Detaining Petitioner with no criminal charge, no judicial process, and no notice of the basis for confinement deprives him of liberty without due process of law.

59. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government

1 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
2 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653
3 (2001).

4 60. Petitioner has a fundamental interest in liberty and being free from official
5 restraint.

6 **COUNT IV**

7 **Ultra Vires Detention Based on Civil Immigration Grounds**

8 61. Petitioner repeats, re-alleges, and incorporates by reference each and every
9 allegation in the preceding paragraphs as if fully set forth herein.

10 62. To the extent Respondents purport to hold Petitioner based on suspected civil
11 immigration concerns, such detention is not authorized absent lawful process.

12 **COUNT V**

13 **Declaratory and Injunctive Relief (28 U.S.C. §§ 2201–2202; Rule 65)**

14 63. Petitioner repeats, re-alleges, and incorporates by reference each and every
15 allegation in the preceding paragraphs as if fully set forth herein.

16 64. A declaration and injunction are necessary to prevent imminent transfer and
17 continued unlawful detention.
18

19 **IRREPARABLE HARM AND INADEQUATE REMEDY AT LAW**

20 65. Every day of unlawful detention inflicts irreparable harm. Monetary damages
21 cannot remedy the deprivation of liberty. Habeas corpus is the appropriate and necessary remedy.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Petitioner prays that this Court grant the following relief:
24

- 1 a. Assume jurisdiction over this matter;
- 2 b. Issue an order to show cause directing Respondents to justify Petitioner's
- 3 detention forthwith, and set an expedited hearing as soon as practicable under 28
- 4 U.S.C. § 2243;
- 5 c. Issue a writ of habeas corpus directing Respondents to immediately release
- 6 Petitioner from custody;
- 7 d. Enter a TRO/preliminary injunction prohibiting Respondents from transferring
- 8 Petitioner to ICE custody absent a judicial warrant or other lawful authority;
- 9 e. Declare that Petitioner's detention based solely on an ICE detainer and without
- 10 criminal process is unlawful;
- 11 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
- 12 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
- 13 law; and
- 14 g. Grant any other and further relief that this Court deems just and proper.

15 In the alternative, order Petitioner's immediate production before this Court and require
16 Respondents to establish a lawful basis for detention, failing of which Petitioner must be released.

17
18 DATED this 26th of January, 2026.

19
20 /s/ Lorraine Margarita Marte
Lorraine Margarita Marte, Esq.
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21
22
23
24 *Attorney for Petitioner*

1 **28 U.S.C. § 2242 VERIFICATION STATEMENT**

2 I submit this verification on behalf of Petitioner because I am Petitioner's attorney. I verify
3 that the statements made in this Verified Petition for a Writ of Habeas Corpus are true and correct
4 to the best of my knowledge.

5 DATED: January 26, 2026, in Orlando, Florida

6
7 /s/ Lorraine Margarita Marte
8 Lorraine Margarita Marte, Esq.
9 Fla. Bar No. 0124424
10 Law Offices of Lorraine Marte, P.A.
11 P.O. Box 772466
12 Orlando, FL 32877
13 (321) 710-9080
14 LMarte@Marte.Law
15 Attorney for Petitioner

16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on 26th of January of 2026, I electronically served a copy of the
18 foregoing on the Office of the Orange County Sheriff, 2500 W. Colonial Dr., Orlando, FL 32804
19 and legal@ocso.com ; the Warden, Orange County Jail, 3723 Vision Blvd., Orlando, FL 32839
20 and ccd@ocfl.net, OCCDRecords@ocfl.net, and ICE-Orlando Field Office
21 Miami.Outreach@ice.dhs.gov , Orlando.DutyAtty@ice.dhs.gov .

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