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JUL 10 2026

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

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13 Esau Tinoco Diaz

14 A# [Redacted]

15 Petitioner,

16 v.

17 Warden of the Central Valley Annex
18 Detention Facility, Current or Acting
19 Field Office Director, San Francisco
20 Field Office, United States
21 Immigrations and Customs
22 Enforcement, Current or Acting
23 Director, United States Immigration and
24 Customs Enforcement: current or
25 Acting Secretary, United States
26 Department of Homeland Security: and
27 Current or Acting United States
28 Attorney General

Respondents

1:26cv 05331 DC CSK (HL)
Case No. _____

**MOTION FOR TEMPORARY
RESTRAINING ORDER**

INTRODUCTION

1. Petitioner is Mexican National who has been living in the United States, currently detained by Immigration and Customs Enforcement (ICE) at the Central Valley Annex detention facility pending removal proceeding. Petitioner's I-589 application for Asylum, Withholding of Removal and CAT is currently pending.
2. Petitioner has been detained in immigration custody for over three months now even though no neutral decision maker-whether a Federal judge or Immigration judge(IJ)- has conducted a hearing to determinate whether this lengthy incarceration is warranted based on danger to the community or flight risk.
3. Petitioner's prolonged detention without a hearing on either or not he poses a danger to the community or flight risk violates the Due Process Clause of the Fifth Amendment.
4. Petitioner was re-detained during or at 1300 block of West Hammer without any notice or any respect to due Process right. Lune, Stockton, CA 95209
5. Petitioner is entitled of relief, and the Court poses the Authority under 28 U.S.C. ARTICLE 2241 to order release from the Respondent's unlawful detention. This is why the Petitioner comes in front of the Honorable Court, to present a motion for a Temporary Restraining Order, ordering his immediate release or the opportunity to receive a bond hearing.

JURISDICTION

6. Petitioner is detained in the custody of Respondents at Central Valley Annex detention facility.
7. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution. Jurisdiction is proper under 28 U.S.C. Article 1331 (federal question) 2241 (Habeas corpus); US Const. Art 1,2; (Suspension Clause); and 5 U.S.C. Article 702 (Administrative Procedure Act. This Court may grant relief under the Habeas corpus statutes, 28 U.S.C. Article 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. 2201 et seq., and the ALL Writs Act 28 U.S.C. Article 1651.

8. Congress has preserved judicial review of challenges to prolonged immigration detention. See *Jennings v. Rodriguez*, 138 S. Ct 830, 839-841 (2018) (holding that 8 U.S.C. Article 1226 (e), 1252(b)(9) do not bar review of challenges to prolonged Immigration detention); see also *Id.* At 876 (Breyer, J. dissenting). ('8 U.S.C. Article 1252(b)(9)... by its terms applies only with respect to review of an order of removal').

VENUE

9. Venue is proper in this district because this is the district in which Petitioner is confined. See *Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024).

LEGAL SUPPORT

A. Due Process and prolonged detention exceeding 6 Months without a bond hearing is unconstitutional.

10. It is well established that the due process Clause of the Fifth Amendment protect anyone present in the Country legally or illegally. Therefore before being arrested, Petitioner should have been afforded not only notice from ICE of their intention to arrest him, but also the opportunity to be heard and the determination that he's in fact a danger to the community or a flight risk.

Detention without a bond hearing is unconstitutional when it exceeds six months. See *Demore*, 538 U.S. at 529-30 (upholding only 'brief' detentions under Section 1226 (c), which last 'roughly a month and a half in the vast majority of cases in which it is invoked, and about 5 months in the minority of cases in which the noncitizen chooses to appeal'); *Zadvydas*, 533 U.S. AT 701 ('Congress previously doubted the constitutional of detention for more then 6 months'). *Rodriguez v Nielsen*, case No. 18-CV-04187-TSH, 2019 WL 749155, at *6 (N.D. Cal Jan 7, 2019) (Detention becomes prolonged after six months and entitles the [petitioner] to bond hearing')

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Grant a Temporary Restraining Order;
- 3) Grant such further relief as the Court deems just and proper.

07/06/26

Date

Escu Tinow Diaz

Printed Name

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Signature