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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Johnson Jose GUERRERO-MEDINA,

Petitioner,

v.

Daniel A. BRIGHTMAN, in his official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations San Diego Field Office; **Kristi NOEM**, in her official capacity as Secretary of the U.S. Department of Homeland Security, or her successor; **U.S. DEPARTMENT OF HOMELAND SECURITY**; **Pamela J. BONDI**, in her official capacity as U.S. Attorney General; **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**; **Jeremy CASEY**, in his official capacity as Warden of the Imperial Regional Detention Facility

Respondents.

Case No. '26CV1433 AGS DEB

**PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241 AND
ORDER TO SHOW CAUSE
WITHIN THREE DAYS**

**IMMIGRATION HABEAS
CASE**

Petitioner, Johnson Jose GUERRERO-MEDINA (“Petitioner”), through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and requests an order to show cause within three days why Petitioner should not be released. In support, Petitioner alleges as follows:

I. INTRODUCTION

1. Petitioner is a citizen of Venezuela who seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 because his immigration detention violates the Due Process Clause of the Fifth Amendment. Petitioner is detained at the Imperial Regional Detention Facility in Calexico, California, which lies within this Court’s jurisdiction.

2. Petitioner first entered the United States without inspection on or about August 7, 2022. After encountering Petitioner, the Department of Homeland Security (“DHS”) exercised its discretion to release him into the United States on humanitarian parole on or about August 9, 2022. (See Ex. D, Form I-94 showing parole pursuant to INA § 212(d)(5)). DHS did not place Petitioner into removal proceedings at that time, and Petitioner was not subject to any final order of removal.

3. After his release, Petitioner complied with U.S. immigration law and established substantial ties within the United States. He filed an affirmative application for asylum with the United States Citizenship and Immigration Services

(“USCIS”) and pursued lawful protection under the Immigration and Nationality Act (“INA”). Petitioner obtained an employment authorization document, has no criminal history and has lived and worked peacefully in the community while pursuing his immigration case.

4. Years after DHS initially released Petitioner into the United States, immigration authorities abruptly re-detained him during a vehicle stop while he was traveling within the United States. DHS subsequently initiated removal proceedings and subjected Petitioner to immigration detention without providing any meaningful individualized custody determination.

5. Petitioner’s current detention is fundamentally different from the detention of a newly arriving noncitizen at the border. DHS previously exercised its discretion to release Petitioner into the community and permitted him to reside in the United States while pursuing lawful immigration relief. That government decision gave rise to a substantial liberty interest in Petitioner’s continued freedom from physical confinement. The Constitution does not permit the government to grant an individual liberty, allow him to live peacefully in the community for years while pursuing lawful immigration relief, and then abruptly revoke that liberty without meaningful procedural safeguards.

6. By re-detaining Petitioner years later - without notice, without a neutral custody determination, and without demonstrating that detention is necessary to

mitigate any particularized flight risk or danger - Respondents have deprived Petitioner of liberty without constitutionally adequate process.

7. Petitioner therefore seeks emergency intervention by this Court through a writ of habeas corpus ordering his immediate release from unlawful detention while he pursues his rights under the INA and the United States Constitution.

8. In the alternative, Petitioner requests that this Court order Respondents to provide a prompt and constitutionally adequate individualized custody determination before a neutral decisionmaker at which the government bears the burden of justifying continued detention by clear and convincing evidence that Petitioner poses a danger to the community or a risk of flight.

II. JURISDICTION & VENUE

9. This case arises under the INA, 8 U.S.C. §§ 1101–1538, its implementing regulations, and the United States Constitution.

10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs

Act, 28 U.S.C. § 1651, Federal Rule of Civil Procedure 65, and the Court's inherent equitable powers.

12. Venue is proper in this District because Petitioner is detained within the Southern District of California and Respondents exercise custody over Petitioner within this District.

III. EXHAUSTION

13. Petitioner is not required to exhaust administrative remedies prior to seeking habeas relief. Exhaustion for habeas claims is prudential rather than jurisdictional. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004). The prudential exhaustion requirement may be waived where administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be futile, or irreparable injury would result. *Id.* at 1000.

14. Administrative remedies would be futile, inadequate, and not efficacious for Petitioner. Exhausting his constitutional claim would be futile because the agency does not have the authority to rule on constitutional questions. *See Wang v. Reno*, 81 F.3d 808, 815–16 (9th Cir. 1996) (per curiam) (“the inability of the INS to adjudicate the constitutional claim completely undermines most, if not all, of the purposes underlying exhaustion”).

15. Moreover, Petitioner has no meaningful administrative mechanism through which to challenge the legality of his continued detention because Respondents have not provided him with a constitutionally adequate individualized custody determination. Requiring exhaustion under these circumstances would therefore be futile and would only prolong Petitioner's unlawful deprivation of liberty.

16. Even if exhaustion were not futile, waiver is warranted because Petitioner's claims present purely legal issues that are appropriately resolved by this Court. *See Hernandez v. Sessions*, 872 F.3d 976, 988–89 (9th Cir. 2017).

IV. REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless it appears from the application that the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

18. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been described as "perhaps the most important writ known to the constitutional law of England,

affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

V. PARTIES

19. Petitioner, Johnson Jose GUERRERO-MEDINA, is a citizen of Venezuela who entered the United States without inspection on or about August 7, 2022. Some government documents list Petitioner’s name without a hyphen as “Johnson Jose Guerrero Medina.” Petitioner has a pending Form I-589, Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture.

20. Respondent Daniel A. Brightman is the Director of the San Diego Field Office of U.S. Immigration and Customs Enforcement (“ICE”), Enforcement and Removal Operations (“ERO”). In that capacity, he oversees immigration enforcement and detention operations within this District and is responsible for decisions regarding the custody and removal of noncitizens detained by ICE in this jurisdiction.

21. Respondent Kristi Noem is the Secretary of DHS, or her successor. The Secretary is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner’s detention. The Secretary has ultimate custodial authority over Petitioner and is sued in her official capacity.

22. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

23. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

24. Respondent Executive Office for Immigration Review (“EOIR”) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

25. Respondent Jeremy Casey is the Warden of the Imperial Regional Detention Facility, the official responsible for the custody and day-to-day detention of Petitioner at the Imperial Regional Detention Facility in Calexico, California, where Petitioner is currently detained. He is sued in his official capacity.

VI. FACTUAL ALLEGATIONS

26. Petitioner Johnson J. GUERRERO-MEDINA is a citizen of Venezuela who first entered the United States without inspection on or about August 7, 2022. Shortly after that encounter, the DHS exercised its discretion to release Petitioner into the United States on humanitarian parole on or about August 9, 2022. The parole authorized Petitioner to remain in the United States for a limited period. DHS did

not place Petitioner into active removal proceedings at that time, and to the best of Petitioner's knowledge no Notice to Appear ("NTA") was filed with the Executive Office for Immigration Review during that period. (See Ex. E, Form I-835 Notice to Report issued August 8, 2022).

27. After his release, Petitioner resided in the United States, maintained good moral character, and established strong ties within the community, including his relationship with his U.S. citizen daughter. (See Ex. A, Birth Certificate of Petitioner's U.S. citizen daughter). During this time, Petitioner remained in contact with immigration authorities and updated his address information with ICE as required.

28. On August 2, 2023, Petitioner filed an affirmative Form I-589, Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture with the United States Citizenship and Immigration Services ("USCIS"). (See Ex. C, USCIS Receipt Notice for Form I-589). The application was filed within one year of Petitioner's entry into the United States as required by the INA, and it remains pending.

29. While his asylum application was pending, Petitioner obtained employment authorization pursuant to the asylum regulations and lawfully worked while residing in the United States. (See Ex. B, Employment Authorization Document valid to January 29, 2029).

30. On February 23, 2026, Petitioner was stopped by U.S. Border Patrol agents near Barstow, California while traveling by vehicle from California to Nevada. During that encounter, immigration authorities detained Petitioner.

31. Following that stop, the DHS served Petitioner with an NTA initiating removal proceedings and transferred him into immigration detention.

32. Petitioner was subsequently transported to the Imperial Regional Detention Facility in Calexico, California, where he remains detained.

33. Petitioner's detention occurred years after DHS exercised its discretion to release him into the United States and after he had been living and working in the community while pursuing lawful protection through the asylum process.

34. Petitioner has no criminal history and poses no danger to the community. He has complied with U.S. immigration law and has pursued his immigration relief in good faith.

35. Petitioner's continued detention has deprived him of liberty and interferes with his ability to pursue his pending asylum claim and meaningfully access counsel.

36. Petitioner therefore seeks immediate release from custody through this petition for writ of habeas corpus because his continued detention violates the INA and the Due Process Clause of the Fifth Amendment.

37. Petitioner now files this petition to remedy his unlawful detention and to obtain the relief requested herein.

VII. LEGAL FRAMEWORK

38. Petitioner is an applicant for admission detained by DHS. Accordingly, Petitioner's custody and potential release are governed by DHS's parole authority under INA § 212(d)(5), 8 U.S.C. § 1182(d)(5), and the implementing regulations, including 8 C.F.R. § 212.5.

39. DHS must exercise its parole authority on an individualized, case-by-case basis consistent with the statutory and regulatory framework and in a manner consistent with the Due Process Clause. The governing regulations require consideration of relevant factors such as danger to the community, risk of flight, and whether release would serve humanitarian purposes or a significant public benefit.

40. Petitioner is an appropriate candidate for release from custody because he has strong community ties, no criminal history, a pending asylum application, and his detention imposes severe hardship and interferes with his ability to pursue lawful protection and access counsel.

41. Continued detention absent a meaningful and timely parole determination—or detention based on an erroneous or unsupported rationale—constitutes arbitrary and unconstitutional confinement warranting habeas relief.

42. Petitioner filed an affirmative application for asylum which remains pending. Under the governing regulatory framework, individuals with properly filed asylum applications may remain in the United States while their applications are adjudicated and may obtain employment authorization during the pendency of the application. *See* 8 C.F.R. § 208.7. The asylum process therefore contemplates that applicants will remain present in the United States while pursuing their claims for protection. Petitioner's pending asylum application reflects that he has been actively and in good faith pursuing lawful protection under U.S. immigration law while residing in the United States.

43. The Ninth Circuit has recognized that civil immigration detention is subject to constitutional due process constraints and requires meaningful, individualized procedures. *See Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

VIII. CAUSES OF ACTION

Count I: Violation of Fifth Amendment Due Process Rights

44. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

45. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Civil immigration detention is subject to

constitutional limitations and must bear a reasonable relationship to a legitimate governmental purpose. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003); *Jennings v. Rodriguez*, 583 U.S. 131 (2018).

46. The Due Process Clause applies to all persons within the United States, including noncitizens, and prohibits the government from depriving individuals of liberty without fair and meaningful procedures.

47. Procedural due process requires that individuals be provided notice and a meaningful opportunity to be heard before being deprived of liberty. As the Supreme Court has explained, “the fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

48. Petitioner had been living at liberty in the community for years following DHS’s decision to release him into the United States on parole. During that time, he complied with U.S. immigration law, filed an affirmative asylum application, and obtained employment authorization while his case remained pending.

49. On February 23, 2026, immigration authorities abruptly re-detained Petitioner during a vehicle stop near Barstow, California and placed him into immigration detention without any individualized custody determination.

50. Petitioner's sudden re-detention years after DHS released him into the United States - despite his demonstrated compliance with immigration law and his pursuit of lawful protection through the asylum process - bears no reasonable relationship to the limited purposes of civil immigration detention. Nothing in the materials presently before the Court suggests any intervening conduct or circumstance that would justify revoking the liberty previously granted by the government. Respondents' decision to re-detain Petitioner under these circumstances therefore constitutes an arbitrary deprivation of liberty in violation of the Due Process Clause of the Fifth Amendment.

51. Respondents have not provided Petitioner with any meaningful, individualized custody determination demonstrating that his continued detention is necessary to mitigate a particularized risk of flight or danger to the community, nor have they identified any materially changed circumstances that would justify revoking Petitioner's prior release. Where the government has previously determined that a noncitizen may safely remain at liberty, due process requires meaningful procedures before that liberty can be withdrawn.

52. Multiple courts in this District have recently recognized the serious constitutional concerns raised when immigration authorities re-detain noncitizens who were previously released into the United States without providing an individualized custody determination. *See, e.g., Gil v. Warden, Otay Mesa Detention*

Center, No. 3:25-cv-03279-DMS-VET, 2025 WL 3675153, at *3 (S.D. Cal. Dec. 17, 2025); *Makarova v. Brightman*, No. 3:26-cv-00373-DMS-JLB (S.D. Cal. Feb. 18, 2026); *Alegria Palma v. LaRose*, No. 3:25-cv-01942-BJC-MMP (S.D. Cal. Aug. 11, 2025); *Vicky v. Casey*, No. 3:26-cv-00949-JLS-JLB (S.D. Cal. Mar. 4, 2026); *Singh v. Archambeault*, No. 3:26-cv-01072-JES-MSB (S.D. Cal. Feb. 27, 2026). These decisions recognize that when the government permits a noncitizen to live in the community for a significant period of time and then abruptly revokes that liberty without adequate procedural safeguards or individualized justification, the resulting detention raises serious due process concerns. Where the government has already exercised its discretion to release an individual into the community and no intervening conduct demonstrates that the individual poses a danger or flight risk, continued detention bears no reasonable relationship to the limited purposes of civil immigration detention and warrants prompt judicial intervention to restore the liberty previously granted.

53. Detaining an individual who has been living openly in the United States for years while pursuing lawful immigration relief, without meaningful procedural safeguards or individualized justification, constitutes arbitrary governmental action and violates the Due Process Clause.

54. Because Respondents continue to detain Petitioner without constitutionally adequate procedures and without individualized justification, Petitioner's detention is unlawful and he is entitled to habeas relief.

Count II: Unlawful Detention and Failure to Provide a Meaningful Parole Determination (INA § 212(d)(5), 8 C.F.R. § 212.5, and the Fifth Amendment)

55. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

56. For purposes of detention and custody classification, DHS has treated Petitioner as an applicant for admission. His release from custody is therefore governed by DHS's parole authority under INA § 212(d)(5), 8 U.S.C. § 1182(d)(5), and the implementing regulations at 8 C.F.R. § 212.5.

57. Under that statutory and regulatory framework, DHS must exercise parole authority on an individualized, case-by-case basis and must consider whether detention is necessary to address a particularized risk of flight, danger to the community, or other relevant factors.

58. Petitioner is an appropriate candidate for release on parole. He has strong community ties, no criminal history, a pending asylum application, and has lived peacefully in the United States while pursuing lawful protection under the immigration laws.

59. Despite these circumstances, Respondents have continued to detain Petitioner without providing a meaningful and timely parole determination applying the correct legal standards.

60. DHS's failure to provide an individualized parole determination - combined with Petitioner's detention despite his demonstrated compliance with U.S. immigration law - renders his continued detention arbitrary and unlawful.

61. Because Respondents have detained Petitioner without meaningful parole consideration and without an individualized showing that his detention is necessary to address a specific danger or flight risk, Petitioner's continued confinement violates the INA, governing regulations, and the Due Process Clause of the Fifth Amendment.

62. Petitioner is therefore entitled to habeas relief, including immediate release or, at minimum, a prompt individualized parole determination conducted in accordance with the governing legal standards.

Count III: Violation of the Administrative Procedure Act – Arbitrary and Capricious Detention

63. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

64. The Administrative Procedure Act (“APA”) prohibits agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

65. Respondents’ decision to re-detain Petitioner years after DHS exercised its discretion to release him into the United States constitutes arbitrary and capricious agency action.

66. DHS previously permitted Petitioner to reside in the United States while pursuing lawful protection through the asylum process and granted him employment authorization during the pendency of his application.

67. Despite Petitioner’s compliance with U.S. immigration law and his lack of any criminal history, Respondents abruptly detained him during a vehicle stop near Barstow, California and placed him into immigration detention without any meaningful individualized custody determination.

68. Respondents’ continued detention of Petitioner without applying the proper parole framework or providing meaningful individualized consideration constitutes agency action that is arbitrary, capricious, and not in accordance with law.

69. Absent intervention by this Court, Respondents’ unlawful detention of Petitioner will continue to deprive him of liberty and interfere with his ability to pursue his pending asylum claim and meaningfully access counsel.

70. Petitioner is therefore entitled to relief under the APA, including injunctive relief requiring Respondents to apply the correct legal standards and to provide a prompt, individualized parole determination consistent with the governing statutory and regulatory framework.

IX. PRAYER FOR RELIEF

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

- a. Assume jurisdiction and proper venue over this matter;
- b. Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Respondents to immediately release Petitioner from immigration detention because his continued confinement violates the INA and the Due Process Clause of the Fifth Amendment;
- c. In the alternative, order Respondents to immediately release Petitioner on parole pursuant to INA § 212(d)(5) and 8 C.F.R. § 212.5, or, at minimum, to conduct a prompt, individualized parole redetermination under the correct legal standards at which the government bears the burden of demonstrating that continued detention is necessary;
- d. In the further alternative, issue an order requiring Respondents to show cause within three (3) days why Petitioner should not be released from custody;

- e. Declare that Petitioner's detention is unlawful under the INA, the U.S. Constitution, and the Administrative Procedure Act;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 5th of March 2026.

/s/ Rose M. Thompson

Rose M. Thompson
Attorney at Law

Attorney for Petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242**

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

Date: March 5, 2026

Respectfully submitted,

/s/ Rose M. Thompson

Rose M. Thompson
Attorney at Law

Attorney for Petitioner