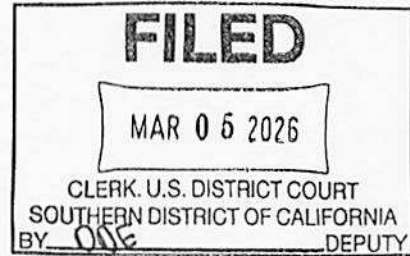


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
333 West Broadway, Suite 420
San Diego, California 92101

WINDER MUÑOZ NIEVES,



Petitioner,



v.

'26CV1497 JLS JLB

DIRECTOR, OTAY MESA DETENTION CENTER;
SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY;
DIRECTOR OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE),
Respondents.

PETITION FOR WRIT OF HABEAS CORPUS
(28 U.S.C. § 2241)

I. INTRODUCTION

Petitioner, Winder Muñoz Nieves, respectfully submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the legality and constitutionality of his prolonged immigration detention.

Petitioner has been detained at Otay Mesa Detention Center since October 2025, approximately five (5) months, while his appeal remains pending before the Board of Immigration Appeals (BIA).

His continued detention without a constitutionally adequate bond hearing violates the Due Process Clause of the Fifth Amendment to the United States Constitution.

II. JURISDICTION AND VENUE

This Honorable Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in federal custody within this judicial district and challenges the legality of his detention. Venue is proper in the Southern District of California because Petitioner is detained at Otay Mesa Detention Center.

III. LEGAL BASIS OF DETENTION

Petitioner was placed in removal proceedings under Section 240 of the Immigration and Nationality Act (INA), pursuant to a Notice to Appear (NTA), charged under INA § 212(a)(6)(A)(i).

On October 7, 2025, the Immigration Judge issued an order of removal.

Petitioner timely filed an appeal with the BIA on November 6, 2025.

Because the appeal remains pending, the removal order is not administratively final.

Accordingly, Petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1231.

IV. FACTUAL BACKGROUND

Petitioner has appeared at all immigration court hearings.

He timely filed an asylum application.

On October 7, 2025, his asylum application was deemed abandoned due to an alleged failure to pay an annual fee.

A timely appeal was filed with the BIA.

The appeal remains pending with no decision date.

Petitioner has been detained for approximately five months.

He has not received a constitutionally adequate bond hearing in which the government bears the burden of proof.

Petitioner is married to a United States citizen.

A Form I-130 Petition for Alien Relative has been properly filed with USCIS on his behalf.

Petitioner is actively pursuing adjustment of status through marriage.

V. CLAIMS FOR RELIEF

COUNT I

Violation of Substantive Due Process (Fifth Amendment)

Immigration detention is civil, not criminal.

Civil detention must be reasonably related to its purpose and may not become punitive.

Prolonged detention without an individualized determination of danger or flight risk violates substantive due process.

Petitioner has been detained for five months while exercising his lawful right to appeal.

There is no reasonably foreseeable removal.

COUNT II

Violation of Procedural Due Process

Under 8 U.S.C. § 1226(a), detention is discretionary.

Petitioner is entitled to a meaningful bond hearing where:

The government bears the burden of proving danger or flight risk,

The government must prove its case by clear and convincing evidence,

Less restrictive alternatives to detention are considered.

Failure to provide a constitutionally adequate hearing violates procedural due process.

COUNT III

Detention Is No Longer Reasonably Related to Its Purpose

The purpose of immigration detention is to:

Ensure appearance at proceedings;

Protect public safety.

Petitioner:

Has consistently appeared before the Court;

Has a U.S. citizen spouse;

Has a pending immigration petition;

Has strong family ties in the United States;

Has no individualized evidence of dangerousness.

Continued detention is unnecessary to achieve statutory objectives.

COUNT IV

Additional Equitable Factors

Petitioner is not solely an asylum applicant.

He is the beneficiary of a Form I-130 petition filed by his U.S. citizen spouse and is actively pursuing adjustment of status.

This demonstrates that:

His removal is not imminent;

He has viable immigration relief available;

He has strong incentives to comply with proceedings.

Prolonged detention under these circumstances is excessive and unnecessary.

VI. RELEVANT LEGAL AUTHORITY

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

The Supreme Court held that immigration detention cannot be indefinite and must be reasonably related to the purpose of removal.

Prolonged civil detention without limitation violates Due Process.

2 *Demore v. Kim*, 538 U.S. 510 (2003)

The Court recognized that immigration detention is constitutional only when brief and limited.

Petitioner's detention is no longer brief.

3 *Rodriguez v. Marin* (Ninth Circuit)

The Ninth Circuit recognized that prolonged detention under §1226(a) requires additional due process protections.

4 *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011)

In immigration bond hearings:

The government bears the burden of proof;

It must prove danger or flight risk by clear and convincing evidence.

If Petitioner has not received such a hearing, a constitutional violation exists.

5 *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017)

The Court held that prolonged civil detention requires adequate procedural safeguards.

VII. APPLICATION TO THE PRESENT CASE

Petitioner:

Is detained under §1226(a);

Has been detained for five months;

Has a pending appeal;

Has no imminent removal;

Has a U.S. citizen spouse;

Has a pending I-130 petition;

Has no recent individualized determination justifying continued detention.

Under Ninth Circuit jurisprudence, prolonged detention without a constitutionally adequate bond hearing violates Due Process.

VIII. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

Issue the Writ of Habeas Corpus;

Order an immediate bond hearing before an Immigration Judge where the government bears the burden of proof;

Alternatively, order Petitioner's immediate release under reasonable conditions of supervision;

Grant any other relief the Court deems just and proper.

IX. DESIGNATION OF ADDRESS FOR SERVICE

Petitioner respectfully requests that all notices, orders, and communications related to this matter be sent to the following alternative address, separate from the detention facility, because Petitioner is currently detained and has limited access to mail:

Address for Service:

180 Canyon Dr Apt 36

Oceanside, CA 92054

X. VERIFICATION

I, Winder Muñoz Nieves, declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Winder Munoz

WINDER MUÑOZ NIEVES

Pro Se


Signed on: March 3, 2026

Otay Mesa Detention Center

7488 Calzada de la Fuente

San Diego, CA 92154

PROOF OF SERVICE

I, Winder Muñoz Nieves certify that on 03-03-2026, I served a true and correct copy of this Petition upon:

U.S. Attorney – Southern District of California
880 Front Street, Room 6293
San Diego, CA 92101

Secretary of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, DC 20528

Director, U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20536

ICE – OPLA San Diego
880 Front Street, Suite 2246
San Diego, CA 92101

Director, Otay Mesa Detention Center
7488 Calzada de la Fuente
San Diego, CA 92154

Winder Munoz

WINDER MUÑOZ NIEVES
Petitioner (Pro Se)



Signed on: March 03, 2026
Location: Otay Mesa Detention Center
7488 Calzada de la Fuente
San Diego, CA 92154

EMERGENCY MOTION FOR IMMEDIATE RELEASE
OR, IN THE ALTERNATIVE,
FOR AN EXPEDITED BOND HEARING

I. INTRODUCTION

Petitioner respectfully moves this Court for emergency relief pending resolution of his Petition for Writ of Habeas Corpus.

Petitioner has been detained for approximately five (5) months at Otay Mesa Detention Center while his appeal before the Board of Immigration Appeals remains pending.

His continued detention without a constitutionally adequate bond hearing violates the Fifth Amendment Due Process Clause and warrants immediate judicial intervention.

II. BASIS FOR EMERGENCY RELIEF

Emergency relief is appropriate because:

Petitioner is suffering ongoing deprivation of liberty.

His detention is civil, not criminal.

His appeal remains pending and removal is not imminent.

Each additional day of unconstitutional detention constitutes irreparable harm.

Loss of physical liberty, even for minimal periods of time, constitutes irreparable injury under established federal law.

III. LIKELIHOOD OF SUCCESS ON THE MERITS

Petitioner is likely to succeed because:

He is detained under 8 U.S.C. § 1226(a).

His detention has become prolonged.

He has not received a constitutionally adequate bond hearing.

The government has not demonstrated by clear and convincing evidence that continued detention is necessary.

IV. IRREPARABLE HARM

Continued detention:

Separates Petitioner from his U.S. citizen spouse.

Interferes with his pending immigration relief.

Imposes severe psychological and emotional hardship.

Violates constitutional protections.

No monetary remedy can compensate for unconstitutional detention.

V. BALANCE OF EQUITIES

Petitioner:

Has consistently appeared in immigration proceedings.

Has strong family ties in the United States.

Has a pending I-130 petition filed by his U.S. citizen spouse.

Has no demonstrated danger to the community.

The government's interest in detention does not outweigh the constitutional violation.

VI. PUBLIC INTEREST

The public interest is served by ensuring constitutional compliance and preventing unlawful civil detention.

VII. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

Order his immediate release under appropriate supervision; OR

Order an expedited bond hearing before an Immigration Judge within 7 days where the government bears the burden of proof; AND

Grant any other relief deemed just and proper.

Winder Munoz

Respectfully submitted,

Winder Muñoz Nieves

A black rectangular box with a white 'X' inside, used to redact the signature of Winder Muñoz Nieves.

Date: 03-03-2026

Otay Mesa Detention Center

7488 Calzada de la Fuente

San Diego, CA 92154

March 3, 2026

United States District Court
Southern District of California
333 West Broadway, Suite 420
San Diego, CA 92101

Re: Support Letter for Winder Muñoz Nieves


To Whom It May Concern:

My name is Delsie Arroyo, and I am the lawful spouse of Winder Muñoz Nieves. I am writing this letter in full support of my husband and to confirm the statements presented in his Petition for Writ of Habeas Corpus.

Winder and I reside together at:



Upon his release, Winder has a stable and permanent residence at our home, where we live together as husband and wife. He will return directly to our shared residence, and I will fully support him financially and emotionally during the continuation of his immigration proceedings.

I confirm that everything stated in his habeas petition regarding his consistent court appearances, pending appeal, and lack of danger to the community is true. Winder has always complied with immigration requirements and has never attempted to evade authorities.

Additionally, I confirm that I have filed a Form I-130 Petition for Alien Relative on his behalf as his United States citizen spouse. We are actively pursuing adjustment of status based on our bona fide marriage, and we are committed to completing the legal process properly. Our intention is to regularize his immigration status through lawful permanent residence based on marriage.

Winder is not a flight risk. He has strong family ties, a fixed residence, and an active immigration petition pending. His continued detention has caused significant emotional hardship to our family.

I respectfully request that the Court consider his strong community and family ties, stable residence, and ongoing lawful immigration process when evaluating his release.

If the Court requires any additional information, I may be contacted at:



I declare under penalty of perjury that the foregoing is true and correct.

Respectfully,

Delsie Arroyo
Delsie Arroyo