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

9 **CLEIBERT JESUS JIMENEZ QUEVEDO,**

10 Petitioner,

11 v.

12 **CHRISTOPHER LAROSE,** Warden, Otay Mesa

13 Detention Center;

14 **Markwayne MULLIN,** Secretary, U.S.

15 Department of Homeland Security;

16 **Todd LYONS,** Acting Director, U.S.

17 Immigration and Customs Enforcement;

18 **Todd BLANCHE,** Acting Attorney General of the

19 United States, U.S. Department of Justice.

20 Respondents  
21  
22  
23  
24  
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Case No.: '26CV3211 JES MSB



**PETITION FOR WRIT OF  
HABEAS CORPUS AND ORDER  
TO SHOW CAUSE WITHIN  
THREE DAYS; COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

1 1. Petitioner, Cleibert Jesus Jimenez Quevedo, petitions this Court for a writ of habeas  
2 corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his continued immigration  
3 detention and alleges as follows:

4 **INTRODUCTION**

5 2. Petitioner, Cleibert Jesus Jimenez Quevedo, is a native and citizen of Venezuela  
6 currently detained at the Otay Mesa Detention Center in San Diego, California.

7 3. Petitioner brings this action under 28 U.S.C. § 2241 to challenge the legality of his  
8 continued immigration detention following his re-arrest in the interior of the United States after a  
9 prolonged period of authorized liberty in the community.

10 4. Petitioner lawfully presented himself for inspection at a United States port of entry  
11 through the CBP One appointment process on or about March 02, 2024. Following inspection  
12 and processing by the Department of Homeland Security, Petitioner was issued a Form I-94  
13 reflecting admission into the United States with authorization valid through March 02, 2026. (Ex.  
14 1.) Following that grant, Petitioner was permitted to physically enter the United States and reside  
15 at liberty in the community.

16 5. Petitioner remained at liberty for a substantial period of time following his admission  
17 into the United States. He complied with his immigration-related obligations and resided in the  
18 community without any indication that he posed a danger to the community or a risk of flight  
19 during that period.

20 6. Petitioner was arrested on or about March 16, 2026, at a trolley station in San Diego,  
21 California. Following that arrest, Immigration and Customs Enforcement took Petitioner into  
22 custody.

23 7. At no point following Petitioner's re-detention did Respondents provide Petitioner with  
24 an individualized custody determination before a neutral decisionmaker or otherwise provide  
25 constitutionally adequate custody review.

26 8. Respondents' continued detention of Petitioner is unlawful. Once the government  
27 exercised its discretion to inspect, process, document, and permit Petitioner's physical entry into

1 the United States, and thereafter allowed him to reside at liberty in the community for a  
2 prolonged period of time, Petitioner acquired significant liberty interests protected by the Due  
3 Process Clause.

4 9. Although the government may seek to detain Petitioner based on subsequent events, it  
5 may not bypass the procedural safeguards required before depriving him of his liberty. The  
6 Constitution does not permit the government to detain first and justify later.

7 10. By continuing to detain Petitioner without an individualized custody determination or  
8 constitutionally adequate custody review, Respondents have deprived Petitioner of his liberty in  
9 violation of the Due Process Clause of the Fifth Amendment.

10 11. Absent intervention by this Court, no neutral adjudicator will review the legality of  
11 Petitioner's detention. Petitioner therefore respectfully requests that this Court declare his  
12 detention unlawful and order his immediate release, or, in the alternative, require Respondents to  
13 provide a constitutionally adequate custody hearing.

#### 14 CUSTODY

15 12. Petitioner is currently in the legal and physical custody of Respondents and is  
16 detained at the Otay Mesa Detention Center in San Diego, California, within the jurisdiction of  
17 this Court.

#### 18 JURISDICTION AND VENUE

19 13. This action arises under the United States Constitution and the Immigration and  
20 Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Petitioner's detention  
21 under the INA and any inherent or plenary powers the government may claim to continue  
22 holding him.

23 14. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United  
24 States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in Respondents' custody  
25 under the United States' color of authority, and such custody violates the Constitution, laws, or  
26 treaties of the United States. This Court's jurisdiction is not limited by a petitioner's nationality,  
27 status as an immigrant, or any other classification. See *Boumediene v. Bush*, 553 U.S. 723, 747

1 (2008). This Court may grant relief under U.S. CONST. art. I, § 9, cl. 2; U.S. CONST. amends.  
2 V and VIII; 28 U.S.C. §§ 1361 (mandamus), 1651 (All Writs Act), and 2241 (habeas corpus).

3 15. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Petitioner’s  
4 detention. Federal district courts possess broad authority to issue writs of habeas corpus when a  
5 person is held “in custody in violation of the Constitution or laws or treaties of the United States”  
6 (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that  
7 survived the REAL ID Act’s jurisdictional restrictions.

8 16. Because Petitioner seeks the traditional habeas remedy of release from allegedly  
9 unlawful detention rather than additional administrative review of his underlying claims, his  
10 petition presents precisely the type of threshold legality-of-detention question that § 2241 was  
11 designed to address. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); see also *Lopez-Marroquin v.*  
12 *Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh*, 638 F.3d at 1211–12).

13 17. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a  
14 substantial part of the events or omissions giving rise to this claim have occurred here, Petitioner  
15 is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243  
16 because Petitioner’s immediate custodian resides in this District. See *Rumsfeld v. Padilla*, 542  
17 U.S. 426, 451–52 (2004) (Kennedy, J., concurring).

18 18. Sections 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not bar this Court’s jurisdiction  
19 because Petitioner challenges only the legality of his detention, not the validity of removal  
20 proceedings or any removal order. Federal courts have consistently recognized that habeas  
21 corpus remains available to review the statutory and constitutional basis of immigration  
22 detention. Petitioner’s claims therefore fall squarely within this Court’s habeas jurisdiction under  
23 28 U.S.C. § 2241.

24  
25 **PARTIES**

26 19. Petitioner, Cleibert Jesus Jimenez Quevedo, is a native and citizen of Venezuela  
27 currently detained at the Otay Mesa Detention Center in San Diego, California.

1 20. Respondent Christopher LaRose is the Warden of the Otay Mesa Detention Center in  
2 San Diego, California, is Petitioner's immediate custodian, and is responsible for Petitioner's  
3 confinement.

4 21. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland  
5 Security (DHS).

6 22. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs  
7 Enforcement (ICE).

8 23. Respondent Todd Blanche is the Acting Attorney General of the United States and  
9 the head of the U.S. Department of Justice (DOJ).

10 24. All Respondents are named in their official capacities.

11 **STATEMENT OF FACTS**

12 25. Petitioner is currently detained at the Otay Mesa Detention Center in San Diego,  
13 California. Petitioner is a native and citizen of Venezuela, who lawfully presented himself for  
14 inspection at a United States port of entry through the CBP One appointment process on or about  
15 March 02, 2024, and was subsequently permitted to physically enter the United States following  
16 inspection and processing by the Department of Homeland Security.

17 26. Following inspection and processing, Petitioner was issued an Arrival-Departure  
18 Record (Form I-94) reflecting authorization valid through March 02, 2026. (Ex. 1.) Following  
19 that grant, Petitioner was permitted to physically enter the United States and reside at liberty in  
20 the community.

21 27. Following his admission into the United States, Petitioner resided at liberty in the  
22 United States for a substantial period of time and complied with his immigration-related  
23 obligations while living in the community.

24 28. Petitioner was later arrested on or about March 16, 2026, at a trolley station in San  
25 Diego, California.

26 29. Following that arrest, Immigration and Customs Enforcement took Petitioner into  
27 custody. Respondents provided no explanation identifying any individualized basis for

1 Petitioner’s continued detention and did not provide Petitioner with any individualized custody  
2 determination before a neutral decisionmaker.

3 30. Following his arrest, Petitioner was transferred to the Otay Mesa Detention Center in  
4 San Diego, California, where he is currently detained.

5 31. At no point following Petitioner’s re-detention did DHS provide Petitioner with an  
6 individualized custody hearing or any constitutionally adequate custody review.

7 32. Despite Petitioner’s prior inspection, processing, documented admission into the  
8 United States, and prolonged liberty in the community, Respondents continue to detain Petitioner  
9 without any individualized determination regarding danger, flight risk, or the necessity of  
10 continued detention.

11 33. Respondents have not provided any individualized immigration custody  
12 determination or afforded Petitioner any opportunity to be heard regarding whether continued  
13 detention is necessary, notwithstanding the fact that Petitioner was taken into custody following  
14 his arrest.

15 **REQUIREMENTS OF 28 U.S.C. § 2243**

16 34. Under 28 U.S.C. § 2243, the Court “must” grant the petition for a writ of habeas  
17 corpus or issue an order to show cause (“OSC”) “forthwith,” unless the petitioner is not entitled  
18 to relief. If an OSC is issued, the statute requires that Respondents file a return “within three  
19 days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*  
20 (emphasis added).

21 35. Federal courts have long emphasized the importance of habeas corpus as a  
22 protection against unlawful restraint. The Supreme Court has described the Great Writ as  
23 “perhaps the most important writ known to the constitutional law of England, affording as it  
24 does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v.*  
25 *Noia*, 372 U.S. 391, 400 (1963).

26 36. Congress and the courts have repeatedly reaffirmed that habeas corpus must remain  
27 a prompt and expeditious remedy. As the Ninth Circuit has explained, “The statute itself directs  
28

1 courts to give petitions for habeas corpus ‘special, preferential consideration to insure  
2 expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000)  
3 (citation omitted). The court cautioned that delays in habeas proceedings risk creating the  
4 impression “that courts are more concerned with efficient trial management than with the  
5 vindication of constitutional rights.” *Id.*

### 6 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

7 37. In habeas corpus proceedings, exhaustion of administrative remedies is prudential,  
8 not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive  
9 prudential exhaustion where “administrative remedies are inadequate or not efficacious, pursuit  
10 of administrative remedies would be a futile gesture, irreparable injury will result, or the  
11 administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000  
12 (9th Cir. 2004)). Here, exhaustion should be excused because administrative remedies are (1)  
13 futile and (2) Petitioner's continued detention results in irreparable harm.

14 38. Exhaustion would be futile because, to the extent DHS treats Petitioner as subject to  
15 detention under 8 U.S.C. § 1225(b), Immigration Judges lack jurisdiction to conduct custody  
16 redetermination hearings for individuals DHS classifies as subject to § 235(b) or otherwise treats  
17 as applicants for admission under that provision. See 8 C.F.R. § 1003.19(h)(2)(i)(B). In this  
18 District, Immigration Judges routinely state on the record that they lack authority to review  
19 custody where DHS invokes § 235(b). If Petitioner were to request a bond hearing, DHS would  
20 rely on that statutory classification to block review, and the Immigration Judge would be  
21 required to decline jurisdiction. Because no administrative mechanism exists to obtain custody  
22 review under DHS’s asserted detention authority, any attempt to exhaust administrative remedies  
23 would be futile.

24 39. Moreover, no statutory exhaustion requirement applies to Petitioner’s claim that his  
25 detention violates the Constitution and the INA. Constitutional claims and pure questions of law  
26—such as whether DHS has statutory authority to detain Petitioner and whether detention under  
27 § 1225(b) is lawful in these circumstances—fall outside the agency’s adjudicatory competence.

1 See *Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995)  
2 (exhaustion excused where the agency “does not have jurisdiction to review” constitutional  
3 claims); *In re Indefinite Detention Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).  
4 There is no administrative forum that can determine whether DHS may lawfully invoke §  
5 1225(b)(2) to detain Petitioner under these circumstances.

6 40. Petitioner suffers irreparable harm for each additional day he remains unlawfully  
7 detained. Even brief periods of unlawful civil detention inflict significant deprivation of liberty  
8 and emotional distress. Petitioner’s continued detention following a prolonged period of  
9 authorized liberty in the community further magnifies these ongoing harms. Courts routinely  
10 excuse exhaustion where unlawful detention results in irreparable injury. Petitioner’s ongoing  
11 detention therefore warrants waiver of prudential exhaustion.

### 12 **LEGAL FRAMEWORK**

13 41. The Immigration and Nationality Act distinguishes between detention at the time of  
14 entry and detention following arrest in the interior of the United States. See 8 U.S.C. §§ 1225,  
15 1226.

16 42. Section 235 governs inspection-stage detention of individuals encountered at or near  
17 the time of entry while their admissibility is being determined. By contrast, Section 236(a)  
18 governs the arrest and detention of noncitizens who have already entered the United States and  
19 are later taken into custody pending removal proceedings.

20 43. Once the Department of Homeland Security inspects, processes, documents, and  
21 permits a noncitizen’s physical entry into the United States, and thereafter allows that individual  
22 to reside at liberty in the community for a prolonged period of time, the inspection-stage  
23 detention framework no longer applies in the same manner as it would to a noncitizen detained  
24 immediately upon entry. Any subsequent detention following a later interior arrest must comply  
25 with the constitutional requirements governing civil immigration detention, including  
26 individualized custody review consistent with due process.

1 44. Federal courts have repeatedly recognized that individuals who were released from  
2 custody and later re-detained in the interior of the United States are not subject to mandatory  
3 detention under § 1225(b), but are instead entitled to custody review under § 1226(a).

4 45. The Due Process Clause protects all persons within the United States from arbitrary  
5 detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Freedom from physical restraint lies  
6 at the core of the liberty protected by the Constitution.

7 46. Immigration detention is civil in nature and is permissible only when justified by  
8 legitimate governmental interests, such as ensuring appearance at proceedings or protecting the  
9 community. *Id.* at 690–91.

10 47. Where the government has previously released a noncitizen from custody and  
11 permitted him to reside at liberty in the community, that release reflects a determination that  
12 detention was not necessary to serve the purposes of civil immigration detention. Once that  
13 liberty has been granted, continued detention must comport with the requirements of due  
14 process. The existence of any subsequent arrest does not relieve Respondents of their  
15 constitutional obligation to provide constitutionally adequate process and an individualized  
16 custody determination before a neutral decisionmaker. Continued detention without any  
17 individualized determination and without constitutionally adequate process violates the Due  
18 Process Clause.

19 48. The Administrative Procedure Act prohibits agency action that is arbitrary,  
20 capricious, or not in accordance with law. 5 U.S.C. § 706(2)(A). An agency must provide a  
21 reasoned explanation for its actions based on the relevant facts and circumstances.

22 49. Re-detaining a noncitizen after a prolonged period of liberty—without providing an  
23 individualized justification, without constitutionally adequate process, and without applying the  
24 proper statutory framework—constitutes arbitrary, capricious, and unlawful agency action.

25 **CLAIM FOR RELIEF**

26 **COUNT 1**

27 **Violation of Due Process U.S. Constitution Amendment V**

1 50. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, all  
2 preceding paragraphs.

3 51. The Due Process Clause of the Fifth Amendment prohibits the federal government  
4 from depriving any person of “life, liberty, or property, without due process of law.” U.S.  
5 CONST. amend. V. This protection applies to all persons within the United States, including  
6 noncitizens, “whether their presence here is lawful, unlawful, temporary, or permanent.”  
7 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

8 52. Petitioner lawfully presented himself for inspection at a United States port of entry  
9 through the CBP One appointment process on or about March 02, 2024. Following inspection  
10 and processing by the Department of Homeland Security, Petitioner was issued an Arrival-  
11 Departure Record (Form I-94) reflecting authorization valid through March 02, 2026, and was  
12 permitted to physically enter the United States and reside at liberty in the community. Following  
13 his later arrest in the interior of the United States, Respondents took Petitioner into immigration  
14 custody without providing any individualized custody determination or constitutionally adequate  
15 custody review.

16 53. Having previously been permitted to physically enter the United States and reside at  
17 liberty in the community for a prolonged period of time, Petitioner acquired substantial liberty  
18 interests protected by the Due Process Clause. Continued detention without an individualized  
19 determination and without constitutionally adequate process constitutes an arbitrary deprivation  
20 of liberty in violation of the Fifth Amendment. See *Mathews v. Eldridge*, 424 U.S. 319, 333  
21 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

22 54. Although the government may seek to detain Petitioner based on subsequent events,  
23 continued civil immigration detention must comply with the requirements of due process and  
24 must be supported by an individualized custody determination consistent with the governing  
25 statutory framework. The Constitution does not permit the government to detain first and justify  
26 later.

1 55. By continuing to detain Petitioner without an individualized custody determination  
2 and without constitutionally adequate custody review, Respondents have violated the Due  
3 Process Clause of the Fifth Amendment.

4 **COUNT 2**

5 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) (Agency Action Not**  
6 **in Accordance with Law and in Excess of Statutory Authority)**

7 56. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, the  
8 allegations in the paragraphs above.

9 57. Under the Administrative Procedure Act, a court shall “hold unlawful and set aside  
10 agency action” that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance  
11 with law. 5 U.S.C. § 706(2)(A).

12 58. Agency action is arbitrary and capricious where the agency fails to consider relevant  
13 factors, offers an explanation that runs counter to the evidence, or fails to articulate a rational  
14 connection between the facts found and the decision made. *Motor Vehicle Mfrs. Ass’n v. State*  
15 *Farm*, 463 U.S. 29, 43 (1983).

16 59. An agency must provide a reasoned explanation for its actions based on the facts and  
17 circumstances of the individual case. *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019).

18 60. Here, Respondents re-detained Petitioner after previously inspecting, processing,  
19 documenting, and permitting Petitioner’s physical entry into the United States, and thereafter  
20 allowing him to reside at liberty in the community for a substantial period of time. Respondents  
21 have provided no reasoned explanation for Petitioner’s continued detention and have failed to  
22 provide any individualized custody determination or constitutionally adequate custody review.

23 61. Respondents have further failed to articulate any reasoned basis for subjecting  
24 Petitioner to continued detention under an inspection-stage detention framework after previously  
25 inspecting, processing, documenting, and permitting Petitioner’s physical entry into the United  
26 States, and thereafter allowing him to reside at liberty in the community for a prolonged period  
27 of time.

1 62. By continuing to detain Petitioner without a reasoned explanation, without  
2 individualized custody review, and without applying the proper constitutional and statutory  
3 framework, Respondents have acted arbitrarily, capriciously, and contrary to law.

4 63. Accordingly, Respondents' decision to detain Petitioner must be set aside under 5  
5 U.S.C. § 706(2)(A).

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioner respectfully requests that this Court:

8 A) Assume jurisdiction over this matter;

9 B) Issue the writ of habeas corpus or, in the alternative, an order to show cause directing  
10 Respondents to show cause, within three days of the filing of this Petition, why the relief  
11 requested should not be granted, and set a hearing within five days of Respondents' return,  
12 consistent with 28 U.S.C. § 2243;

13 C) Declare that Petitioner's continued detention without an individualized custody determination  
14 or constitutionally adequate custody review violates the Due Process Clause of the Fifth  
15 Amendment;

16 D) Declare that Respondents' continued detention of Petitioner without individualized custody  
17 review is unlawful under the Constitution and governing immigration detention framework;

18 E) Declare that Respondents' actions detaining Petitioner without a reasoned explanation,  
19 without an individualized justification, and without complying with governing procedures were  
20 arbitrary, capricious, an abuse of discretion, and not in accordance with law, in violation of the  
21 Administrative Procedure Act, 5 U.S.C. § 706(2);

22 F) Set aside Respondents' unlawful action under the Administrative Procedure Act, pursuant to 5  
23 U.S.C. § 706(2)(A);

24 G) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from  
25 custody;

1 H) Order Respondents to return Petitioner’s personal property and identity documents, including  
2 his driver’s license, employment authorization document, and any other personal belongings  
3 confiscated in connection with his detention.

4 I) In the alternative, order a constitutionally adequate custody hearing at which DHS bears the  
5 burden of justifying Petitioner’s continued detention by clear and convincing evidence, and the  
6 neutral adjudicator must consider alternatives to detention and Petitioner’s ability to pay any  
7 bond imposed;

8 J) Enjoin Respondents from transferring Petitioner outside this District without prior approval of  
9 this Court;

10 K) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, 28 U.S.C. §  
11 2412, and any other basis authorized by law; and

12 L) Grant such other and further relief as the Court deems just and proper.

13 Respectfully submitted,

14  
15 /s/ Alejandro J. Monsalve, Esq. CA SBN 324958

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21 Counsel for Petitioner

22 Dated: May 22, 2026

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

I submit this verification as counsel for Petitioner in this action. The factual allegations contained in this Petition are based on information provided to me by Petitioner and Petitioner's relatives, as well as my review of available immigration and court records. Those records include documentation issued by the Department of Homeland Security, including Petitioner's Arrival-Departure Record (Form I-94). I have also personally communicated with Petitioner's relatives regarding the circumstances of his detention and personally visited Petitioner at the Otay Mesa Detention Center.

Based on my review of this information, and to the best of my knowledge, information, and belief, I declare that the factual statements contained in this Petition are true and correct and accurately reflect Petitioner's circumstances and the procedural history of his detention.

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958

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Dated: May 22, 2026