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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

EDGARDO ANTONIO RODRIGUEZ GUTIERREZ

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.: **'26CV3295 BAS MSB**

[redacted]

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

1. Petitioner, Edgardo Antonio Rodriguez Gutierrez, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his continued immigration detention and alleges as follows:

INTRODUCTION

2. Petitioner Edgardo Antonio Rodriguez Gutierrez is a native and citizen of Honduras currently detained at the Imperial Regional Detention Facility in Calexico, California.

3. Petitioner brings this action under 28 U.S.C. § 2241 to challenge the legality of his detention by the Department of Homeland Security following DHS-authorized Temporary Protected Status ("TPS") travel, his inspected return to the United States pursuant to Form I-512T travel authorization, his prolonged residence at liberty within the United States, and his subsequent arrest and detention in the interior of the country years after DHS permitted his return.

4. Petitioner originally entered the United States without inspection approximately thirty-three years ago and has resided in the United States for decades. During that time, DHS granted Petitioner Temporary Protected Status under the Honduras TPS designation.

5. On January 30, 2020, Petitioner married a lawful permanent resident spouse. His spouse subsequently filed a Form I-130 Petition for Alien Relative on his behalf, which remains pending before USCIS.

6. While maintaining TPS, Petitioner applied for and obtained DHS authorization to travel abroad through Form I-512T, Authorization for Travel by a Noncitizen to the United States. Petitioner thereafter traveled abroad and lawfully returned to the United States through Miami International Airport, where he was inspected by Customs and Border Protection and permitted to enter the United States pursuant to the TPS travel authorization process then in effect.

7. Following his inspected return, DHS permitted Petitioner to reside openly within the United States for an extended period of time. Petitioner maintained family and community ties,

continued residing in the interior of the country, and lived at liberty without any allegation that he posed a danger to the community or a risk of flight.

8. More recently, Petitioner was stopped during a routine traffic stop in Pompano Beach, Florida. Following that encounter, local authorities transferred Petitioner to ICE custody. Respondents provided no prior notice, no individualized explanation, and identified no changed circumstances justifying Petitioner's sudden detention after years of liberty following his DHS-authorized travel and inspected return to the United States.

9. Petitioner was subsequently transferred through various detention facilities and is presently detained at the Imperial Regional Detention Facility in Calexico, California.

10. Respondents' continued detention of Petitioner is unlawful. Having authorized Petitioner's travel, inspected him upon return, permitted him to enter the United States, and allowed him to reside at liberty in the community for years thereafter, Respondents may not abruptly invoke inspection-stage detention authority under INA § 235(b) without constitutionally adequate process and without any individualized determination justifying detention.

11. Instead, Respondents have detained Petitioner without providing any individualized custody determination, without identifying any changed circumstances, and without affording him any meaningful opportunity for a custody determination before a neutral decisionmaker.

12. The government's actions therefore violate the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment.

13. Absent intervention by this Court, no neutral adjudicator will review the legality of Petitioner's detention. Petitioner therefore respectfully requests that this Court declare his detention unlawful and order his immediate release or, in the alternative, require Respondents to provide a constitutionally adequate custody hearing pursuant to INA § 236(a).

CUSTODY

14. Petitioner is currently in the legal and physical custody of Respondents and is detained at the Imperial Regional Detention Facility in Calexico, California, within the jurisdiction of this Court.

JURISDICTION AND VENUE

15. 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.

16. 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).

17. 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.

18. 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).

19. 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).

20. 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

21. Petitioner, Edgardo Antonio Rodriguez Gutierrez, is a native and citizen of Honduras currently detained at the Imperial Regional Detention Facility in Calexico, California.

22. Respondent Jeremy Casey, Warden of the Imperial Regional Detention Facility in Calexico, California, is Petitioner's immediate custodian and is responsible for his confinement. Respondent Casey is sued in his official capacity.

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

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

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

26. All Respondents are named in their official capacities.

STATEMENT OF FACTS

27. Petitioner is currently detained at the Imperial Regional Detention Facility in Calexico, California. Petitioner is a native and citizen of Honduras who has resided in the United States for approximately thirty-three years.

28. During his residence in the United States, Petitioner was granted Temporary Protected Status ("TPS") under the Honduras designation and remained in lawful TPS status for many years.

29. On January 30, 2020, Petitioner married a lawful permanent resident spouse. Based on that marriage, Petitioner's spouse filed a Form I-130 Petition for Alien Relative on his behalf, which remains pending before USCIS. (*Ex.* 1.)

30. While maintaining TPS, Petitioner applied for and obtained DHS authorization to travel abroad through Form I-512T, Authorization for Travel by a Noncitizen to the United States. (*Ex.* 2.)

31. Petitioner thereafter traveled abroad and lawfully returned to the United States through Miami International Airport. Upon return, Petitioner was inspected by Customs and Border Protection and permitted to enter the United States pursuant to the TPS travel authorization process then in effect. The Form I-512T contains an official CBP admission stamp reflecting Petitioner's inspected return to the United States. (*Ex.* 2.)

32. Following his inspected return, DHS permitted Petitioner to reside openly within the United States for an extended period of time. Petitioner remained physically present in the interior of the country, maintained family and community ties, and continued living at liberty without any allegation that he posed a danger to the community or a risk of flight.

33. At some point thereafter, DHS issued a Notice to Appear charging Petitioner as an arriving alien and alleging that he had been paroled into the United States pursuant to TPS-related travel. (*Ex.* 3.)

34. More recently, Petitioner was stopped during a routine traffic stop in Pompano Beach, Florida. Following that encounter, local authorities transferred Petitioner to ICE custody. Respondents provided no prior notice, no explanation, and identified no changed circumstances justifying Petitioner's sudden detention after years of liberty following his DHS-authorized travel and inspected return to the United States.

35. Following his arrest, Petitioner was transferred through various detention facilities and is presently detained at the Imperial Regional Detention Facility in Calexico, California. At no point prior to his arrest did DHS provide Petitioner with notice that his liberty would be revoked, nor did it provide any meaningful opportunity to challenge his detention before a

neutral decisionmaker. Upon information and belief, Respondents contend that Petitioner is subject to mandatory detention under INA § 235(b), thereby depriving the Immigration Court of jurisdiction to conduct any individualized custody determination on the merits.

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

REQUIREMENTS OF 28 U.S.C. § 2243

37. 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).

38. 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).

39. 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

40. 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 administrative remedies are (1) futile and (2) Petitioner's continued detention results in irreparable harm.

41. Exhaustion would be futile because, to the extent DHS treats Petitioner as an arriving alien subject to detention under 8 U.S.C. § 1225(b), Immigration Judges generally lack jurisdiction to conduct custody redetermination hearings for individuals DHS classifies as subject to § 235(b). See 8 C.F.R. § 1003.19(h)(2)(i)(B). Because DHS contends that Petitioner is subject to mandatory detention under INA § 235(b), no meaningful administrative mechanism exists through which Petitioner may obtain an individualized custody determination before an Immigration Judge. Any attempt to exhaust administrative remedies would therefore be futile.

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

43. Petitioner suffers irreparable harm for each additional day he remains unlawfully detained. His detention has caused significant emotional distress, physical decline, and deterioration of mental health. Continued incarceration following years of openly residing in the community magnifies these ongoing harms. Courts routinely excuse exhaustion where prolonged or unlawful detention inflicts irreparable injury. Petitioner's ongoing harm further warrants waiver of prudential exhaustion.

LEGAL FRAMEWORK

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

45. 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.

46. Where a noncitizen has long resided openly within the United States while actively participating in government-supervised immigration processes, the inspection-stage detention framework no longer governs subsequent detention following a later arrest in the interior of the United States. Any such detention must proceed, if at all, under 8 U.S.C. § 1226(a).

47. Federal courts have repeatedly recognized that noncitizens who have long resided in the interior of the United States and are later detained following years of liberty and governmental acquiescence are not subject to mandatory detention under § 1225(b), but are instead entitled to custody review under § 1226(a).

48. 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.

49. 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.

50. Where the government has permitted a noncitizen to openly reside at liberty in the community for years while actively participating in government-supervised immigration processes, that prolonged liberty and governmental acquiescence create substantial liberty interests protected by the Due Process Clause. That liberty cannot be revoked without

constitutionally adequate process. Re-detention without any individualized determination or changed circumstances therefore raises serious due process concerns.

51. 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.

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

CLAIM FOR RELIEF

COUNT 1

Violation of Due Process U.S. Constitution Amendment V

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

54. 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).

55. For years, Petitioner openly resided in the United States after DHS granted him Temporary Protected Status, authorized his international travel through Form I-512T, inspected him upon his return to the United States, and permitted him to continue residing at liberty in the community. During that period, Petitioner maintained family and community ties, pursued a family-based immigration process through his lawful permanent resident spouse, and lived openly in the United States without any allegation that he posed a danger to the community or a risk of flight. Despite Petitioner's extensive cooperation with federal immigration authorities and the government's prior authorization of his travel and return, Respondents abruptly detained

Petitioner following a routine traffic stop in Pompano Beach, Florida, without prior notice, without any individualized explanation, and without any identified change in circumstances.

56. By granting Petitioner Temporary Protected Status, authorizing his international travel through Form I-512T, inspecting him upon his return to the United States, and permitting him to reside at liberty in the community for years thereafter, the government created a substantial liberty interest in Petitioner's continued freedom from detention. Petitioner relied on the government's authorization, openly resided in the United States, maintained family and community ties, and continued pursuing lawful immigration benefits without any allegation that he posed a danger to the community or a risk of flight. Abrupt detention years later, without notice, without an individualized determination, and without a meaningful opportunity to be heard before a neutral decisionmaker, constitutes an arbitrary deprivation of that liberty in violation of the Due Process Clause. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

57. Petitioner reasonably relied on the government's actions in structuring his personal, family, and immigration affairs. DHS granted him Temporary Protected Status, authorized his international travel through Form I-512T, inspected him upon his return to the United States, and thereafter permitted him to reside openly in the United States while pursuing a family-based immigration process through his lawful permanent resident spouse. Having induced that reliance and permitted Petitioner to remain at liberty for years following his inspected return, the government created an implicit promise upon which Petitioner was entitled to rely—that his liberty would not be revoked absent constitutionally adequate process. The government may not now abruptly revoke that liberty without such process.

58. Recent decisions from the Southern District of California confirm that noncitizens who were previously released by DHS and later re-detained after extended periods of liberty possess constitutionally protected liberty interests. In *Raymundo Chel v. Larose*, No. 26-cv-1114-LL-BLM (S.D. Cal. Apr. 6, 2026), the court held that a noncitizen who had previously been released and remained at liberty for approximately two years possessed a "protected liberty

interest in remaining free from detention." Likewise, in *Tido-Ngoumtsop v. Warden*, No. 26-cv-2913-LL-VET (S.D. Cal. May 21, 2026), the court held that a noncitizen who had been released into the community and remained at liberty for years retained a protected liberty interest that could not be withdrawn without constitutionally adequate process. These decisions reinforce the principle that once DHS authorizes a noncitizen's release and permits him to remain at liberty in the community for an extended period of time, the Fifth Amendment imposes meaningful procedural constraints before that liberty may be revoked.

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)

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

60. 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).

61. 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).

62. 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).

63. Here, Respondents abruptly detained Petitioner after previously granting him Temporary Protected Status, authorizing his international travel through Form I-512T, inspecting him upon his return to the United States, and permitting him to reside at liberty in the country for years thereafter. Respondents have provided no reasoned explanation for this detention and have identified no changed circumstances that would justify revoking Petitioner's liberty.

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

65. By detaining Petitioner without explanation, without identifying any changed circumstances, without providing any individualized justification, and by applying an improper statutory detention framework inconsistent with Petitioner's prolonged liberty and government-supervised immigration processing, Respondents have acted arbitrarily and capriciously and in excess of their statutory authority.

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

D) Declare that Respondents lack lawful authority to detain Petitioner without constitutionally adequate process after DHS granted him Temporary Protected Status, authorized his international travel through Form I-512T, inspected him upon his return to the United States, and permitted him to reside at liberty in the community for years thereafter;

E) Declare that Respondents' actions detaining Petitioner under an improper statutory framework, 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);

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

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

H) Order Respondents to restore Petitioner to the status *quo ante litem*, including returning all of his documents and personal belongings at the time of release;

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

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

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

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,

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Counsel for Petitioner

Dated: May 29, 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 Petitioner's family members, my communications with Petitioner, and my review of relevant immigration records and supporting documentation, including, but not limited to, the Form I-512T travel authorization, the accompanying CBP admission records, the Notice to Appear (Form I-862), records relating to Petitioner's Temporary Protected Status, the Form I-130 receipt notice, and available detention 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: May 29, 2026