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

VICTOR ARTURO VELASQUEZ-LARA,

Petitioner,

v.

Christopher LaROSE, Warden, Otay Mesa

Detention Facility;

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.: '26CV3828 JES JAC



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

INTRODUCTION

3. Petitioner brings this action under 28 U.S.C. § 2241 to challenge the legality of his re-detention by the Department of Homeland Security after previously being released on immigration bond and permitted to reside at liberty in the United States for approximately ten years.

5. In 2016, the Immigration Court administratively closed Petitioner's removal proceedings. (*Ex. 1.*) Following that administrative closure, Petitioner continued to reside openly in the United States for approximately ten years. During that period, Petitioner remained in the community, established substantial ties to the United States, and remained available to governmental authorities.

7. Respondents provided no prior notice that Petitioner's liberty would be revoked, provided no meaningful opportunity to be heard before a neutral decisionmaker, and identified no individualized basis demonstrating that Petitioner posed either a danger to the community or a risk of flight warranting his re-detention.

1 8. Petitioner was subsequently transferred to the Otay Mesa Detention Center in San
2 Diego, California, where he remains detained.

3 9. Respondents' actions violate the Due Process Clause of the Fifth Amendment.
4 Following Petitioner's release on immigration bond, Respondents did not oppose the
5 administrative closure of his removal proceedings and thereafter permitted Petitioner to reside
6 openly at liberty in the United States for approximately ten years. During that period,
7 Respondents continued to recognize Petitioner's presence in the United States, including by
8 authorizing him to work pursuant to his pending asylum application. Through these affirmative
9 governmental actions, Respondents reinforced Petitioner's substantial liberty interest and
10 objectively reasonable expectation that he would not be abruptly deprived of his physical liberty
11 without constitutionally adequate process.

12 10. The Constitution does not permit the government to revoke that liberty interest
13 through abrupt re-detention without meaningful process, without an individualized determination
14 of necessity, and without providing Petitioner a meaningful opportunity to challenge the
15 deprivation of his liberty before a neutral decisionmaker.

16 11. Petitioner therefore respectfully requests that this Court declare his detention
17 unlawful and order his immediate release or, in the alternative, require Respondents to provide a
18 constitutionally adequate custody hearing at which Respondents bear the burden of justifying
19 continued detention.

20 CUSTODY

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

24 JURISDICTION AND VENUE

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

3 14. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United
4 States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in Respondents' custody
5 under the United States' color of authority, and such custody violates the Constitution, laws, or
6 treaties of the United States. This Court's jurisdiction is not limited by a petitioner's nationality,
7 status as an immigrant, or any other classification. See *Boumediene v. Bush*, 553 U.S. 723, 747
8 (2008). This Court may grant relief under U.S. CONST. art. I, § 9, cl. 2; U.S. CONST. amends.
9 V and VIII; 28 U.S.C. §§ 1361 (mandamus), 1651 (All Writs Act), and 2241 (habeas corpus).

10 15. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Petitioner's
11 detention. Federal district courts possess broad authority to issue writs of habeas corpus when a
12 person is held "in custody in violation of the Constitution or laws or treaties of the United States"
13 (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that
14 survived the REAL ID Act's jurisdictional restrictions.

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

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

25 18. Sections 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not bar this Court's jurisdiction
26 because Petitioner challenges only the legality of his detention, not the validity of removal
27 proceedings or any removal order. Federal courts have consistently recognized that habeas
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1 corpus remains available to review the statutory and constitutional basis of immigration
2 detention. Petitioner's claims therefore fall squarely within this Court's habeas jurisdiction under
3 28 U.S.C. § 2241.

4 **PARTIES**

5 19. Petitioner, Victor Arturo Velasquez-Lara, is a native and citizen of Honduras
6 currently detained at the Otay Mesa Detention Center in San Diego, California.

7 20. Respondent Christopher LaRose, Warden of the Otay Mesa Detention Center in San
8 Diego, California, is Petitioner's immediate custodian and is responsible for Petitioner's
9 confinement. Respondent LaRose is sued in his official capacity.

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

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

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

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

17 **STATEMENT OF FACTS**

18 25. Petitioner is currently detained at the Otay Mesa Detention Center in San Diego,
19 California. Petitioner is a native and citizen of Honduras who entered the United States without
20 inspection on or about 2012.

21 26. Following the commencement of removal proceedings, Petitioner was released from
22 immigration custody on bond and thereafter remained at liberty in the United States while his
23 removal proceedings remained pending.

24 27. In 2016, the Immigration Court administratively closed Petitioner's removal
25 proceedings. (*Ex. 1.*)

26 28. Following the administrative closure of his removal proceedings, Petitioner remained
27 at liberty in the United States for approximately ten years. During that period, Petitioner resided
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1 openly in the community, maintained substantial ties to the United States, and remained
2 available to governmental authorities.

3 29. During the period he remained at liberty, Petitioner maintained employment
4 authorization issued by United States Citizenship and Immigration Services based upon his
5 pending asylum application. (*Ex. 2.*) Before issuing that employment authorization, the
6 Government required Petitioner to complete biometric processing and otherwise confirmed his
7 continued eligibility. By authorizing Petitioner to work lawfully in the United States, the
8 Government further reinforced Petitioner's objectively reasonable expectation that he would not
9 be abruptly deprived of his liberty without constitutionally adequate process.

10 30. On or about April 4, 2026, Petitioner was a passenger in a vehicle that was stopped by
11 law enforcement in Florida.

12 31. During the traffic stop, officers requested identification and immigration
13 documentation from the occupants of the vehicle and subsequently contacted U.S. Immigration
14 and Customs Enforcement.

15 32. ICE officers thereafter took Petitioner into immigration custody.

16 33. Respondents provided no prior notice that Petitioner's liberty would be revoked,
17 provided no meaningful opportunity to be heard before a neutral decisionmaker, and provided no
18 explanation for Petitioner's sudden detention.

19 34. Following his arrest, Petitioner was transferred through multiple immigration
20 detention facilities before ultimately being transferred to the Otay Mesa Detention Center in San
21 Diego, California, where he remains detained.

22 35. At no point prior to his arrest did DHS provide Petitioner with notice that his liberty
23 would be revoked, nor did it provide any opportunity to challenge his detention before a neutral
24 decisionmaker.

25 36. Upon information and belief, Respondents have never provided Petitioner with an
26 individualized determination demonstrating that his detention is necessary because he poses a
27 danger to the community or a risk of flight.

1 37. Petitioner remains detained at the Otay Mesa Detention Center without any
2 meaningful opportunity to challenge the constitutional validity of the government's decision to
3 revoke the liberty previously recognized through his release on immigration bond and his
4 subsequent decade of authorized liberty in the community.

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

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

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

16 40. Congress and the courts have repeatedly reaffirmed that habeas corpus must remain
17 a prompt and expeditious remedy. As the Ninth Circuit has explained, “The statute itself directs
18 courts to give petitions for habeas corpus ‘special, preferential consideration to insure
19 expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000)
20 (citation omitted). The court cautioned that delays in habeas proceedings risk creating the
21 impression “that courts are more concerned with efficient trial management than with the
22 vindication of constitutional rights.” *Id.*

23 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

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

4 42. Exhaustion would be futile because Petitioner has not been provided any meaningful
5 administrative mechanism through which to challenge the constitutional validity of his continued
6 detention. Petitioner's claims arise from the government's decision to revoke the liberty
7 established through Petitioner's release on immigration bond and his subsequent decade of
8 authorized liberty in the community without providing constitutionally adequate process.
9 Immigration courts cannot adjudicate Petitioner's constitutional challenge to the government's
10 revocation of that liberty interest, nor can they provide the immediate habeas relief requested
11 here. Accordingly, requiring exhaustion would serve no practical purpose and would merely
12 prolong Petitioner's allegedly unlawful detention.

13 43. Moreover, no statutory exhaustion requirement applies to Petitioner's constitutional
14 claims. Constitutional claims and pure questions of law fall outside the agency's adjudicatory
15 competence and are properly presented to this Court through habeas corpus. See *Hernandez v.*
16 *Sessions*, 872 F.3d 976, 988 (9th Cir. 2017); *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir.
17 2004); *Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995). There
18 is no administrative forum capable of determining whether Respondents may constitutionally
19 revoke the liberty established through Petitioner's release on immigration bond and his
20 subsequent decade of authorized liberty in the community without providing constitutionally
21 adequate process.

22 44. Petitioner suffers irreparable harm for each additional day he remains unlawfully
23 detained. The continued deprivation of his physical liberty constitutes irreparable injury.
24 Continued incarceration following Petitioner's release on immigration bond and his subsequent
25 decade of authorized liberty in the community further magnifies that injury. Courts routinely
26 excuse exhaustion where prolonged or unlawful detention inflicts irreparable harm. Petitioner's
27 ongoing injury therefore warrants waiver of prudential exhaustion.

LEGAL FRAMEWORK

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

46. Immigration detention is civil in nature and is permissible only when justified by legitimate governmental interests, such as ensuring appearance at proceedings or protecting the community. *Id.* at 690–91. Because civil detention constitutes a severe deprivation of liberty, the government must provide constitutionally adequate procedures before depriving an individual of that liberty interest.

47. Following Petitioner's release on immigration bond, Respondents did not oppose the administrative closure of Petitioner's removal proceedings in 2016. Thereafter, Respondents permitted Petitioner to remain at liberty in the United States for approximately ten years while continuing to recognize Petitioner's presence through the issuance of employment authorization based on his pending asylum application. After nearly a decade of permitting Petitioner to remain at liberty, Respondents abruptly re-detained him without providing constitutionally adequate process.

48. Once that liberty has been established and relied upon for an extended period of time, the Due Process Clause prohibits its arbitrary revocation. Re-detention without notice, without a meaningful opportunity to be heard, and without an individualized determination of necessity raises serious constitutional concerns and requires judicial review.

49. Where a noncitizen has been released on immigration bond, the government has not opposed the administrative closure of removal proceedings, the noncitizen has thereafter remained at liberty in the community for approximately ten years, and the Government has continued to issue employment authorization based on a pending asylum application, the government cannot arbitrarily revoke that settled liberty without constitutionally adequate process.

1 50. Under these circumstances, Respondents could not constitutionally revoke Petitioner's
2 longstanding liberty without first providing notice, a meaningful opportunity to be heard, and an
3 individualized determination that continued detention was necessary. Re-detention without those
4 procedural safeguards raises serious due process concerns.

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

8 52. Re-detaining a noncitizen after a prolonged period of liberty—without identifying any
9 changed circumstances, without providing an individualized justification, and without a reasoned
10 explanation—constitutes arbitrary and unlawful agency action.

11 **CLAIM FOR RELIEF**

12 **COUNT 1**

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

14 53. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, all
15 preceding paragraphs.

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

21 55. Petitioner was released from immigration custody on bond and thereafter remained at
22 liberty in the United States while his removal proceedings remained pending. In 2016, the
23 Immigration Court administratively closed those proceedings, and Petitioner continued to reside
24 openly in the United States for approximately ten years. On or about April 4, 2026, Petitioner
25 was a passenger in a vehicle that was stopped by law enforcement in Florida. During the traffic
26 stop, officers requested identification and immigration documentation from the occupants of the
27 vehicle and subsequently contacted U.S. Immigration and Customs Enforcement, which

1 thereafter took Petitioner into immigration custody. Respondents provided no prior notice, no
2 meaningful opportunity to be heard, and no individualized determination demonstrating that
3 Petitioner's detention was necessary. Respondents have never identified any facts demonstrating
4 that Petitioner poses a danger to the community or a risk of flight sufficient to justify the abrupt
5 revocation of Petitioner's longstanding liberty.

6 56. Having previously been released on immigration bond and thereafter permitted to
7 remain at liberty in the United States for approximately ten years, Petitioner acquired a
8 substantial liberty interest in his continued freedom from detention. Re-detention without notice,
9 without an individualized determination, and without an opportunity to be heard constitutes an
10 arbitrary deprivation of that liberty in violation of the Due Process Clause. See *Mathews v.*
11 *Eldridge*, 424 U.S. 319, 333 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

12 **COUNT 2**

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

15 57. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, the
16 allegations in the paragraphs above.

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

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

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

26 61. Here, Respondents re-detained Petitioner after he had been released on immigration
27 bond and permitted to remain at liberty in the United States for approximately ten years.

1 Respondents have provided no reasoned explanation for revoking Petitioner's longstanding
2 liberty, nor have they identified any individualized facts demonstrating that continued detention
3 is necessary.

4 62. Respondents have further failed to provide any individualized assessment justifying
5 Petitioner's detention. They have not identified any facts indicating that Petitioner poses a danger
6 to the community or a risk of flight.

7 63. By re-detaining Petitioner without explanation, without identifying any changed
8 circumstances, and without providing any individualized justification, Respondents have acted
9 arbitrarily and capriciously and in excess of their statutory authority.

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

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Petitioner respectfully requests that this Court:

14 A) Assume jurisdiction over this matter;

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

19 C) Declare that Petitioner's continued detention without an individualized determination violates
20 the Due Process Clause of the Fifth Amendment;

21 D) Declare that Respondents lack lawful authority to revoke Petitioner's liberty without
22 constitutionally adequate process after Petitioner's release on immigration bond and his
23 subsequent decade of government-authorized liberty in the United States.

24 E) Declare that Respondents' actions detaining Petitioner without lawful authority, without a
25 reasoned explanation, and without an individualized determination were arbitrary, capricious, an
26 abuse of discretion, and not in accordance with law, in violation of the Administrative Procedure
27 Act, 5 U.S.C. § 706(2);

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

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

5 H) Order Respondents to return all of Petitioner's personal property and identity documents in
6 their possession at the time of his release, consistent with this Court's prior orders in materially
7 indistinguishable cases;

8 I) Enjoin Respondents from re-arresting or re-detaining Petitioner absent compliance with
9 constitutional requirements, including adequate notice, identification of changed circumstances,
10 and a meaningful pre-deprivation hearing before a neutral decisionmaker;

11 J) In the alternative, order a constitutionally adequate custody hearing at which DHS bears the
12 burden of justifying Petitioner's continued detention by clear and convincing evidence, and the
13 neutral adjudicator must consider alternatives to detention and Petitioner's ability to pay any
14 bond imposed;

15 K) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. §
16 2412, and any other basis authorized by law; and

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

18 Respectfully submitted,

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

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25 Counsel for Petitioner

26 Dated: July 1, 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 members of Petitioner's family, as well as my review of available immigration records and supporting documents, including records from the Executive Office for Immigration Review, the Immigration Judge's Order administratively closing Petitioner's removal proceedings, Petitioner's Employment Authorization Document, and other available immigration records.

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.

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Dated: July 1, 2026