Alejandro Monsalve
CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave., Suite 9
Chula Vista, CA 91910
(619) 777-6796
Counsel for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RAMON ODALIS MENDEZ,

Petitioner,

v.

Christopher LaROSE, Warden, Otay Mesa Detention Center;

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

David J. VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement;

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

Respondents

Case No.: '26CV4456 AGS JLB

[redacted]

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

1. Petitioner, Ramon Odalis Mendez, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his continued immigration detention following Respondents' revocation of Petitioner's previously granted liberty without constitutionally adequate process, and alleges as follows:

INTRODUCTION

2. Petitioner, Ramon Odalis Mendez, is a native and citizen of the Dominican Republic currently detained at the Otay Mesa Detention Center in San Diego County, California.

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 Respondents previously released him from immigration custody, permitted him to reside at liberty in the United States, and then abruptly returned him to detention without constitutionally adequate process.

4. Petitioner entered the United States without inspection on or about November 22, 1999. On or about January 26, 2022, Respondents released Petitioner from immigration custody pursuant to an Order of Release on Recognizance (Form I-220A).

5. Following his release, Respondents scheduled Petitioner to appear before the Immigration Court in Guaynabo, Puerto Rico. Respondents thereafter continued to permit Petitioner to reside at liberty in the community outside of immigration custody.

6. On or about June 25, 2026, ICE officers arrested Petitioner in Puerto Rico and again placed him in immigration custody. Before revoking Petitioner's previously granted liberty, Respondents provided no prior notice and afforded him no meaningful opportunity to challenge that decision before a neutral decisionmaker.

7. Petitioner was subsequently transferred to the Otay Mesa Detention Center, where he presently remains detained.

8. Respondents' actions violate the Due Process Clause of the Fifth Amendment. By affirmatively releasing Petitioner from immigration custody and permitting him to remain at liberty in the community, Respondents created a substantial liberty interest in Petitioner's continued freedom from physical restraint.

9. The Constitution does not permit the government to revoke that liberty interest without constitutionally adequate process. Before re-detaining Petitioner, Respondents provided no prior notice and no meaningful opportunity to be heard before a neutral decisionmaker.

10. Petitioner therefore respectfully requests that this Court declare his continued detention unlawful and order his immediate release. In the alternative, and only if the Court declines to order immediate release, Petitioner respectfully requests that the Court order Respondents to provide a prompt constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents a danger to the community or a risk of flight, and at which less restrictive alternatives to detention are considered.

CUSTODY

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

JURISDICTION AND VENUE

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

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).

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

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

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

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

PARTIES

18. Petitioner, Ramon Odalis Mendez, is a native and citizen of the Dominican Republic currently detained at the Otay Mesa Detention Center in San Diego County, California.

19. Respondent Christopher LaRose is the Warden of the Otay Mesa Detention Center in San Diego County, California, and is Petitioner's immediate custodian.

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

21. Respondent David J. Venturella is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement (ICE).

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

23. All Respondents are named in their official capacities.

STATEMENT OF FACTS

24. Petitioner is currently detained at the Otay Mesa Detention Center in San Diego County, California. Petitioner is a native and citizen of the Dominican Republic who entered the United States without inspection on or about November 22, 1999.

25. On or about January 26, 2022, Respondents released Petitioner from immigration custody pursuant to an Order of Release on Recognizance (Form I-220A). (*Ex.* 1.)

26. Thereafter, Respondents scheduled a hearing before the Immigration Court in Guaynabo, Puerto Rico. (*Ex.* 2.)

27. After his release, Petitioner remained at liberty in the United States. During that period, Respondents did not revoke Petitioner's release or otherwise seek to return him to immigration custody.

28. On or about June 25, 2026, Respondents again took Petitioner into immigration custody and served him with a Notice to Appear. (*Ex.* 3.)

29. Before re-detaining Petitioner, Respondents provided no prior notice that they intended to revoke his previously granted liberty and afforded him no opportunity to challenge that decision before a neutral decisionmaker.

30. Petitioner was subsequently transferred to the Otay Mesa Detention Center, where he remains detained.

31. Before re-detaining Petitioner, Respondents provided no constitutionally adequate process before revoking the liberty they had previously granted.

32. As a result, Respondents revoked Petitioner's previously granted liberty without prior notice or a meaningful opportunity to be heard before a neutral decisionmaker.

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

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

EXHAUSTION OF ADMINISTRATIVE REMEDIES

36. In habeas corpus proceedings, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive prudential exhaustion where "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)). Here, exhaustion should be excused because the available administrative

process is inadequate to remedy Petitioner's pre-deprivation due-process claim and because his continued detention causes irreparable harm.

37. Petitioner's claim challenges Respondents' failure to provide constitutionally adequate process before revoking his previously granted liberty. Although an administrative custody proceeding may address whether Petitioner should remain detained going forward, it cannot retroactively provide the process required before his re-detention or remedy the deprivation that had already occurred.

38. Moreover, no statutory exhaustion requirement applies to Petitioner's constitutional claim. The claim presents a pure question of constitutional law concerning the procedures required before the government may revoke previously granted liberty through re-detention. That question falls outside the agency's adjudicatory competence and is properly resolved through habeas review.

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

LEGAL FRAMEWORK

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

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

42. At the time of Petitioner's re-detention, Respondents' stated position was that noncitizens who entered the United States without inspection remained applicants for admission subject to detention under INA § 235(b), consistent with DHS policy and *Matter of Yajure-Hurtado*. The Ninth Circuit has since rejected that interpretation, holding that unadmitted noncitizens apprehended in the interior of the United States are detained under INA § 236(a), not INA § 235(b). *Rodriguez Vazquez v. Bostock*, No. 25-6842, slip op. at 31–34 (9th Cir. July 30, 2026).

43. Where the federal government has previously released a noncitizen from immigration custody, permitted him to reside at liberty in the United States, and later re-detains him in the interior of the United States, serious constitutional questions arise regarding the process required before that previously granted liberty may be revoked.

44. Federal courts have recognized that when the government affirmatively releases a noncitizen from immigration custody, permits that individual to remain at liberty in the community, and later re-detains the individual in the interior of the United States, the renewed detention presents substantial constitutional questions regarding the deprivation of liberty without constitutionally adequate process.

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.

47. By previously releasing Petitioner from immigration custody and permitting him to remain at liberty in the United States, Respondents created a substantial liberty interest in Petitioner's continued freedom from physical restraint.

48. Where the government has previously released a noncitizen from custody and permitted him to reside at liberty in the community, that release reflects a determination that

detention was not necessary to serve those purposes. Once that liberty has been granted, it cannot be revoked without constitutionally adequate process. Re-detention without constitutionally adequate process therefore raises serious due process concerns.

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

50. Re-detaining a noncitizen after the government has previously released that individual from immigration custody and permitted him to remain at liberty, without providing constitutionally adequate process or a reasoned explanation for revoking that previously granted liberty, constitutes arbitrary agency action.

CLAIM FOR RELIEF

COUNT 1

Violation of Due Process U.S. Constitution Amendment V

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

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

53. Petitioner was previously released from immigration custody by Respondents pursuant to an Order of Release on Recognizance (Form I-220A). Respondents thereafter permitted Petitioner to remain at liberty in the United States. On or about June 25, 2026, Respondents again took Petitioner into immigration custody without prior notice and without affording him a meaningful opportunity to challenge the revocation of his previously granted liberty before a neutral decisionmaker.

54. By previously releasing Petitioner from immigration custody and permitting him to remain at liberty in the United States, Respondents created a substantial liberty interest in Petitioner's continued freedom from physical restraint. Abruptly revoking that liberty without prior notice and without affording Petitioner a meaningful opportunity to be heard constitutes a deprivation of liberty without due process of law. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

COUNT 2

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

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

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

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

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

59. Here, Respondents re-detained Petitioner after previously releasing him from immigration custody and permitting him to remain at liberty in the United States. Respondents have provided no reasoned explanation for revoking Petitioner's previously granted liberty and have failed to provide constitutionally adequate process before doing so.

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

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A) Assume jurisdiction over this matter;

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

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

D) Declare that Petitioner's continued detention without prior notice, without constitutionally adequate process, and without a meaningful opportunity to be heard violates the Due Process Clause of the Fifth Amendment;

E) Declare that Respondents lack lawful authority to re-detain Petitioner without constitutionally adequate process after previously releasing him from immigration custody and permitting him to reside at liberty;

F) Declare that Respondents' actions re-detaining Petitioner without constitutionally adequate process, without lawful authority, and without a reasoned explanation were arbitrary, capricious, an abuse of discretion, and not in accordance with law, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2);

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

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

I) Order Respondents to restore Petitioner to the status quo ante by releasing him under the same conditions that existed immediately prior to his re-detention;

J) Enjoin Respondents from re-arresting or re-detaining Petitioner absent compliance with constitutional requirements, including constitutionally adequate notice and a meaningful pre-deprivation hearing before a neutral decisionmaker;

K) In the alternative, order Respondents to provide Petitioner with a constitutionally adequate custody hearing, at which DHS bears the burden of establishing by clear and convincing evidence that Petitioner's continued detention is necessary, and at which the neutral adjudicator must consider alternatives to detention and Petitioner's ability to pay any bond or other conditions of release;

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

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

Respectfully submitted,

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave, Suite 9
Chula Vista, CA 91910
Phone: (619) 777-6796
Counsel for Petitioner

Dated: August 4, 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, Petitioner's Order of Release on Recognizance (Form I-220A), Notice of Hearing, Notice to Appear, and records relating to Petitioner's current detention.

Based on that information and my review of those records, and to the best of my knowledge, information, and belief, I declare that the factual allegations 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
Alex Monsalve Law Firm, PC
240 Woodlawn Ave, Suite 9
Chula Vista, CA 91910
Phone: (619) 777-6796
Email: info@alexmonsalvelawfirm.com
Counsel for Petitioner

Dated: August 4, 2026