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

NELSON REVELORIO-OSORIO,

Petitioner,

v.

Jeremy Casey, Warden at Imperial Regional
Detention Center;

Markwayne MULLIN, Secretary, U.S.
Department of Homeland Security;

Todd LYONS, Acting Director, U.S.

Immigration and Customs Enforcement;

Todd BLANCHE, Acting Attorney General of the
United States, U.S. Department of Justice.

Respondents

Case No.: '26CV3440 JAO GC



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

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

4 **INTRODUCTION**

5 2. Petitioner Nelson Revelorio-Osorio is a native and citizen of Guatemala currently
6 detained at the Imperial Regional Detention Facility in Calexico, California.

7 3. Petitioner brings this action under 28 U.S.C. § 2241 to challenge the legality of his re-
8 detention by the Department of Homeland Security after having been previously released into the
9 United States as an unaccompanied minor and permitted to reside at liberty for nearly a decade.

10 4. Petitioner entered the United States without inspection on or about August 1, 2016, as
11 a minor and was subsequently encountered by immigration authorities. Petitioner was thereafter
12 placed in the custody of the Office of Refugee Resettlement (“ORR”) as an unaccompanied
13 minor. On or about September 15, 2016, ORR formally released Petitioner from federal custody
14 to his aunt, who served as his approved sponsor in the United States, and permitted him to reside
15 at liberty pending removal proceedings. (*Ex. 1.*).

16 5. Following his release, Petitioner resided at liberty in the United States without incident
17 for many years. Petitioner thereafter filed an application for asylum, received employment
18 authorization, openly resided and worked in the United States, and established substantial ties
19 within his community.

20 6. Despite this prior release and prolonged period of liberty, Petitioner was arrested by
21 ICE officers in Florida on or about April 27, 2026, and placed in immigration detention.
22 Respondents provided no prior notice, no explanation, and identified no changed circumstances
23 justifying this re-detention.

24 7. Petitioner was subsequently transferred through multiple detention facilities before
25 ultimately being transferred to the Imperial Regional Detention Facility in Calexico, California,
26 where he presently remains detained.

9. The Constitution does not permit the government to revoke that liberty interest through re-detention without prior notice, without identifying any changed circumstances, and without providing an opportunity to be heard before a neutral decisionmaker.

CUSTODY

JURISDICTION AND VENUE

13. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in Respondents' custody under the United States' color of authority, and such custody violates the Constitution, laws, or treaties of the United States. This Court's jurisdiction is not limited by a petitioner's nationality, status as an immigrant, or any other classification. See *Boumediene v. Bush*, 553 U.S. 723, 747 (2008). This Court may grant relief under U.S. CONST. art. I, § 9, cl. 2; U.S. CONST. amends. V and VIII; 28 U.S.C. §§ 1361 (mandamus), 1651 (All Writs Act), and 2241 (habeas corpus).

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

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

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

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

22 **PARTIES**

23 18. Petitioner, Nelson Revelorio-Osorio, is a native and citizen of Guatemala currently
24 detained at the Imperial Regional Detention Facility in Calexico, California.

25 19. Respondent Jeremy Casey is the Warden at Imperial Regional Detention Center,
26 located in the city of Calexico, California;

1 20. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland
2 Security (DHS).

3 21. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs
4 Enforcement (ICE).

5 22. Respondent Todd Blanche is the Acting Attorney General of the United States and
6 the head of the U.S. Department of Justice (DOJ).

7 23. All Respondents are named in their official capacities.

8 **STATEMENT OF FACTS**

9 24. Petitioner is currently detained at the Imperial Regional Detention Facility in
10 Calexico, California. Petitioner is a native and citizen of Guatemala who entered the United
11 States without inspection on or about August 1, 2016, as a minor.

12 25. Petitioner was encountered by immigration authorities shortly after his entry into the
13 United States.

14 26. Petitioner was thereafter placed in the custody of the Office of Refugee Resettlement
15 ("ORR") as an unaccompanied minor.

16 27. On or about September 15, 2016, the Office of Refugee Resettlement formally
17 released Petitioner from federal custody to his aunt, who served as his approved sponsor in the
18 United States, pursuant to a Verification of Release document. (*Ex. 1.*)

19 28. Following his release, Petitioner resided at liberty in the United States without
20 incident. During that period, Petitioner filed an application for asylum, received employment
21 authorization, openly resided and worked in the United States, and remained known to federal
22 immigration authorities.

23 29. During this period, Petitioner established substantial ties within his community and
24 lived without any allegation that he posed a danger to the community or a risk of flight.

25 30. Petitioner remained at liberty in the United States for nearly a decade following his
26 release from ORR custody.

1 31. On or about April 27, 2026, Petitioner was arrested by ICE officers in Florida and
2 taken into immigration custody. Respondents provided no prior notice, no explanation, and
3 identified no changed circumstances justifying this re-detention.

4 32. Following his arrest, Petitioner was transferred through multiple detention facilities
5 before ultimately being transferred to the Imperial Regional Detention Facility in Calexico,
6 California, where he is presently detained and in custody.

7 33. At no point prior to his arrest did DHS provide Petitioner with notice that his liberty
8 would be revoked, nor did it provide any opportunity to challenge his re-detention before a
9 neutral decisionmaker.

10 34. At no point has DHS identified any individualized basis for Petitioner's detention, nor
11 has it asserted that Petitioner poses a danger to the community or a risk of flight.

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

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

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

23 37. Congress and the courts have repeatedly reaffirmed that habeas corpus must remain
24 a prompt and expeditious remedy. As the Ninth Circuit has explained, "The statute itself directs
25 courts to give petitions for habeas corpus 'special, preferential consideration to insure
26 expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000)
27 (citation omitted). The court cautioned that delays in habeas proceedings risk creating the

1 impression “that courts are more concerned with efficient trial management than with the
2 vindication of constitutional rights.” *Id.*

3 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

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

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

20 40. Moreover, no statutory exhaustion requirement applies to Petitioner's claim that his
21 detention violates the Constitution and the INA. Constitutional claims and pure questions of law
22 —such as whether DHS has statutory authority to detain Petitioner and whether detention under
23 § 1225(b) is lawful in these circumstances—fall outside the agency's adjudicatory competence.
24 See *Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995)
25 (exhaustion excused where the agency “does not have jurisdiction to review” constitutional
26 claims); *In re Indefinite Detention Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

1 There is no administrative forum that can determine whether DHS may lawfully invoke §
2 1225(b)(2) to detain Petitioner under these circumstances.

3 41. Petitioner suffers irreparable harm for each additional day he remains unlawfully
4 detained. The loss of physical liberty constitutes an injury that cannot be adequately remedied
5 after the fact. Continued incarceration following Petitioner's prior release from federal custody
6 magnifies that ongoing harm. Courts routinely excuse exhaustion where prolonged or unlawful
7 detention inflicts irreparable injury. Petitioner's ongoing detention therefore further warrants
8 waiver of prudential exhaustion.

9 LEGAL FRAMEWORK

10 42. The Immigration and Nationality Act distinguishes between detention at the time of
11 entry and detention following arrest in the interior of the United States. See 8 U.S.C. §§ 1225,
12 1226.

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

17 44. Once the federal government releases a noncitizen from custody and permits him to
18 reside at liberty in the United States, the inspection-stage detention framework no longer applies.
19 Any subsequent detention following a later arrest in the interior must proceed, if at all, under 8
20 U.S.C. § 1226(a).

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

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

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

4 48. By permitting Petitioner to reside openly in the United States for nearly a decade
5 following his release from ORR custody, while accepting and processing his asylum application
6 and issuing employment authorization, the government created a substantial liberty interest in
7 Petitioner's continued freedom from physical restraint. Abrupt re-detention without notice,
8 without any identified change in circumstances, and without a meaningful opportunity to be
9 heard violates the Due Process Clause.

10 49. 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 those purposes. Once that liberty has been granted, it cannot
13 be revoked without constitutionally adequate process. Re-detention without any individualized
14 determination or changed circumstances therefore raises serious due process concerns.

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

18 51. Re-detaining a noncitizen after a prolonged period of liberty—without identifying any
19 changed circumstances, without providing an individualized justification, and without applying
20 the proper statutory framework—constitutes arbitrary and unlawful agency action.

21 **CLAIM FOR RELIEF**

22 **COUNT 1**

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

24 52. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, all
25 preceding paragraphs.

26 53. The Due Process Clause of the Fifth Amendment prohibits the federal government
27 from depriving any person of “life, liberty, or property, without due process of law.” U.S.

1 CONST. amend. V. This protection applies to all persons within the United States, including
2 noncitizens, “whether their presence here is lawful, unlawful, temporary, or permanent.”
3 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

4 54. Petitioner was previously released from federal custody on or about September 15,
5 2016, and permitted to reside at liberty in the United States for nearly a decade. On or about
6 April 27, 2026, Petitioner was arrested by ICE officers in Florida and placed in immigration
7 detention without prior notice, without any explanation, and without any identified change in
8 circumstances. Nothing in the record indicates that Petitioner poses a danger to the community or
9 a risk of flight.

10 55. Having previously released Petitioner from custody and allowed him to live at liberty
11 in the community, the government created a substantial liberty interest in Petitioner’s continued
12 freedom from detention. Re-detention without notice, without an individualized determination,
13 and without an opportunity to be heard constitutes an arbitrary deprivation of that liberty in
14 violation of the Due Process Clause. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976);
15 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

16 **COUNT 2**

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

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

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

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

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

3 60. Here, Respondents have re-detained Petitioner after previously releasing him from
4 federal custody and permitting him to reside at liberty in the United States for nearly a decade.
5 Respondents have provided no reasoned explanation for this re-detention and have identified no
6 changed circumstances that would justify revoking Petitioner's liberty.

7 61. Respondents have further failed to provide any individualized assessment justifying
8 Petitioner's detention. They have not identified any facts indicating that Petitioner poses a danger
9 to the community or a risk of flight.

10 62. By re-detaining Petitioner in the interior of the United States, without explanation,
11 without identifying any changed circumstances, and without providing any individualized
12 justification, Respondents have acted arbitrarily and capriciously and in excess of their statutory
13 authority.

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

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Petitioner respectfully requests that this Court:

18 A) Assume jurisdiction over this matter;

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

23 C) Pending adjudication of this action, enjoin Respondents from transferring Petitioner outside
24 the Southern District of California or removing Petitioner from the United States absent prior
25 authorization from this Court, in order to preserve this Court's jurisdiction;

1 D) Declare that Petitioner's continued detention without prior notice, without an individualized
2 determination, and without any identified change in circumstances violates the Due Process
3 Clause of the Fifth Amendment;

4 E) Declare that Respondents lack lawful authority to re-detain Petitioner without constitutionally
5 adequate process after previously releasing him into the United States and permitting him to
6 reside at liberty;

7 F) Declare that Respondents' actions detaining Petitioner under an improper statutory
8 framework, without lawful authority and without a reasoned explanation, were arbitrary,
9 capricious, an abuse of discretion, and not in accordance with law, in violation of the
10 Administrative Procedure Act, 5 U.S.C. § 706(2);

11 G) Set aside Respondents' unlawful action under the Administrative Procedure Act, pursuant to
12 5 U.S.C. § 706(2)(A);

13 H) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from
14 custody;

15 I) Order Respondents to restore Petitioner to the *status quo ante litem*, including releasing him
16 under the same conditions that existed prior to his re-detention and returning all of his documents
17 and personal belongings at the time of release, consistent with this Court's prior orders in
18 materially similar cases;

19 J) Enjoin Respondents from re-arresting or re-detaining Petitioner absent compliance with
20 constitutional requirements, including constitutionally adequate notice, identification of any
21 changed circumstances, and a meaningful pre-deprivation hearing before a neutral
22 decisionmaker;

23 K) In the alternative, order a constitutionally adequate custody hearing under INA § 236(a), at
24 which DHS bears the burden of justifying Petitioner's continued detention by clear and
25 convincing evidence, and the neutral adjudicator must consider alternatives to detention and
26 Petitioner's ability to pay any bond imposed;

1 L) Declare that Respondents lack authority to detain Petitioner under INA § 235(b), and that any
2 detention must proceed, if at all, under INA § 236(a);

3 M) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. §
4 2412, and any other basis authorized by law; and

5 N) Grant such other and further relief as the Court deems just and proper.

6 Respectfully submitted,

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

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11 Phone: (619) 777-6796

12 Counsel for Petitioner

13 Dated: June 8, 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's family members, as well as my review of available immigration records and supporting documents, including, but not limited to, the Verification of Release issued by the Office of Refugee Resettlement.

Based on my review of that 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: June 8, 2026