

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Southern District of California

FILED

JUN 11 2026

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY WUN DEPUTY

Cristofer Alan Delgado Valencia

Petitioner

v.

Christopher J. LaRose, Warden of Otay Mesa Detention
Center; Todd Lyons, Director of ICE.

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. '26CV3497 JLS JAC
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Cristofer Alan Delgado Valencia
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: Otay Mesa Detention Center
(b) Address: 7488 Calzada de La Fuente, San Diego, CA, 92143
(c) Your identification number: [REDACTED]
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☒ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (*explain*): _____

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: Immigration and Customs Enforcement (ICE) and Otay Mesa Detention Center.
(b) Docket number, case number, or opinion number: 
(c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):
Unreasonable detention for over 9 months.
Unconstitutional conditions of detention. The conditions are indistinguishable from penal confinement.
(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: _____
(2) Date of filing: _____
(3) Docket number, case number, or opinion number: _____
(4) Result: _____
(5) Date of result: _____
(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 08/29/2025

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes

☐ No

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: Pending

(4) Date of result: _____

(5) Issues raised: Pending. I am appealing on time within the 30 days granted to do so by the IJ judge.
I will send timely to Your Honor the evidence of my request.

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

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Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Because my deportation to any country is not significantly likely in the foreseeable future, my detention no longer server ICE's purpose and violates the Immigration and Nationality Act, 8 U.S.C. § 1231 and the Fifth Amendment of the Constitution.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

Since I lost my final court, I am compelled to appeal which I'll do in the next days. Therefore, there are many months ahead or eventually years in detention, in case I have to seek for review of a possible negative outcome from the BIA.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☐ No

GROUND TWO: Violation of due process clause (5th Amendment) Unreasonable length of detention: The Supreme Court has held that detention in immigration cases cannot be indefinite or prolonged without adequate justification. Due process extends to 'all persons' within the United States, including [non citizens], whether their presence here is lawful, unlawful, temporary, or permanent. Zadvydas v. Davis 533 U.S. 678, 693 (2001)

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

I have been detained for over 9 months. Besides, my detention is highly probable to be even much longer and unpredictable, due appeals process are still pending, and if BIA renders non favorable outcome, I am planning to file a review before the Ninth Circuit of Appeals. Therefore, my detention is not foreseeable and may delay months or years.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☐ No

GROUND THREE: Unconstitutional conditions of detention. Fifth and Eight amendment violations.

Substandard Medical Care: Prolonged detention with inadequate medical care or failure to provide treatment for medical conditions form basis for habeas petition. Deprivation of constitutional rights unquestionably constitutes irreparable injury. See Palafox v. Semaia, 2026 U.S. Dist. LEXIS 66819

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

Inadequate medical treatment, inedible food, facility overcrowded causing exposing continuously to respiratory illnesses. Deprivation of Constitutional Rights is a huge irreparable harm and hardship for me and my family.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

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GROUND FOUR: Detention of individuals who are not subject to mandatory detention.

Mandatory detention is for people convicted of crimes like: aggravated felonies, crimes involving moral turpitude, drugs offenses, 2 or more offenses for which an individual spent a total of 5 years in prison.

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

None of the requirements for mandatory detention fit for my situation, due I am not a criminal and have never been convicted for any crime.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: The administrative remedy doesn't consider the constitutional questions stated in this petition.

Request for Relief

15. State exactly what you want the court to do: 1. Issue a writ of Habeas Corpus; 2. Order my immediate release from immigration detention; 3. Order to provide an attorney for my representation; 4. In the alternative, conduct an immediate bond hearing before a neutral IJ and order to grant bond; 5. In the option, the IJ shall grant a bond for a reasonable amount, See *Phong Doan v. INS*, 311 F.3d 1160, 1162 (9th Cir. Cal. 2002); 6. Enjoin Respondents from transferring me outside the jurisdiction of District Court of Southern California.

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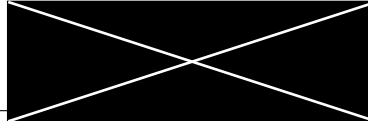
Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

June 5, 2026

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 06/04/2026

A black rectangular box with a white 'X' drawn across it from corner to corner, used to redact the signature of the petitioner.

Signature of Petitioner

Signature of Attorney or other authorized person, if any

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

Petitioner

Cristofer Alan Delgado Valencia

v.

Respondents

Christopher J. LaRose, Warden of
Otay Mesa Detention Center, Todd
Lyons, Director of ICE.

'26CV3497 JLS JAC

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241**

Cristofer Alan Delgado Valencia, hereunder the Petitioner, respectfully
present to Your Honor this petition for writ of habeas corpus *pro se*.

1. Petitioner, Cristofer Alan Delgado Valencia, born and citizen of Mexico,
 currently detained in the Otay Mesa Detention Center, 7488 Calzada
de la Fuente, San Diego, California, 92143.
2. Petitioner's due process rights have been violated because he has been subject to
unreasonably prolonged detention, over 9 months, violating the Fifth Amendment.
3. On August 29, 2025, Petitioner attempted to enter the United States at the San
Ysidro border crossing, where he was detained. Petitioner fled Mexico seeking
asylum. Upon his detention he underwent a credible fear interview, which yielded a
positive result.
4. Petitioner has been detained by ICE for over 9 months. He plans to appeal to BIA
during the next days. If the BIA do not render a favorable decision, Petitioner plans
to pursue a petition for review with the Ninth Circuit Court of Appeals and upon
obtaining a stay of removal, the order cannot be executed against Petitioner.
Petitioner's removal order is, thus, nowhere near being a final order. This period is
well beyond the presumptively reasonable six-month period set forth in *Zadvydas*,
533 U.S. at 701.

5. Conditions at the Otay Mesa Detention Center are punitive in nature, in violation of the Fifth and Eighth Amendment and the Due Process Clause, such conditions of detention are punitive and not rationally related to any legitimate government purpose.
6. On February 24, 2026, Petitioner filed a habeas petition, where the Honorable Judge denied it. In this new petition, he argues new grounds and facts which he considers may constitute violations to his constitutional rights and due process.
7. Due process extends to 'all persons' within the United States, including [non citizens], whether their presence here is lawful, unlawful, temporary, or permanent. *Zadvydas v. Davis* 533 U.S. 678, 693 (2001).
8. The Supreme Court has long recognized that the Fifth and Fourteen Amendments refer to "all persons", not just "citizens". Aliens, even inadmissible or removable aliens, must be afforded due process protection. *See Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886) ("The Fourteenth Amendment to the Constitution is not confined to the protection of citizens.") As stated by the Court the provisions of the Fourteenth "are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality".
9. Petitioner's due process rights have been violated because he has been subject to unreasonably prolonged detention, over 9 months, since August 29, 2025. To determine whether a petitioner's detention has been unreasonably prolonged, Courts in the Ninth Circuit have applied the *Banda v. McAleeman*'s six factor analysis. Applying the Banda six-factor framework here supports granting Petitioner's habeas petition.
10. Courts in this Circuit have granted habeas corpus petitions when the petitioners have been detained for nine months or less. Therefore, it is necessary to point that there is clearly a full legal possibility that the Petitioner will also be granted habeas corpus. In addition to this factor, there is another very important one, (2) likely duration of future detention. The Petitioner will soon file his appeal with the BIA. Currently, the average time for the BIA to issue a decision is 9 to 12 months. *See Kwalar v. Warden, Otay Mesa Det. Ctr.*, 2026 U.S. Dist. LEXIS 96750, where the Court finds "A negative BIA decision would likely result in Petitioner seeking Ninth Circuit review, Considering that this overall process can take more than two years, the Court finds that this factor weights in favor of Petitioner."

11. In *Shahrani v. LaRose*, U.S. Dist. LEXIS 58238, the Court ruled “To date, Petitioner has been in detention for over nine months, “Courts have found that detention over seven months without a bond hearing toward a finding that it is unreasonable.” *Amado v. United States Dep’t of Just*, No. 25CV2687-LL-DDL, 2025 U.S. Dist. LEXIS 217453, 2025 WL 3079052, at *5 (S.D. Cal. Nov. 4, 2025) (collecting cases). Therefore, the Court finds the length of detention weighs in favor of Petitioner.”
12. In a manner very similar to that of the Petitioner, a Court in this same District found that other applicant, who was also detained and remained from August 29, 2025 -the same date of detention as the Petitioner- in Otay Mesa Detention Center, should be granted the habeas petition applying the Banda test. *See Ardic v. Larose*, 2026 U.S. Dist. LEXIS 114237. “Starting with the first factor, Petitioner has been detained since August 29, 2025, or for nearly nine months. The current status of Petitioner's immigration proceedings is unclear, and thus the length of Petitioner's future detention is also unclear. In the third factor, courts in this District and elsewhere have found the conditions of confinement at Otay Mesa Detention Center, where Petitioner is currently housed, “are not dissimilar of criminal confinement[.]” *Gao v. LaRose*, 805 F.Supp. 3d 1106, 1111 (S.D. Cal. 2025). *See also Zhakuov v. Noem*, No. 3:26-cv-00288-RBM-DDL, 2026 U.S. Dist. LEXIS 39094, 2026 WL 517981, at *3 (S.D. Cal. Feb. 25, 2026) (quoting *Kydyrall v. Wolf*, 499 F.Supp. 3d 768, 773 (S.D. Cal. 2020)) (stating multiple courts have found detention at Otay Mesa “is indistinguishable from penal confinement”).”
13. Immigration detention *must* serve “two regulatory goals: ensuring the appearance of [noncitizens] at future immigration proceedings and preventing danger to the community.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (internal quotations and citations omitted). *See also Hernandez*, 872 F.3d at 900 (any detention incident to removal proceedings must “bear[] [a] reasonable relation” to the government's interest in mitigating the risks of danger to community and preventing flight); *Velasco Lopez v. Decker*, 978 F.3d 842, 857 (2d Cir. 2020) (the government “has no interest in the continued incarceration of an individual who it cannot show to be either a flight risk or a danger to his community”).
14. Indeed, “deprivation of liberty should be a rare circumstance for noncitizens in immigration detention, reserved only for those who are a threat to national security or poor bail risks”. *Obregon*, 2017 WL 1407889 at *9. In the context of criminal pretrial detention, the Supreme Court has provided that the clear and convincing

evidence standard requires the Government to prove that a detained person “presents an identified and articulable threat to and individual or the community”, and “no conditions of release can reasonably assure the safety of the community or any person”. *Salerno*, 481 U.S. At 750-51; *see also Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241 (W.D.N.Y. 2019) (“If the clear and convincing standard means what it says, it cannot permit detention based on mere speculation that [a noncitizen's] release might possibly pose a danger”).

15. Conditions at the Otay Mesa Detention Center are punitive in nature, in violation of the Fifth and Eighth Amendment and the Due Process Clause, such conditions of detention are punitive and not rationally related to any legitimate government purpose. Every day that Petitioner remains detained causes him harm that cannot be repaired. Petitioner suffers from insomnia, anxiety and depression. His continued detention puts his physical and mental health at greater risk.

16. Courts have recognized that the conditions at the Otay Mesa Detention Center are “indistinguishable from penal confinement”. *See Hamideh Sadeqi v. Larose*, 809 Supp. 3d 1090; *Amado v. United States DOJ*, 2025 U.S. Dist. LEXIS 217453; *Kadir v. Larose*, 2025 U.S. Dist. LEXIS 203614. Petitioner's mental condition has been exacerbated by his detention and puts him at risk of further deterioration. Petitioner has also been subject to verbal abuse, inedible food quality and unsanitary conditions. These conditions of confinement also raise constitutional concerns as Petitioner's mental health -depression, sleep insomnia, anxiety and severe episodes of depression- is deteriorating by the day.

If Your Honor finds any error or omissions, please apply the precedent: “This court recognizes that it has a duty to ensure that pro se litigants do not lose their right to hearing on the merits of their claim due to ignorance of technical procedural requirements.” *See Balistreri v. Pacifica Police Dept.* 901 F.2d 696.699 (9th Cir. 1988).

Conclusion

As already been demonstrated, the Petitioner has legal and factual grounds that justify the issuance of a writ of habeas corpus. This is because, as mentioned previously, writs of habeas corpus have been issued in several similar cases of detention for less than 9 months, among other factor in Petitioner's favor. Therefore, it is entirely that he also be

granted bond, given that he has been detained for even longer than that time, and because the duration of the BIA's resolution process and, if applicable, the Ninth Circuit's review, is unpredictable. These arguments constitute strong grounds in his favor. Furthermore, the conditions of his detention are inadequate and violate his constitutional rights.

For the reasons mentioned above, the Petitioner respectfully requests the following from Your Honor:

1. Issue a writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately;
2. Order to provide an attorney for Petitioner's representation;
3. Enjoin Respondents from transferring Petitioner outside the jurisdiction of District Court of Southern California;
4. In the option, grant a bond hearing before a neutral Immigration Judge;
5. In the option, the Immigration Judge grant a bond for a reasonable amount because the Ninth Circuit has correctly suggested that serious questions may arise concerning the reasonableness of the amount of the bond if it has the effect of preventing an alien's release. *See Phong Doan v. INS*, 311 F.3d 1160, 1162 (9th Cir. Cal. 2002).

I declare under penalty or perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Sincerely,

Cristofer Alan Delgado Valencia
Petitioner *Pro Se*

June 4, 2026.