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Attorney for Petitioner

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

ALEJANDRO DIEGO CASTRO

Petitioner,

v.



CHRISTOPHER LAROSE, Senior Warden, Otay
Mesa Detention Center; 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; PAMELA BONDI,
Attorney General, U.S. Department of Justice,

Respondents.

'26CV2203 BAS MMP

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Alejandro Diego Castro,  is a citizen and national of Mexico.
2. Petitioner was paroled into the United States on May 2, 2022, by Respondents at the El Paso, Texas port of entry. Petitioner was detained by Respondents on November 3, 2025.
3. On May 25, 2022, Petitioner's immigration case was closed by an Immigration Judge in San Diego, California for failure to prosecute.
4. On May 3, 2023, Petitioner's immigration case was dismissed.
5. Petitioner applied for asylum in approximately 2022 with U.S.C.I.S., application number 
6. Petitioner has two misdemeanor DUI's. One from 2024, and another from 2025. For each offense he spent two and a half days in jail and completed three months of classes.
7. On November 10, 2025, Petitioner requested a bond hearing. His bond was denied due to the Court lacking jurisdictions regarding Petitioner's custody status, citing Matter of Yajure Hurtado.
8. Petitioner has been detained for approximately 5 months.
9. 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.
10. 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

11. This action arises under the Constitution of the United States and the Immigration and

Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

12. 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).
13. 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

14. 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.
15. 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

16. 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).
17. 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).

18. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

19. Petitioner is a citizen and national of Mexico. 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.
20. 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.
21. 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.
22. 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.
23. 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.

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

STATEMENT OF FACTS

25. Petitioner is a 35-year-old Mexican National and Citizen.

26. While living in Mexico, Petitioner was persecuted for his political opinions by the Mexican government.

27. Petitioner began working as a representative for [REDACTED]

[REDACTED] at polling stations. He also attended marches in support of the [REDACTED]

28. On one occasion, Petitioner was approached by a member of the opposing party who offered Petitioner money to switch political parties and to stuff the ballot box with votes for the opposing party. Petitioner refused, explaining that he was loyal to the [REDACTED]

29. Petitioner's persecution began after his initial refusal. On various occasions he was held hostage by men wearing uniforms belonging to the municipal police officers of the state of Guerrero.

30. He was beaten, threatened to death, and extorted for his political beliefs.

31. Petitioner was told by these men that this was his punishment for not following their previous orders. They also threatened to kill Petitioner's family.

32. In August 2021, Petitioner and his family decided to flee the violence in Guerrero and they moved to Ciudad Juarez, Chihuahua. There, they arrived at a shelter where they applied for an appointment through the CBP One application.

33. On May 25, 2022, Petitioner and his family presented themselves before immigration officials at their appointment where they requested political asylum.

34. Petitioner has now been detained for five months. Since being detained, Petitioner has experienced lack of sleep, stress, anxiety, and loss of appetite.

35. Additionally, his minor children, ages eight and five, and wife have struggled emotionally, mentally, and financially during Petitioner's time in detention.
36. Petitioner's two minor children have reported difficulty concentrating in school and lack of sleep due to the constant worry of their father. Petitioner's wife has struggled to manage the household without having Petitioner by her side to provide her with additional support.
37. Moreover, during Petitioner's 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

38. 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.
39. 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.
40. Petitioner's detention has become prolonged as he has been detained approximately 5 months and faces months, if not years, of continued detention while his asylum remains pending with U.S.C.I.S.
41. 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)

42. 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. Petitioner was paroled by Respondent’s and had his case dismissed by an Immigration Judge. 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 8, 2026

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

I represent Petitioner, Alejandro Diego Castro, 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 8, 2026

Elizabeth Rojas Luis
Elizabeth Rojas Luis, Esq.