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

Raul Bernal Gomez
Petitioner,

v.

CHRISTOPHER J. LAROSE,
WARDEN OF OTAY MESA
DETENTION CENTER; GREGORY J.
ARCHAMBEAULT, IMMIGRATION
AND CUSTOMS ENFORCEMENT
(ICE) SAN DIEGO FIELD OFFICE
DIRECTOR; TODD M. LYONS,
ACTING DIRECTOR OF
IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE/ERO);
MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security;
TODD BLANCHE, U.S. Attorney
General, in their official capacities.

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) **Case No. '26CV3163 JO MMP**
)
)

) **PETITION FOR WRIT OF HABEAS**
) **CORPUS**

INTRODUCTION

1. Petitioner, Raule Bernal Gomez, an asylee and citizen of Mexico, who Respondents have detained at Otay Mesa Detention Center (AKA Otay Mesa) since on or about March 21, 2026, after being detained by Customs and Border Patrol Officers on the same date. He has

been in custody for sixty (60) days. DHS's continued detention of Petitioner is unlawful because Petitioner retains lawful asylee status absent formal termination.

2. The Immigration and Nationality Act ("INA") provides specific procedures for termination of asylum status. Those procedures were not followed here. As a result, Petitioner continues to possess valid asylee status and may not be subjected to prolonged detention without adequate procedural protections. Moreover, under binding Ninth Circuit precedent, prolonged immigration detention without a meaningful bond hearing violates the Due Process Clause.

3. Accordingly, this Court should grant the petition, order Petitioner's immediate release, or alternatively order a constitutionally adequate individualized bond hearing before a neutral adjudicator.

4. A grant of asylum confers lawful immigration status that remains valid unless and until the government formally terminates that status through the procedures set forth in the INA and applicable regulations. See INA § 208(c)(2), 8 U.S.C. § 1158(c)(2); 8 C.F.R. § 1208.24.

5. Under the governing regulations, asylum may only be terminated after DHS establishes one of the enumerated statutory grounds and provides procedural protections, including notice and an opportunity to respond. 8 C.F.R. § 1208.24(f). An Immigration Judge's grant of asylum is not automatically extinguished merely because the asylee departed the United States or later returned.

6. The Ninth Circuit has repeatedly recognized that immigration status cannot be stripped without compliance with the statutory and regulatory framework governing termination procedures. See, e.g., *Singh v. Holder*, 771 F.3d 647, 650–51 (9th Cir. 2014) (recognizing that lawful immigration status continues unless properly rescinded or terminated); *Garcia de*

Rincon v. DHS, 539 F.3d 1133, 1138–39 (9th Cir. 2008) (government must comply with statutory procedures before depriving noncitizen of immigration status); United States v. Raya-Vaca, 771 F.3d 1195, 1202–03 (9th Cir. 2014) (due process protections attach where lawful status interests are implicated).

7. An asylee returning from travel abroad does not lose asylum status automatically upon reentry. Rather, the statutory scheme contemplates that asylees may travel internationally using refugee travel documents. See INA § 208(c)(1), 8 U.S.C. § 1158(c)(1); 8 C.F.R. § 223.2.
8. Indeed, the regulations specifically contemplate that asylum may be terminated if an asylee has “voluntarily availed himself or herself of the protection of the country of nationality,” but only after formal termination proceedings. 8 C.F.R. § 1208.24(a)(1). Thus, Congress and the agency created a detailed mechanism for determining whether travel abroad affects asylum eligibility. DHS cannot bypass those procedures by simply detaining an asylee and treating him as if his asylum status no longer exists.
9. Because Petitioner’s asylum status has not been formally terminated, Petitioner remains a lawful asylee and is entitled to the protections associated with that status.

JURISDICTION

10. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency with the Department of Homeland Security (DHS). She is detained at the Otay Mesa Detention Center in San Diego, California and is under the direct control of Respondents and their agents.
11. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

12. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the United States Constitution (the Suspension Clause).
13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
14. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. See *Jennings v Rodriguez*, 138 S. Ct. 830, 839–41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), the venue lies in the United States District Court for the Southern District of California, the judicial district in which the Petitioner is currently in custody.
16. Venue is also properly vested in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies in the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

PARTIES

17. Petitioner is a citizen of Mexico who most recently arrived in the United States on or about March 21, 2026, after a brief absence since approximately January 2026. Petitioner has lived

in the United States since March 5, 2015. At present, he has been in custody of the Department of Homeland Security (DHS) since March 21, 2026.

18. Christopher J. Larose the Warden of Otay Mesa Detention Center is Petitioner's Immediate Custodian.

19. Gregory J. Archambeault, the Acting Director of the San Diego District Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security. As such, Mr. Archambeault is Petitioner's immediate custodian. He is named in his official capacity.

20. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Gregory J Archambeault and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

21. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (OHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Mullin is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

22. Respondent Todd Blanche is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

23. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.

24. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

STATEMENT OF FACTS

25. Petitioner Raul Bernal Gomez entered the U.S. on March 5, 2015, with several other family members.
26. Petitioner applied for asylum before an immigration judge and was granted asylum on February 18, 2016.
27. Petitioner was gainfully employed, had a U.S. Citizen child who was diagnosed with down syndrome. Petitioner is his primary economic support.
28. Petitioner, an asylee at the time, left the United States in January 2026 when he became aware of his father's medical crisis. Petitioner, then re-entered the U.S. on March 21, 2026.
29. After entering, Petitioner was processed by the Department of Homeland Security and erroneously issued an NTA and placed in removal proceedings which were subsequently terminated.
30. Respondents reopened the proceeding initiated in 2015, seeking to terminate his asylee status. The case remains pending.

CLAIMS FOR RELIEF

Violation fo the INA:

First Claim Petitioner is not subject to Mandatory Detention Under INA 235 (b)

31. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
32. Respondents may attempt to characterize Petitioner as an "arriving alien" subject to mandatory detention under INA § 235(b). That position is legally unsustainable.
33. The Ninth Circuit has emphasized that detention authority depends upon the noncitizen's actual legal posture and immigration status, not merely DHS's unilateral classification. See

Rodriguez v. Robbins, 804 F.3d 1060, 1074–75 (9th Cir. 2015), rev'd on other grounds

Jennings v. Rodriguez, 583 U.S. 281 (2018).

34. Petitioner is distinguishable from a typical arriving alien seeking initial admission because Petitioner was already granted asylum by an Immigration Judge. An asylee possesses lawful status and significant liberty interests protected by the Due Process Clause. See *Landon v. Plasencia*, 459 U.S. 21, 32–34 (1982) (lawful residents returning from travel abroad possess due process rights in exclusion proceedings); *Kwong Hai Chew v. Colding*, 344 U.S. 590, 596–98 (1953).

35. The Supreme Court has long rejected the notion that returning noncitizens with established ties and lawful status may categorically be treated identically to first-time entrants. See *Landon*, 459 U.S. at 32–33. Although Petitioner traveled abroad, he returned to the United States with preexisting lawful status granted through asylum proceedings. Absent lawful termination of that status, DHS cannot erase Petitioner's protected interests through mere detention.

36. Where detention statutes are ambiguous, courts must construe them in a manner consistent with constitutional avoidance principles. See *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Construing INA § 235(b) to permit indefinite or prolonged detention of a previously recognized asylee without meaningful review would raise serious constitutional concerns.

**Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S.
Constitution
Procedural Due Process**

37. 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.

38. Petitioner has a vested liberty interest in her immediate release from immigration custody.

Due Process does not permit the government to strip him of that liberty without a hearing before a neutral adjudicator. See *Morrissey*, 408 U.S. at 487-488.

39. When the government fails to provide a required bond hearing, or when that hearing is rendered a “pro forma”; exercise, **immediate release is the only adequate remedy**. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), when detention loses its relationship to its underlying purpose—such as when there is no significant likelihood of a lawful hearing or removal in the reasonably foreseeable future—it loses its legal justification.

**Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S.
Constitution
Substantive Due Process**

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

41. Due Process does not permit the government to strip Petitioner of liberty without it being tethered to one of the two constitutional bases for civil immigration detention: to mitigate against the risk of flight or to protect the community from danger.

42. Petitioner is not a flight risk where he was afforded asylee status and has previously demonstrated compliance with the immigration laws. His absence from the United States did not automatically strip him of his legally afforded status and also demonstrates his desire to preserve his status and comply with Respondents.

43. Moreover, civil detention that is unrelated to a valid regulatory purpose or excessive in relation to that purpose is punitive, in violation of substantive due process. See Jones, 393 F.3d at 934.
44. In this case the government's arrest of Petitioner is untethered from any valid basis for civil immigration detention, is excessive in relation to any risk that does exist, and is therefore punitive in violation of substantive due process. Petitioner's continued detention is unlawful and violates due process.
45. Federal courts within the Southern District of California have repeatedly granted habeas relief where immigration detention became constitutionally suspect or where DHS failed to provide adequate procedural safeguards.
46. Immediate release is especially appropriate where the government's asserted justification for detention is legally defective. Courts have recognized that detention cannot continue where the underlying basis for removability or detention is itself unlawful or procedurally deficient. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must remain reasonably related to its purpose); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1079–80 (9th Cir. 2006) (granting habeas relief where detention exceeded lawful authority).
47. Here, DHS seeks to detain a previously granted asylee without first terminating asylum status through the procedures mandated by statute and regulation. Because Petitioner continues to retain lawful asylee status absent formal termination proceedings, DHS lacks a valid statutory basis for continued mandatory detention.
48. Additionally, district courts throughout California have repeatedly ordered release or bond hearings in habeas proceedings where immigration detention lacked **adequate procedural protections** or became unreasonably prolonged. See also *Alcantara v. Archambeault*, No.

3:20-cv-00756 (S.D. Cal. 2020) (ordering broad habeas-related relief concerning unconstitutional immigration detention condWhere, as here, the petitioner demonstrates substantial constitutional violations, a strong likelihood of success on the merits, and irreparable harm from continued detention, immediate release is an appropriate habeas remedy.)

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner and return him to the position she was in prior to his detention;
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- d. Award Petitioners attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- e. Grant any other and further relief that this Court deems just and proper.

/s/Lilia Rodriguez
Attorney Name

Counsel for Petitioner

Dated: 5.20.26

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

I represent Petitioner, Raul Bernal Gomez, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 20th day of May, 2026.

/s/ Lilia Rodriguez
Attorney Name