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8

9 UNITED STATES DISTRICT COURT
10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

11 Elian XOL VALLE,

12 Petitioner-Plaintiff,

13 v.
14

15 Christopher J. LAROSE, Senior Warden,
16 Otay Mesa Detention Center;

17 Sergio Albarran, Field Office Director of San
18 Francisco Office of Detention and Removal,
19 U.S. Immigrations and Customs Enforcement;
20 U.S. Department of Homeland Security;

21 David J. VENTURELLA, Senior Official
22 Performing the Duties of the Director,
23 Immigration and Customs Enforcement, U.S.
Department of Homeland Security; and

24 Markwayne MULLIN, Secretary, U.S.
25 Department of Homeland Security,

26 Respondents-Defendants.
27
28

Case No: **'26CV3437 RBM JAC**

**PETITION FOR WRIT
OF HABEAS CORPUS
AND COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Challenge to Unlawful
Incarceration; Request for
Declaratory and Injunctive
Relief

INTRODUCTION

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2 1. Petitioner, Mr. Elian XOL VALLE (“Mr. Xol Valle” or “Petitioner”), by and
3
4 through his undersigned counsel, hereby files this petition for writ of habeas corpus
5 and complaint for declaratory and injunctive relief challenging his current unlawful
6 detention by the U.S. Department of Homeland Security (DHS), U.S. Immigration
7 and Customs Enforcement (ICE) and seeking his immediate release from
8 immigration custody. Mr. Xol Valle was arbitrarily re-detained without due process.
9 His reoccurring check-ins with ICE at the San Francisco Field Office demonstrate
10 ICE’s assessment that he posed no risk, and before any re-incarceration, the
11 government must demonstrate to a neutral adjudicator that he is a danger to the
12 community or a flight risk by clear and convincing evidence. Mr. Xol Valle seeks
13 his immediate emergency release from immigration custody.
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18 2. The DHS previously incarcerated Mr. Xol Valle upon his entry to the United
19 States on or around April 29, 2019. Mr. Xol Valle was placed in removal
20 proceedings under 8 U.S.C. § 1229a after a Notice to Appear was filed with the San
21 Francisco Immigration Court on January 29, 2020. Upon his release from ICE
22 custody, Mr. Xol Valle frequently appeared at check-ins at the Enforcement and
23 Removal Operations office in San Francisco.
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1 3. On May 26, 2026, Mr. Xol Valle attended a regular ICE check-in at 630
2 Sansome Street in San Francisco. He had previously attended check-ins, the last one
3 occurring in April 2026. On January 9, 2026, he was fitted with a GPS ankle monitor.
4

5 4. At his May 26 appointment, an ICE officer instructed Mr. Xol Valle to follow
6 him to the sixth floor of the building. There he was instructed to hand over his
7 personal belongings and to place his hands on the wall. He was then told he was
8 being detained.
9

10 5. The ICE officers gave no specific reason as to why Mr. Xol Valle was being
11 detained. The officers told him, "We have seen it all," in reference to his criminal
12 history.
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14 6. According to the ICE Detainee Locator website, Mr. Xol Valle was then
15 transferred to San Diego and is now being held at the Otay Mesa Detention Center.
16

17 7. No material circumstances have changed since Mr. Xol Valle's previous
18 check-in that would justify his re-detention at this time.
19

20 8. The government cannot point to any changed circumstances that would justify
21 Mr. Xol Valle's current incarceration. Mr. Xol Valle is entitled to immediate release
22 unless the government can establish, by clear and convincing evidence and before a
23 neutral decision maker, that he is a danger to the community or a flight risk, such
24 that his continued incarceration is necessary.
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1 9. Mr. Xol Valle faces immediate and irreparable constitutional harm. Every day
2 of continued detention irrevocably prejudices his ability to prepare for his removal
3 proceedings with counsel, and enjoy the conditional liberty that he was given years
4 ago.
5

6 CUSTODY

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8 10. Mr. Xol Valle is currently detained at the Otay Mesa Detention Center in San
9 Diego, CA, satisfying the custody requirement for habeas corpus jurisdiction under
10 28 U.S.C. § 2241. While Mr. Xol Valle is indicated to be at this facility at the time
11 of filing, transfer is imminent absent this Court's intervention.
12

13 11. Prior to his re-detention on May 26, 2026, Mr. Xol Valle was released from
14 custody and placed on an order of supervision, and later fitted with a GPS ankle
15 monitor.
16

17 JURISDICTION

18
19 12. This Court has jurisdiction over the present action pursuant to 28 U.S.C. §
20 1331, general federal question jurisdiction; 5 U.S.C. §§ 701–706, the Administrative
21 Procedure Act; 28 U.S.C. § 1651, the All Writs Act; 28 U.S.C. § 2241, *et seq.*, habeas
22 corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, Cl. 2 of the
23 United States Constitution (Suspension Clause); Art. 3 of the United States
24 Constitution, and the common law.
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27 REQUIREMENTS OF 28 U.S.C. § 2243

1 13. The Court must grant the petition for writ of habeas corpus or issue an order
2 to show cause (OSC) to Respondents “forthwith,” unless the petitioner is not entitled
3 to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents
4 to file a return “within *three days* unless for good cause additional time, *not*
5 *exceeding twenty days*, is allowed.” *Id.* (emphasis added).
6

7
8 14. Courts have long recognized the significance of the habeas statute in
9 protecting individuals from unlawful detention. The Great Writ has been referred to
10 as “perhaps the most important writ known to the constitutional law of England,
11 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
12 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).
13
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15 15. Habeas corpus must remain a swift remedy. Importantly, “the statute itself
16 directs courts to give petitions for habeas corpus ‘special, preferential consideration
17 to insure expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120
18 (9th Cir. 2000) (internal citations omitted).
19

20 VENUE

21
22 16. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) and 28
23 U.S.C. § 2241 because the Respondents are employees or officers of the United
24 States, acting in their official capacity.
25

26 17. Venue is properly before this Court also pursuant to 28 U.S.C. § 2241, as at
27 the time of filing Mr. Xol Valle is being held in San Diego, California.
28

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)). Mr. Xol Valle asserts that exhaustion should be waived because administrative remedies are (1) futile and (2) his continued detention results in irreparable harm.

19. No statutory exhaustion requirements apply to Mr. Xol Valle’s claim of unlawful custody in violation of his due process rights, and there are no administrative remedies that he needs to exhaust. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to review” constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

PARTIES

20. Mr. Xol Valle was born in Guatemala and fled to the United States with his father in 2019 after enduring persecution due to their indigenous race. Upon entry

1 into the United States Mr. Xol Valle was apprehended by immigration officials and
2 then released with an order of supervision.

3
4 21. Respondent Christopher LaROSE is the Senior Warden at the Otay Mesa
5 Detention Center and is named in his official capacity. Mr. LaRose has day-to-day
6 operational control over the detention center where Mr. Xol Valle is currently
7 housed. In his official capacity, he is the physical custodian of Mr. Xol Valle.
8

9 22. Respondent Sergio ALBARRAN is the Field Office Director of ICE, in San
10 Francisco, California and is named in his official capacity. ICE is the component of
11 the DHS that is responsible for detaining and removing noncitizens according to
12 immigration law and oversees custody determinations. In his official capacity he is
13 the legal custodian of Mr. Xol Valle.
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16 23. Respondent David J. VENTURELLA is the Senior Official Performing the
17 Duties of the Director of ICE and is named in his official capacity. Among other
18 things, ICE is responsible for the administration and enforcement of the
19 immigration laws, including the removal of noncitizens. In his official capacity as
20 head of ICE, he is the legal custodian of Mr. Xol Valle.
21
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23 24. Respondent Markwayne MULLIN is the Secretary of DHS and is named in
24 his official capacity. DHS is the federal agency encompassing ICE, which is
25 responsible for the administration and enforcement of the INA and all other laws
26 relating to the immigration of noncitizens. In his capacity as Secretary, Respondent
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1 Mullin has responsibility for the administration and enforcement of the immigration
2 and naturalization laws pursuant to section 402 of the Homeland Security Act of
3 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. §
4 1103(a). Respondent Mullin is the ultimate legal custodian of Mr. Xol Valle.
5

6 STATEMENT OF FACTS

7
8 25.Mr. Xol Valle is 19 years old and is from Guatemala.

9 26.Mr. Xol Valle arrived in the United States in 2019 and has been residing in
10 San Rafael, California with his father. He and his father fled their country because
11 they experienced extreme violence due to their Q'eqchi' Maya ethnicity.
12

13 27.Mr. Xol Valle is in immigration proceedings and is a derivative on his father's
14 I-589 Application for Asylum. Mr. Xol Valle also suffers from symptoms consistent
15 with post-traumatic stress disorder as a result of the violence he suffered in
16 Guatemala. These symptoms include heightened anxiety, hypervigilance, and fear,
17 and are currently exacerbated by his detention.
18

19 28.Mr. Xol Valle was initially placed in removal proceedings after being detained
20 by ICE and charged with removability based on his entry without admission or
21 parole after inspection by an immigration officer on January 29, 2020. His entry in
22 2019 was his first and only entry into the United States.
23

24 29.As a condition of his release from immigration detention, Mr. Xol Valle was
25 placed on an order of supervision and attended regular ICE check-ins.
26
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1 30. On October 20, 2025, Mr. Xol Valle was convicted of California Pen. Code
2 § 21310 for possession of a weapon other than a firearm. The Sonoma County
3 Superior Court of California sentenced him to 90 days of jail with work release and
4 24 months of probation beginning on November 17, 2025.
5

6 31. On January 9, 2026, Mr. Xol Valle was fitted with a GPS ankle monitor. He
7 was not told the reason why or for how long he would wear the ankle monitor.
8

9 32. Mr. Xol Valle attended an ICE check-in at the San Francisco Field Office in
10 April 2026. As was typical, he was scheduled for his next appointment on May 26,
11 2026.
12

13 33. On May 26, 2026, Mr. Xol Valle presented himself for a scheduled ICE
14 check-in at the San Francisco ICE Field Office. While waiting in line, an officer took
15 his paperwork. Afterwards he was told by the officer to follow him to the sixth floor
16 of the building, which was unusual as his check-ins typically occurred on the fifth
17 floor.
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20 34. On the sixth floor, an ICE officer asked Mr. Xol Valle about his current
21 probation status. Mr. Xol Valle informed the officer that he was compliant with all
22 his probation requirements.
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24

25 35. Another officer asked Mr. Xol Valle about his medical history. When asked
26 why he was being asked, the officer told Mr. Xol Valle that they ask those questions
27 when someone is being detained.
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1 36. Afterwards, another officer entered the room and told Mr. Xol Valle to hand
2 over his belongings and place his hands on the wall.

3 37. Mr. Xol Valle asked why he was being detained. He was never provided a
4 specific reason for his detention. The officers only alluded to his criminal history,
5 stating that they “have seen it all.”
6

7 38. Since his detention on May 26, 2026, Mr. Xol Valle is scheduled to appear
8 for a Master Calendar Hearing on June 5, 2026 before Immigration Judge Mark
9 Sameit.
10

11 39. ICE’s own conduct—scheduling Mr. Xol Valle to check-ins which he
12 regularly attended—contradicts any claim that material circumstances or risk of
13 public safety justifies Mr. Xol Valle’s detention. Mr. Xol Valle’s conviction
14 occurred in October 2025, and ICE chose only to place him on an ankle monitor in
15 January 2026. There is no indication that Mr. Xol Valle’s compliance with his order
16 of supervision has materially changed since January 2026, or his last check-in in
17 April 2026.
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19 40. ICE has identified no new facts or circumstances that would alter the previous
20 determination that Mr. Xol Valle is neither a flight risk nor a danger to the
21 community.
22

23 41. ICE quickly transferred Mr. Xol Valle to the Otay Mesa Detention Center in
24 San Diego, California.
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42. After arriving at Otay Mesa, the facility physician prescribed Mr. Xol Valle a mood stabilizer, a Selective Serotonin Reuptake Inhibitor (SSRI), and an antihistamine to manage anxiety. Mr. Xol Valle was not taking any medications prior to arriving at the facility.

FIRST CAUSE OF ACTION
Procedural Due Process
U.S. Const. amend. V

43. Mr. Xol Valle re-alleges and incorporates herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

44. 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.

45. Mr. Xol Valle has a vested liberty interest in his conditional release. Due Process does not permit the government to strip him of that liberty without a hearing before this Court. *See Morrissey v. Brewer*, 408 U.S. 471, 487-488 (1972).

46. Under the balancing test established in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), Mr. Xol Valle was entitled to notice and a hearing before a neutral decisionmaker prior to his re-detention.

47. The *Mathews* factors strongly favor Mr. Xol Valle:

- a. **Private Interest:** Mr. Xol Valle has a substantial private interest in his liberty, including his ability to work, contribute to he and

1 his father's living, and participate meaningfully in his
2 immigration proceedings;

3
4 b. **Risk of Erroneous Deprivation:** The risk of erroneous
5 deprivation is high where ICE can unilaterally revoke release
6 without any process or oversight;

7
8 c. **Government Interest:** The government's interest is minimal
9 where ICE's own conduct for several years, including several
10 months after a criminal conviction, demonstrated their
11 assessment that Mr. Xol Valle posed no flight risk or danger.
12

13 48. The Court must therefore order Mr. Xol Valle's immediate release from
14 detention and that, prior to any future detention, the government must provide him
15 with a hearing before a neutral adjudicator. At any such hearing, the neutral
16 adjudicator would evaluate, *inter alia*, whether clear and convincing evidence
17 demonstrates, taking into consideration alternatives to detention and Mr. Xol Valle's
18 ability to pay a bond, that Mr. Xol Valle is a danger to the community or a flight
19 risk, such that his detention is warranted. During any custody determination hearing
20 that occurs, this Court or, in the alternative, a neutral adjudicator must consider
21 alternatives to detention when determining whether Mr. Xol Valle's detention is
22 warranted.
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SECOND CAUSE OF ACTION

Substantive Due Process
U.S. Const. amend. V

49.Mr. Xol Valle re-alleges and incorporates herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

50.The Due Process Clause of the Fifth Amendment forbids the government from depriving individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.

51.Mr. Xol Valle has a vested liberty interest in his conditional release. Due Process does not permit the government to strip him of that liberty without it being tethered to one of the two constitutional bases for civil detention: to mitigate against the risk of flight or to protect the community from danger.

52. Well after Mr. Xol Valle's criminal conviction, ICE chose to place him on an ankle monitor, but did not detain him. He then attended several ICE check-ins as regularly scheduled. This demonstrated ICE's continuing assessment that he posed neither a flight risk nor a danger to the community. Re-arresting him now violates his constitutional right to be free from unjustified deprivation of liberty.

53.For these reasons, Mr. Xol Valle's re-arrest without first being provided a hearing violates the Constitution.

54.The Court must therefore order Mr. Xol Valle's immediate release from detention and that, prior to any future detention, the government must provide him with a hearing before a neutral adjudicator. At any such hearing, the neutral

1 adjudicator would evaluate, *inter alia*, whether clear and convincing evidence
2 demonstrates, taking into consideration alternatives to detention and Mr. Xol Valle's
3 ability to pay a bond, that Mr. Xol Valle is a danger to the community or a flight
4 risk, such that his detention is warranted. During any custody determination hearing
5 that occurs, this Court or, in the alternative, a neutral adjudicator must consider
6 alternatives to detention when determining whether Mr. Xol Valle's detention is
7 warranted.
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11 **THIRD CAUSE OF ACTION**
12 **Violation of Immigration Statutes and Regulations**

13 55.Mr. Xol Valle re-alleges and incorporates herein by reference, as is set forth
14 fully herein, the allegations in all the preceding paragraphs.

15 56.Under 8 U.S.C. § 1226(b) and 8 C.F.R. § 236.1(c)(9), ICE may revoke an
16 individual's release only upon a showing of changed circumstances.
17

18 57.The Board of Immigration Appeals has held that "where a previous bond
19 determination has been made by an immigration judge, no change should be made
20 by [DHS] absent a change of circumstance." *Matter of Sugay*, 17 I&N Dec. 637, 640
21 (BIA 1981).
22
23

24 58.ICE's own conduct contradicts any claim that material circumstances justify
25 Mr. Xol Valle's detention. After he was fitted with an ankle monitor in January 2026,
26 Mr. Xol Valle has not violated any condition of his release, nor has he broken any
27
28

1 laws. The only material change is ICE's enforcement priorities under the current
2 administration, which does not constitute a material change in Mr. Xol Valle's
3 individual circumstances.
4

5 59. Further, ICE did not notify Mr. Xol Valle of the reason for the revocation of
6 his release, per 8 C.F.R. § 241.13(i)(3). No interview was conducted. Mr. Xol Valle
7 did not have the opportunity to submit any evidence or information that he has not
8 violated the order of supervision.
9

10 60. Respondents' detention of Mr. Xol Valle violates the statutory and regulatory
11 requirements for revocation of release.
12

13 PRAYER FOR RELIEF

14 WHEREFORE, Mr. Xol Valle prays that this Court grant the following relief:
15

- 16 a) Assume jurisdiction over this matter;
17
18 b) Issue a writ of habeas corpus ordering Mr. Xol Valle's immediate release from
19 ICE custody;
20
21 c) In the alternative, enjoin ICE from continuing to detain Mr. Xol Valle unless
22 and until a hearing can be held before a neutral adjudicator to determine
23 whether his continued incarceration would be lawful because the government
24 has shown that he is a danger or a flight risk by clear and convincing evidence;
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- 1 d) Enjoin Respondents from transferring Mr. Xol Valle outside of California
2 unless and until he is afforded his scheduled merits hearing and the
3 opportunity to pursue relief from removal with effective assistance of counsel;
4
5 e) Declare that Mr. Xol Valle cannot be detained unless and until he is afforded
6 a hearing on the question of whether his incarceration would be lawful—i.e.,
7 whether the government has demonstrated to a neutral adjudicator that he is a
8 danger or a flight risk by clear and convincing evidence;
9
10 f) Award reasonable costs and attorney fees; and
11
12 g) Grant such further relief as the Court deems just and proper.
13

14
15 Dated: June 5, 2026

Respectfully submitted,

16 /s/ Gautam Jagannath

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Attorneys for Mr. Xol Valle

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

I am submitting this verification on behalf of Petitioner pursuant to 28 U.S.C. § 2242 as one of Petitioner's attorneys.

The factual allegations contained in this Petition are based upon information provided by Petitioner to counsel, including communications between Petitioner and Senior Staff Attorney Mara Hayn, records maintained in the ordinary course of representation, government records, and counsel's investigation of the facts and circumstances underlying Petitioner's detention.

Based upon that information, I am informed and believe that the factual allegations contained in the Petition are true and correct.

Executed on June 5, 2026, in Berkeley, California.

/s/ Gautam Jagannath
Gautam Jagannath, Esq
Attorney for Petitioner