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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Joan Alberto CHIRINOS URANGA,

Petitioner,

v.

Patrick DIVVER, in his official
capacity as Field Office Director of the
Immigration and Customs Enforcement,
Enforcement and Removal Operations
San Diego Field Office; Markwayne
MULLIN, in his official capacity as
Secretary of the U.S. Department of
Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Todd BLANCHE, in his
official capacity as U.S. Acting Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION
REVIEW; Christopher LAROSE, in
his official capacity as Warden of the
Otay Mesa Detention Center

Respondents.

Case No. '26CV2437 BAS 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, Joan Alberto CHIRINOS URANGA (“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. (See Ex. A, Biographic Page of Venezuelan Passport.) Petitioner is detained at the Otay Mesa Detention Center in San Diego, California, within this Court’s jurisdiction. (See Ex. F, ICE Locator Printout.)

2. Petitioner first entered the United States without inspection on or about August 9, 2023. After encountering Petitioner, the Department of Homeland Security (“DHS”) exercised its discretion to release him into the United States on or about August 14, 2023. DHS also issued a Notice to Appear (“NTA”), alleging that Petitioner entered the United States without inspection. (See Ex. B, Notice to Appear.) Petitioner is 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 U.S. Citizenship and Immigration Services (“USCIS”)

and pursued lawful protection under the Immigration and Nationality Act (“INA”). (See Ex. C, I-589 Receipt Notice.) Petitioner obtained employment authorization, has no criminal history or convictions, and lived and worked peacefully in the community while pursuing his immigration case. (See Ex. D, Work Authorization Document.)

4. More than two and a half years after DHS released Petitioner into the United States, immigration authorities abruptly re-detained him on March 18, 2026. Officers stopped him while he was driving, removed him from his vehicle, and arrested him. Petitioner was taken into custody without prior notice or a warrant, and without any individualized determination that his detention was necessary to mitigate a risk of flight or danger to the community. DHS subsequently initiated removal proceedings.

5. Petitioner’s case is materially indistinguishable from numerous recent decisions in this District holding that the re-detention of noncitizens who were previously released into the United States—without an individualized custody determination—violates the Due Process Clause of the Fifth Amendment. In those cases, courts have held that once the government determines an individual may safely remain at liberty, it may not revoke that liberty without constitutionally adequate procedures. Absent any materially different facts, the same conclusion applies here.

6. DHS's prior decision to release Petitioner into the United States constituted a determination that he did not pose a danger or flight risk sufficient to justify detention and gave rise to a substantial liberty interest in his continued freedom from physical confinement. That liberty interest cannot be revoked without constitutionally adequate procedural safeguards.

7. Here, as in those cases, DHS released Petitioner into the community, and he lived in the United States for years, pursued lawful immigration relief, and maintained a clean record. There are no materially changed circumstances that would justify revoking that prior determination. Nevertheless, Respondents re-detained Petitioner without providing him with any meaningful opportunity to challenge his detention.

8. This re-detention—without notice and without any individualized showing that detention is necessary to mitigate a particularized flight risk or danger—violates Petitioner's right to due process under the Fifth Amendment.

9. Petitioner therefore seeks emergency intervention by this Court through a writ of habeas corpus ordering his immediate release from custody.

10. 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

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

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

14. 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

15. 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.

16. 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”).

17. Moreover, Petitioner has no meaningful administrative mechanism through which to challenge the legality of his continued detention because Respondents have detained him under a framework that does not provide for an individualized custody determination before an immigration judge. Where the government’s position is that no such review is available to Petitioner, requiring exhaustion would be futile and only prolong Petitioner’s unlawful deprivation of liberty.

18. 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

19. 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).

20. 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

21. Petitioner, Joan Alberto CHIRINOS URANGA, is a citizen of Venezuela who entered the United States without inspection on or about August 9, 2023. Petitioner has a pending Form I-589, Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture. He is detained at the Otay Mesa Detention Center.

22. Respondent Patrick DIVVER 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.

23. Respondent Markwayne MULLIN is the Secretary of DHS. 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 his official capacity.

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

25. Respondent Todd BLANCHE is the Acting Attorney General of the United States, or his successor. He 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. He is sued in his official capacity.

26. 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.

27. Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention Center, the official responsible for the custody and day-to-day detention of Petitioner. He is sued in his official capacity.

VI. FACTUAL ALLEGATIONS

28. Petitioner Joan Alberto CHIRINOS URANGA is a citizen of Venezuela. (See Ex. A, Biographic Page of Venezuelan Passport.)

29. Petitioner entered the United States without inspection on or about August 9, 2023, and was subsequently encountered by immigration authorities. On August 14, 2023, DHS issued a Notice to Appear (“NTA”) charging Petitioner with inadmissibility under 8 U.S.C. § 1182(a)(7)(A)(i)(I). (See Ex. B, Notice to Appear.) The NTA indicated that Petitioner was scheduled for an immigration hearing in New York, NY on December 12, 2023. (Id.)

30. On or about August 14, 2023, Petitioner was released from custody on his own recognizance.

31. On December 12, 2023, Petitioner appeared at the New York immigration court as instructed and was informed that no hearing had been scheduled for him.

32. At the time of Petitioner’s scheduled hearing, DHS had not filed the Notice to Appear with the Immigration Court. As reflected in EOIR records, no

immigration court proceedings had been initiated against Petitioner as of February 7, 2025, more than one year after his release from custody and service of the NTA. (See Ex. E, EOIR Case Status Printout.)

33. DHS did not file the Notice to Appear with the Immigration Court until March 19, 2026—one day after Petitioner was re-detained on March 18, 2026. (See Ex. G, EOIR Case Status Printout.)

34. After his release, Petitioner resided in the United States, maintained good moral character, and established strong ties to the community, including stable residence and employment. On June 25, 2024, in the absence of any active immigration court proceedings, 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, I-589 Receipt Notice.) This application was filed within one year of Petitioner’s entry into the United States, as required by the INA, and it remains pending.

35. Petitioner obtained employment authorization pursuant to the asylum regulations and lawfully worked while residing in the U.S. (See Ex. D, Work Authorization Document.) His work authorization remains valid through December 17, 2029.

36. In 2025, Petitioner was issued two minor traffic infractions for running a red light and driving without a license. These were non-criminal violations, and Petitioner resolved both matters by paying all associated fines.

37. On March 18, 2026, Petitioner was detained by immigration authorities in San Diego, California, while driving to his place of employment. During this encounter, he was stopped, taken into custody without prior notice, and transported to the Otay Mesa Detention Center.

38. 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 his pending asylum application.

39. Petitioner has no criminal history and has consistently complied with U.S. immigration law. He has pursued his immigration relief in good faith and lived peacefully in the community.

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

41. Petitioner therefore seeks immediate release from custody because his continued detention violates the INA and the Due Process Clause of the Fifth Amendment.

VII. LEGAL FRAMEWORK

42. The federal habeas statute authorizes this Court to review the legality of Petitioner's detention and to order his release where that detention violates the Constitution or laws of the United States. See 28 U.S.C. § 2241.

43. Civil immigration detention is subject to the constraints of the Due Process Clause of the Fifth Amendment. The Supreme Court and the Ninth Circuit have long recognized that noncitizens may not be deprived of liberty without constitutionally adequate process.

44. At a minimum, due process requires that immigration detention be accompanied by a meaningful, individualized determination of whether continued detention is justified based on legitimate governmental interests, including whether the individual poses a danger to the community or a risk of flight. In the Ninth Circuit, the government bears the burden of justifying continued detention by clear and convincing evidence. *See Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

45. These constitutional protections apply regardless of the statutory authority under which the government purports to detain an individual. Even where detention is authorized by statute, it must be justified in each individual case and implemented in a manner consistent with the Due Process Clause.

46. 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.

47. Furthermore, Petitioner was permitted to live and work in the United States for years with the government's knowledge and authorization before being abruptly re-detained. At the time of his re-detention, no immigration court proceedings had been initiated against him, and the NTA was not filed with the Immigration Court until after he was taken into custody. Under these circumstances, the government's actions implicate a substantial liberty interest that cannot be extinguished without meaningful procedural safeguards.

VIII. CAUSES OF ACTION

Count I: Violation of Fifth Amendment Due Process Rights

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

49. 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).

50. 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.

51. 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).

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

53. Petitioner’s sudden re-detention more than two 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. At the time of his re-detention, no immigration court proceedings had been initiated against Petitioner, and the Notice to Appear was not filed with the Immigration Court until after he was taken into custody. There are no intervening facts or circumstances 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.

54. Multiple courts in this District have recognized that the re-detention of noncitizens who were previously released into the United States without providing an individualized custody determination violates the Due Process Clause of the Fifth Amendment. *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 and then 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.

55. Detaining an individual who has been living 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.

56. 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: Violation of the Administrative Procedure Act – Arbitrary and Capricious Detention

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

58. 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).

59. 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.

60. 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.

61. Despite Petitioner’s compliance with U.S. immigration law and his lack of any criminal history, Respondents abruptly detained him and placed him into immigration detention without any individualized custody determination.

62. Respondents’ continued detention of Petitioner without articulating any reasoned basis for revoking the liberty previously afforded to him constitutes agency action that is arbitrary, capricious, and not in accordance with law. At the time of Petitioner’s re-detention, no immigration court proceedings had been initiated against him, and the Notice to Appear was not filed with the Immigration Court until after he was taken into custody, further underscoring the lack of any reasoned basis for his detention.

63. Absent intervention by this Court, Respondents' actions will continue to interfere with Petitioner's ability to pursue his pending asylum claim and meaningfully access counsel.

64. 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 custody 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, subject only to the conditions, if any, previously imposed at the time of his initial release;
- c. In the alternative, order Respondents to provide a prompt, constitutionally adequate individualized custody determination before a neutral decisionmaker, at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight;

- 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. In the further alternative, order that Respondents may not re-detain Petitioner absent notice of the reasons for revocation of his release and a pre-deprivation hearing before a neutral immigration judge, at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight;
- f. Declare that Petitioner's detention is unlawful under the INA, the Constitution, and the Administrative Procedure Act;
- g. Consider a future motion for Petitioner's 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
- h. Grant any other and further relief that this Court deems just and proper, including the return of Petitioner's personal property and identification documents necessary to facilitate his release.

DATED this 16th of April 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 counsel for Petitioner. 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: April 16th, 2026

Respectfully submitted,

/s/ Rose M. Thompson

Rose M. Thompson
Attorney at Law

Attorney for Petitioner