

1 Jesse Blanco  
Blanco Law Group  
2 265 E St. Chula Vista, Ca. 91910  
619-420-4740  
3 [Jesse@blancolegal.com](mailto:Jesse@blancolegal.com)

4 UNITED STATES DISTRICT COURT  
5 SOUTHERN DISTRICT OF CALIFORNIA  
6 SAN DIEGO DIVISION

8  
9 **RAMIRO OSORIA HERRERA,**

10 Plaintiff,

11 vs.

12 **MARWAYNE MULLINS, SECRETARY,**  
U.S. DEPARTMENT OF HOMELAND  
13 SECURITY;  
14 **CHRISTOPHER J. LAROSE, WARDEN,**  
OTAY MESA DETENTION CENTER;  
15 **TODD LYONS, ACTING DIRECTOR, ICE;**  
16 **GREGORY ARCHAMBEAULT, FIELD**  
OFFICE DIRECTOR, ICE SAN DIEGO,;

17 Defendant

Case No.: 

**'26CV2348 JO VET**  
**PETITION FOR WRIT OF HABEAS**  
**CORPUS**

18  
19 **PETITION FOR WRIT OF HABEAS CORPUS**

20 (28 U.S.C. § 2241)

21  
22  
23 **I. INTRODUCTION**

24 Petitioner **Ramiro Osoria Herrera** (“Petitioner”) is a lawful permanent resident since 1989  
25 who has been continuously detained by the Department of Homeland Security since May  
2025, following his inspection and detention at the San Ysidro Port of Entry.

26 Despite his lawful permanent resident status and decades-long residence in the United States,  
27 Respondents have erroneously treated Petitioner as an “arriving alien”, subjecting him to  
28 mandatory detention without bond or meaningful custody review.

1 Petitioner has now been detained for **approximately one year**, far exceeding constitutional  
2 limits on civil immigration detention. He has:

- 3 • **No meaningful custody hearing;**
- 4 • **No individualized determination of danger or flight risk;**
- 5 • **No criminal history justifying continued detention;**
- 6 • **Repeatedly requested release or alternatives to detention, including monitoring.**

7 His continued detention is **unlawful, excessive, and unconstitutional**, in violation of the Fifth  
8 **Amendment Due Process Clause** and governing federal law.

9 Petitioner therefore seeks **immediate release** or, at minimum, a **constitutionally adequate bond**  
10 **hearing.**

## 11 **II. JURISDICTION AND VENUE**

12 This Court has jurisdiction pursuant to:

- 13 • **28 U.S.C. § 2241** (habeas corpus);
- 14 • **28 U.S.C. § 1331** (federal question jurisdiction);
- 15 • **28 U.S.C. § 2201** (Declaratory Judgment Act);
- 16 • **28 U.S.C. § 1651** (All Writs Act).

17 Venue is proper in the **Southern District of California** because:

- 18 • **Petitioner is detained at Otay Mesa Detention Center;**
- 19 • **His immediate custodian is located within this District.**

## 20 **III. PARTIES**

21 Petitioner **Ramiro Osoria Herrera** is a **lawful permanent resident since 1989**, currently  
22 detained at **Otay Mesa Detention Center**.

23 Respondents are federal officials responsible for Petitioner's detention, including:

- 24 • **The Secretary of DHS;**
- 25 • **ICE leadership;**
- 26 • **The Warden of Otay Mesa Detention Center (immediate custodian).**

## 27 **IV. FACTUAL BACKGROUND**

- 28 1. **Petitioner has been a lawful permanent resident of the United States since 1989**,  
establishing deep and permanent ties to this country.
2. **In or about May 2025**, Petitioner was detained by **CBP at the San Ysidro Port of**  
**Entry.**

- 1 3. Respondents classified Petitioner as an **“arriving alien”**, thereby denying him access to
- 2 bond and subjecting him to **mandatory detention**.
- 3 4. Petitioner has now been detained for **approximately one year**, without:
  - 4 o A meaningful custody hearing;
  - 5 o An individualized determination of risk;
  - 6 o Any opportunity to challenge prolonged detention.
- 5 5. Petitioner has:
  - 6 o **No disqualifying criminal history**;
  - 7 o Strong family and community ties;
  - 8 o Expressly requested release under **strict supervision conditions**.
- 6 6. Despite these facts, Respondents have **categorically denied release**, relying on **policy**
- 7 **interpretations and internal memoranda**, rather than individualized determinations.
- 8

## 9 V. LEGAL FRAMEWORK

10 Habeas corpus provides a remedy where a person is:

11 “in custody in violation of the Constitution or laws of the United States.”  
12 — 28 U.S.C. § 2241(c)(3)

13 The Supreme Court has emphasized that:

- 14 • Civil detention must be **limited in duration**;
- 15 • Due process requires **procedural safeguards**;
- 16 • Indefinite detention is unconstitutional.

## 17 VI. CLAIMS FOR RELIEF

### 18 COUNT ONE

#### 19 Violation of Fifth Amendment Due Process (Prolonged Detention)

20 Civil immigration detention must bear a **reasonable relation to its purpose**.

21 See:

- 22 • **Zadvydas v. Davis**, 533 U.S. 678 (2001)
- 23 • **Jennings v. Rodriguez**, 138 S. Ct. 830 (2018)

24 In the Ninth Circuit:

- 25 • Prolonged detention without a bond hearing raises serious constitutional concerns.

26 See:

- 1 • **Casas-Castrillon v. DHS**, 535 F.3d 942 (9th Cir. 2008)
- 2 • **Singh v. Holder**, 638 F.3d 1196 (9th Cir. 2011)

3 Petitioner's detention of **nearly one year**:

- 4 • Far exceeds permissible civil detention limits;
- 5 • Lacks procedural safeguards;
- 6 • Violates due process.

## 7 **COUNT TWO**

### 8 **Unlawful Mandatory Detention / Misclassification as Arriving Alien**

9 Respondents improperly classify Petitioner as an **arriving alien**, despite:

- 10 • His **lawful permanent resident status since 1989**;
- 11 • His longstanding ties to the United States.

12 Under:

- 13 • **INA § 101(a)(13)(C)**, lawful permanent residents are not treated as seeking admission
- 14 unless specific exceptions apply.

15 The government bears the burden to justify such classification.

16 Improper classification results in:

- 17 • Denial of bond eligibility;
- 18 • Automatic detention without individualized review.

19 This violates:

- 20 • Statutory protections;
- 21 • Due process guarantees.

## 22 **COUNT THREE**

### 23 **Failure to Provide Individualized Bond Hearing**

24 The Ninth Circuit requires:

- 25 • A **neutral decisionmaker**;
- 26 • Government burden of proof;
- 27 • Clear and convincing evidence of danger or flight risk.

28 PETITION FOR WRIT OF HABEAS CORPUS - 4

1 See:

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

3 Petitioner has received:

- 4 -No meaningful custody hearing  
5 -No burden placed on government  
6 - No individualized findings

7 **COUNT FOUR**

8 **Excessive and Arbitrary Detention**

9 Under **Mathews v. Eldridge**, 424 U.S. 319 (1976):

- 10 • Courts must balance liberty interests against government interests.

11 Here:

- 12 • Liberty interest = extremely high (LPR detained nearly 1 year)  
13 • Government interest = minimal (no criminal danger, strong ties)

14 Detention is therefore:

- 15 -Excessive  
16 -Arbitrary  
17 -Unconstitutional

18 **COUNT FIVE**

19 **Violation of Statutory Limits on Civil Detention**

20 Even where detention is authorized, it is:

- 21 • **Not indefinite**  
22 • **Not unreviewable**

23 See:

- 24 • **Zadvydas v. Davis**, 533 U.S. 678 (2001)

25 Detention exceeding **6 months** triggers constitutional concerns.

26 Petitioner has been detained for **nearly double that threshold**.

27 PETITION FOR WRIT OF HABEAS CORPUS - 5

1 **VII. EXHAUSTION OF REMEDIES**

2 Exhaustion is not required where:

- 3 • Administrative remedies are unavailable or futile.

4 See:

- 5 • **Laing v. Ashcroft**, 370 F.3d 994 (9th Cir. 2004)

6 Here:

- 7 • Bond has been denied;  
8 • No meaningful review mechanism exists;  
9 • Continued detention is automatic.

10 **VIII. PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner respectfully requests that this Court:

- 12 1. **Assume jurisdiction** over this matter;  
13 2. Issue an **Order to Show Cause**;  
14 3. Declare Petitioner's detention **unlawful and unconstitutional**;  
15 4. Order Petitioner's **immediate release**;

16 **OR IN THE ALTERNATIVE:**

- 17 5. Order a **prompt bond hearing** before a neutral adjudicator, where:  
18 ○ The government bears the burden;  
19 ○ Proof must be by **clear and convincing evidence**;  
20 6. Grant attorney's fees under the **Equal Access to Justice Act**;  
21 7. Grant any further relief deemed just and proper.

22 **IX. VERIFICATION (28 U.S.C. § 2242)**

23 I, Jesse Blanco, Esq., counsel for Petitioner, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

24 14 day of 04TH, 2026.

25 

1 **VII. EXHAUSTION OF REMEDIES**

2 Exhaustion is not required where:

- 3 • Administrative remedies are unavailable or futile.

4 See:

- 5 • **Laing v. Ashcroft**, 370 F.3d 994 (9th Cir. 2004)

6 Here:

- 7 • Bond has been denied;  
8 • No meaningful review mechanism exists;  
9 • Continued detention is automatic.

10 **VIII. PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner respectfully requests that this Court:

- 12 1. **Assume jurisdiction** over this matter;  
13 2. Issue an **Order to Show Cause**;  
14 3. Declare Petitioner's detention **unlawful and unconstitutional**;  
15 4. Order Petitioner's **immediate release**;

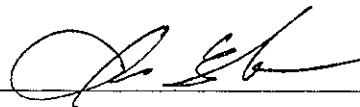
16 **OR IN THE ALTERNATIVE:**

- 17 5. Order a **prompt bond hearing** before a neutral adjudicator, where:  
18 o The government bears the burden;  
19 o Proof must be by **clear and convincing evidence**;  
20 6. Grant attorney's fees under the **Equal Access to Justice Act**;  
21 7. Grant any further relief deemed just and proper.

22 **IX. VERIFICATION (28 U.S.C. § 2242)**

23 I, Jesse Blanco, Esq., counsel for Petitioner, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

24 14 day of 04TH, 2026.

25   
26 \_\_\_\_\_

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA  
3 SAN DIEGO DIVISION  
4

5  
6 A# 

7 **RAMIRO OSORIA HERRERA,**

8 Petitioner,

9 v.

10  
11 **KRISTI NOEM**, Secretary, U.S. Department of Homeland Security;  
12 **CHRISTOPHER J. LAROSE**, Warden, Otay Mesa Detention Center;  
13 **TODD LYONS**, Acting Director, ICE;  
14 **GREGORY ARCHAMBEAULT**, Field Office Director, ICE San Diego;

15 Respondents.

16 **[PROPOSED] ORDER GRANTING PETITION FOR WRIT OF HABEAS CORPUS**  
17  
18

19 The Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 filed by Petitioner **Ramiro**  
20 **Osoria Herrera** having been considered, and good cause appearing, the Court hereby **ORDERS**  
as follows:

21 **I. JURISDICTION**

22 This Court has jurisdiction over this matter pursuant to:

- 23
- 24 • 28 U.S.C. § 2241;
  - 28 U.S.C. § 1331;
  - 25 • And the Constitution of the United States.

26 **II. FINDINGS**

27 The Court finds that:

28 PETITION FOR WRIT OF HABEAS CORPUS - 7

- 1 1. Petitioner is a **lawful permanent resident** who has been detained by Respondents at the  
2 **Otay Mesa Detention Center**;
- 3 2. Petitioner has been detained for a **prolonged period of time exceeding constitutional**  
4 **limits**, without a meaningful custody determination;
- 5 3. Petitioner has not been provided with a constitutionally adequate bond hearing where the  
6 government bears the burden of proof;
- 7 4. Respondents have failed to justify Petitioner's continued detention under applicable  
8 constitutional and statutory standards;
- 9 5. Continued detention under these circumstances violates the **Due Process Clause of the**  
10 **Fifth Amendment**.

### 11 **III. ORDER TO SHOW CAUSE (IF APPLICABLE)**

12 IT IS HEREBY ORDERED that Respondents shall, within [3-7 DAYS], file a response showing  
13 cause why the Petition should not be granted.

### 14 **IV. RELIEF GRANTED**

#### 15 **A. IMMEDIATE RELEASE**

16 IT IS HEREBY ORDERED that Petitioner **Ramiro Osoria Herrera** shall be **released from**  
17 **custody immediately**, under reasonable conditions of supervision to be set by Respondents.

#### 18 **B. ALTERNATIVE RELIEF – BOND HEARING**

19 In the alternative, if immediate release is not effectuated:

20 IT IS HEREBY ORDERED that Respondents shall provide Petitioner with a **constitutionally**  
21 **compliant bond hearing** before an Immigration Judge within [7 DAYS] of this Order, at which:

- 22 1. The **government bears the burden of proof**;
- 23 2. The government must establish by **clear and convincing evidence** that Petitioner is  
24 either:
  - 25 ○ A danger to the community; or
  - 26 ○ A flight risk;
- 27 3. The Immigration Judge shall consider **less restrictive alternatives to detention**,  
28 including electronic monitoring or reporting requirements.

#### 29 **C. CONDITIONS OF SUPERVISION**

30 If released, Respondents may impose **reasonable conditions of supervision**, including but not  
31 limited to:

- 32 • Reporting requirements;
- 33 • Electronic monitoring;

- Travel restrictions.

**V. ATTORNEY'S FEES**

Petitioner may file a motion for attorney's fees and costs pursuant to the **Equal Access to Justice Act**, if appropriate.

**VI. FURTHER RELIEF**

The Court retains jurisdiction to enforce this Order and to grant any additional relief deemed just and proper.

**IT IS SO ORDERED.**

**Dated:** \_\_\_\_\_

**HON. UNITED STATES DISTRICT JUDGE**