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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MAIKEL ROLANDO GARRIDO MUXART)
)
Petitioner,)
)
v.)
)
)
)
TODD LYONS, Acting Director, U.S. Immigration)
and Customs Enforcement; PATRICK DIVVER,)
Field Office Director, San Diego Field Office, U.S.)
Immigration and Customs Enforcement;)
CHRISTOPHER LAROSE, Senior Warden, Otay)
Mesa Detention Center; PAMELA BONDI,)
Attorney General, U.S. Department of Justice,)
)
Respondents.)
_____)

'26CV2057 CAB SBC

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Maikel Rolando Garrido Muxart, is a citizen and national of Cuba.
2. Petitioner was paroled into the United States on October 9, 2023, by Respondents. Petitioner was detained by Respondents on February 9, 2025. Petitioner then applied for asylum before the Otay Mesa Immigration Court on July 10, 2025.
3. Petitioner's asylum claim has been pending before the Otay Mesa Immigration Court since July 10, 2025. Petitioner's first merits hearing was on October 7, 2025. A two-hour time frame was given to litigate Petitioner's asylum case. The allocated time was insufficient, and a continuance was given until January 9, 2026. At Petitioner's second merits hearing, he once again was unable to complete his argument. His merits hearing was continued once more to May 22, 2025.
4. Petitioner has been detained for almost 14 months.
5. The Due Process Clause of the Fifth Amendment forbids such arbitrary and prolonged detention. Respondents have not justified Petitioner's continued detention at a hearing before a neutral decision maker where the government bears the burden to demonstrate why Petitioner poses a danger or flight risk.
6. Accordingly, Petitioner petitions this Court for a writ of habeas corpus to vindicate his right to due process and to seek relief from continued arbitrary detention.

JURISDICTION

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
8. 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).

9. 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.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Venue is proper because Petitioner is detained at the Otay Mesa Detention Center in San Diego, California, which is within the jurisdiction of this District.
11. Venue is further proper because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless 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).
13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to 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).
14. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and

detained by Respondents.

PARTIES

15. Petitioner is a citizen and national of Cuba. Petitioner is currently detained at the Otay Mesa Detention Center. He is in the custody, and under the direct control, of Respondents and their agents.

16. Respondent, Todd Lyons, is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Patrick Divver and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

17. Respondent, Patrick Divver, is the Field Office Director for the San Diego Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The San Diego Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. Respondent Divver is a legal custodian of Petitioner.

18. Respondent, Christopher Larose, is the Warden of the Otay Mesa Detention Center, and he has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Larose is a legal custodian of Petitioner.

19. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

20. This action is commenced against all Respondents in their official capacities.

STATEMENT OF FACTS

21. Petitioner is a 40-year-old citizen of Cuba.

22. Petitioner was persecuted by the Cuban government for his anti-Castro. political beliefs. He was regularly beaten, imprisoned, and threatened. Fearing for his life, Petitioner sought protection in the United States.
23. Petitioner arrived on October 9, 2023 in Laredo, Texas using the CBP One application. Respondents paroled him into the United States until April 6, 2025.
24. On October 9, 2023, Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a. Scheduling a hearing before an Immigration Judge until March 3, 2027.
25. Upon information and belief, Petitioner was detained due to credit card fraud. On February 9, 2025, Petitioner and his brother stopped at a convenience store in Maryland. They were pulled over by police for having unexpired license plate. They were both asked for documentation, which they did not have. Petitioner was then handed over to Immigration and Customs Enforcement upon discovering that Petitioner had a charge for credit card fraud. Petitioner has no knowledge of the conviction.
26. Petitioner was first detained in Georgia, then transferred to Otay Mesa Detention Center, March 2025.
27. Petitioner filed his asylum application on July 10, 2025. On October 7, 2025, Respondent had his first merits hearing. A two-hour time frame was given to litigate Petitioner's asylum case. The allocated time was insufficient, and a continuance was given until January 9, 2026. At Petitioner's second merits hearing, he once again was unable to complete his argument. His merits hearing was continued once more to May 22, 2025.
28. Petitioner has now been detained for almost 13 months. Since being detained, Petitioner has experienced lack of sleep, stress, anxiety, and loss of appetite as he continues to wait for a final decision.

29. During Petitioners time in detention, Respondents have not provided a bond hearing before a neutral decision maker to determine whether his prolonged detention is justified.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

30. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.
31. The Due Process Clause requires the government to establish, at an individualized hearing before a neutral decisionmaker, that Petitioner’s prolonged detention is justified by clear and convincing evidence of flight risk or danger, even after consideration of whether alternatives to detention could sufficiently mitigate that risk.
32. Petitioner’s detention has become prolonged as he has been detained for almost 13 months and faces months, if not years, of continued detention while his asylum remains pending.
33. For these reasons Petitioner’s ongoing prolonged detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1226(a)

34. Petitioner is detained under 1226(a), not 1225(b), because he was not “arriving” or “seeking admission” when he was arrested by ICE since he is not a recent entrant. His continued detention without a bond hearing violates the Immigration and Nationality act and the Fifth Amendment of the Constitution.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Order Petitioner's immediate release from detention, or, in the alternative, order a bond hearing at which the government must prove by clear and convincing evidence that his continued detention is necessary.

Respectfully submitted,

Elizabeth Rojas Luis
Elizabeth Rojas Luis, Esq.
Attorney for Respondent

Counsel for Petitioner

Dated: April 1, 2026

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

I represent Petitioner, Maikel Rolando Garrido Muxart, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 1, 2026

Elizabeth Rojas Luis
Elizabeth Rojas Luis, Esq.