

Name: David Alexander Gutierrez Rodas

A Number:



Address: Central Valley Annex Detention Facility
254 Taylor Ave
McFarland, CA 93250

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FILED

JUL 30 2026

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

IN THE STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

David Alexander Gutierrez Rodas

(Full Name)

A#



Petitioner,

V.

Warden of the
Central Valley Annex Detention
Facility;

Attorney General of the
United State;

Secretary, United States
Department of Homeland
Security;

Acting Director,
Immigration and Custom
Enforcement.

Respondents,

Case No. 1:26-CV-05067

**PETITION FOR TEMPORARY
RESTRAINING ORDER**

I David Alexander Gutierrez Rodas make the following statements under oath and subject
to the penalty of perjury:

I. BACKGROUND

Good day your honor. The reason I couldn't File a Habeas Corpus petition earlier Was due to my lack Of knowledge about it. Where I Was arrested in TX, I ts not in practice. I only learned This during my transfer to California. I told my brother about it and be looked into it With several lawyers but they charge very high Fees. Since we don't have that Kind of money he told me to find way to do it Myself. I asked for help. The other reason I Was delayed was waiting for some documents and letters of recommendation which didn't arrive on time, so I had to send it Without them. The other reason for this letter is that I need emergency release. My parents depend on me. They are in my country right now, and since I'm incarcerated I can t help them. I have other siblings, but they already have have families so I'm the only one who supports them financially. My father can no longer work because he has herniated discs in his lower back, and he has diabetes, so his medications I hope you understand my situation and I appeal to your understanding. Thank you

JURISDICTION

1. I am detained in the custody of Respondents at central Valley Annex Detention Center.

2. 28 U. S. C. §2241 federal courts' authority to hear habeas claims by non citizen challenging.

Immigration law. This action arises under the Due process Clause of the Fifth Amendment of the U. S. Constitution Jurisdictions proper under 28 U.S.C §§1331 (federal question), 2241(habeas corpus); U.S. Const. Art, 1,§ 2; (suspension Clause); and 5 U. S. C. §702 (Administrative procedure Act). This court may grant relief under the habeas corous statues, 28 U. S. C. §2241 et seq., the Declaratory Judgment Act, 28 U. S. C. §2201 et seq ., and the All Writs Act, 28 U. S. C. §1651.

3. 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. §§1226(e), 1252(b)(9) do not bar review of challenges to prolonged immigration detention); see also id. Act 876(Breyer,J., dissenting). ("8 U. S. C. §1252(B)(9)... by its terms applies only with respect of an order or removal")

(internal quotation marks and brackets omitted).

4. Federal Rule of Civil Procedure 65(b)- Authority to issue Temporary Restraining Order (TRO)

5. All Writ Act, 28 U.S.C. § 1651(a) empowers federal court to issue all writs necessary or appropriate in aid of their respective jurisdiction.

6. 8 U.S.C. § (a)(6) and Fifth Amendment's Due Process Clause-Basis for petitioner's challenge to his continued detention.

VENUE

Venue is proper in this District because this is the district in which petitioner is confined.

See Doe v. Garland, 109 F.4th 188, 197-99 (9th cir. 2024)

REQUIREMENTS OF 28 U.S.C. §2243

1. The court must the petition of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless petitioner is not entitled to relief. 28 U.S.C. §2243.

If the court issues an OSC, it must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed" Id. (emphasis added).

2. Court have long recognized the significance of the habeas statutes in protecting individuals of illegal restraint or confinement. "Fay v Noia, 372 U.S. 391, 400 (1963) (emphasis added).

See also Young v. INS, 208 F.3d. 1116, 1120 (9th cir. 2000) (explaining that habeas requires expeditious determination of petitions).

PARTIES

1. I am a non citizen currently detained at Central Valley Annex by respondents pending ongoing removal proceedings.

2. Respondent warden of Central Valley Annex Detention Center is petitioner's immediate custodian at the facility where petitioner is detained. See Doe 108 F. 4th at 1194-97.

3. Respondent Acting or Current Attorney General of the United States is the most senior official in the U. S. Department of Justice("DOJ"). They have the authority to interpret the immigration laws and adjudicate removal cases. They delegate this responsibility to the Executive office for Immigration Review ("EOIR"), which administrates the immigration courts and the Board of Immigration Appeals ("BIA"). They are named in their official capacity.

4. Respondents Secretary of the U. S. department of Homeland Security ("DHS"), an agency of the United States, is responsible for the administration of the immigration laws. 8U. S. C. §1103(a). They are the legal custodian of petitioner. They are named in their official capacity.

5. Respondent Acting or Current Field Office Director of ICE with Administrative jurisdiction over petitioner's case. They are a legal custodian of petitioner and are named in their official capacity.

II. ARGUMENT

A. I am likely to succeed on the Merits.

Through the Habeas petition I filed, I showed I'm likely to prevail and succeed on the merits of my petition because the balance of equity tips toward my favor and it is in public interest that the court shall grant the petition for Temporary Restraining Order or preliminary Injunction.

As I already claimed in my habeas corpus petition, my wrongful detention is impermissible under Zadvydas v. Davis, 533 U. S. 678(2001). In addition, my detention is impermissible because

Respondent have failed to comply with regulations governing detention of persons subject to removal procedure.

1. I Will Likely Succeed On my Claim that current Detention Violates Zadvydas.

Sied v. Nielsen, 2018 WL 1876907, at *6 (N.D. Cal Oct. 21,2025) (citing authorities;

Siguenza v. Moniz, 2025 WL 2734704, at *3 (D. Mass. Sept.25,2025) (“Most courts to consider the issue have concluded that the **Zadvydas** period is cumulative, motivated, in part, by a concern that the federal government could. could atherwise detain non citizens indefinitely. Therefore my petition to Habeas Corpus is valid because ICE violatyed my DUE-Process in the Fifth amendment.

First for the deprivation of subsantive due-process detention in violation of the nFifth amendment and second for the deprivation of procedural due-process detention in violation of the Fiftih amendment.

2. I will Likely Succeed On His Claim That Respondents Violated Governing Regulations

As to my cdclaim that ICE violated its own regulations in detaining/ re- detaining me in without a written warrant, Respondents failed to show a clear provision to detain me.

ICE failed to comply its own laws and regulation by violating my right not to have bond and bond hearing in front of neutral decision maker and by not fillowing the rules and regulation set by ICE.

So I have shown that ICE’s unlawful detention violated the law because ICE did not comply with its own regulations under section 241.13(i)(2); Hoac, 2025WL 199771, at*4.

See also Bui v. Warden Otay Mesa Detention Centar Facility, et al., 2025 WL 2988356, at*5(S>D Cal. Oct. 23,2025) (grating petition and ordering release where respondent failed to follow its own regulations in revoking release); Constantinovici v Bondi, __F. Supp. 3D__,2025 WL2898985 (S.D.Cal. Oct.10,2025) (Same); Sun V. Noem, 2025 WL 2800037 (S.D. Cal. Sept. 30. 2025) (granting TRO for release where respondent failed to follow its own regulations in revoking release); Van Tran v. Noem, 2025 WL 2770623 (S>D>Cal.Sept. 29, 2025) (same); Zhu v. Genalo, 2025 WL 242358 at*9 (S>D>N>Y>Aug. 26, 2025)

Relevant here, Two regulation discuss the release of non citizens subject to removal order:

8 C. F. R. § 241.4(“continued detention of inadmissible... aliens beyond the removal period”) and

8 C. F. R. § 241.13(“determination of whether there is a significant likelihood of removing a detained alien in the reasonably foreseeable future”). Section 241.4 generally applies to those who are inadmissible under 8 U. S. C. §1182, like the Petitioner. See id. §241.4(a)(1). Subsection(1) of that regulation provides for revocation of release by a district director of Executive Associate Commissioner if one of for conditions is met: the purpose of release are served, the non citizen violates a condition of release, it is appropriate to enforce a removal order or commence of a noncitizen or any other circumstance indicates release is no longer appropriate. Id. § 241.4(1)(2).

B. I suffer Irreparable Harm Everyday I am Illegally Detained.

The Ninth Circuit has recognized “the irreparable harms imposed on anyone subject to immigration detention.” Rodriguez V. Bostock, 799 F. Supp. 3 d 1239, 1253 (W. D. Wash.2025) (citing Hernandez v. Sessions, 872 F. 3 d 976, 995(9th Cir. 2017)).

The Court concludes that ICE’s failure to follow its own regulations resulted in irreparable harm. Government agencies are required to follow their own regulation. United State v. Ramos, 623 F. 3 d 672, 683 (9th Cir. 2010) (‘ it is a well known maxim that agencies must comply with their own regulations. ’) (citations and quotation mark omitted).

“Both §241.4 and 241.13 were intended to provide due process protections to[non citizens] following the removal period as they are considered for continued detention.” McSweeney, 2025 WL 2998376, at *7 (internal citation and quotation marks omitted). ICE and DHS deprived me of these due process protections when failed to provide me with sufficient notice or a prompt interview to respond to the reasons for wrongfully detain me. “it is well established that the deprivation of constitutional rights

unquestionably constitutes irreparable injury.” Melendres v. Arpaio, 695 F. 3d 990, 1002(9th Cir 2012) ; see also Hernandez v. Sessions, 872 F. 3d 976, 995,1000(9th Cir 2017) (holding that “[u]nlawful detention” by immigration officials constituted “irreparable harm”).

Under the Second Winter factor, the Court may considers whether I am “likely to suffer irreparable harm in the absence of [injunctive] relief.” winter, 555U. S. at 20. I would like to argue that I am experiencing unlawful detention, whitch is a clear irreparable harm. Given the Court’s finding that I will remain in detention seemingly indefinitely, I am likely to succeed on at least one of my claims, I have established an irreparable harm in the form of unlawful detention. Therefore, the Second Winter factor favors me.

C. The Balance of Equities and the Public’s Interests Favor G rant of the Petition

The consideration of the balance of equities and the public interests in an injunction merge when the government is a party. Yang v. Kaiser, No 2:25-CV-DAD-AC(HC), 2025 WL 2791778, at*10(E. D. Cal. Aug.20,2025) (citing Drakes Bay Oyster Co. v. Jewwll, 747 F. 3d 1073, 1092 (9th Cir. 2014) (citing Nken v. Holder, 556 U.S. 418, 435(2009)).

“It is always in the public interests to prevent the violation of a party’s constitutional rights.” Melendres v. Aarpaio, 695 F. 3d 990, 1002 (9th Cir 2012). furthermore, “[j]ust as the public has an interests in the orderly and efficient administration of this country’s immigration laws, the public has a strong interests in upholding procedural protections against unlawful detention.” Hoac, 2025 WL1993771,at*6 (internal quotation marks omitted). Here, where the current unlawful detention violates my constitutional right to due process, the balance of equities favor issuance of a TRO (1) reinstating my release om the order of supervision, and (2) prohibiting the government from re-arresting me without opportunity to allow me to finish my pending case in front of the

immigration judge. I may be eventually removed to a my country pursuant to 8 C. F. R. § 1231(b)(2). See Johnson v. Guzman Chavez, 594 U. S. 523, 536, (2021) (“DHS retains the authority to remove the alien to any other country authorized by the statute. See §§208.16(f), 1208.16(f), 1240.12(d)” but I assert that before doing so, however, the government must give me adequate notice and an opportunity to be heard regarding the potential for persecution, torture, or death in the my country. See, e.g., Andriassian v. I.N.S., 180 F. 3 d 1033, 1041 (9th Cir 1999) (“Failing to notify individuals who are subject to deportation that they have the right to apply for asylum in the United States and for withholding of deportation to the country to which they will be deported violates both INS regulations and constitutional right to due process.”). It is thus premature on the current record for this court to order injunctive relief related to my potential future removal to an unidentified third country.

Moreover, when “the impact of an injunction reaches beyond the parties, carrying with it a potential for public consequences, the public interest will be relevant to whether the district court grant preliminary injunction.” Hernandez, 872 F. 3d at 996. the Ninth Circuit has recognized that “neither equity nor public’s interest are furthered by allowing violations of federal law to continue.” Galvez v. Jaddou, 52 f. 4th 821, 832 (9th Cir 2022)(holding that the district court did not abuse in discretion in finding the balance of hardships weighed in favor of plaintiffs who credibly alleged that the government was violating the INA). The public interest has a strong interest in upholding procedural protections against unlawful detention.

The harm to Respondent here is minimal. Nothing prevents the Government from re-detaining me if the Government satisfies the procedural requirements and shows the lawful detention is required, warranted. Moreover, a party “cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations.” Zepeda v. U. S. Inmigr. & Nat. Serv. 753 F. 2 d 719, 727 (9th Cir. 2023).

Accordingly my ongoing detention is statutorily and constitutionally unlawful I must be release in to American society. See Tanahan v. United State Of America No. 2:25-cv-02075-RFB-BNB WL 2026 U. S. Dist. Lexis. 10886.

III. CONCLUSION

For the foregoing reasons and the reasons set forth in my petitions, this court should grant me the petition for TRO, or at the very least grant a preliminary injunction, providing that

1. Respondents **SHALL IMMEDIATELY RELEASE** me under appropriate conditions of supervision set forth in 8 C. F. R. §241.5;
2. Respondents are **ENJOINED AND RESTRAINED** from re-detaining me.

Respectfully submitted,

Name: David Alexander Gutierrez Rodas

Signature:

A black rectangular box with a white 'X' drawn across it, indicating a redacted signature.

Date: 07/17/2026

June 9, 2026

Character Reference Letter

To Whom It May Concern:

My name is Jose Gamez, owner of Gamez Plumbing. I am writing this letter in strong support of Mr. David Alexander Gutierrez Rodas.

I have personally known David through his employment with Gamez Plumbing and have had the opportunity to observe his character, work ethic, and conduct. During the time he worked with us, David consistently demonstrated honesty, responsibility, dependability, and respect toward coworkers, customers, and supervisors.

David is a hardworking young man who takes pride in earning an honest living. He arrived to work on time, completed assignments professionally, and willingly assisted wherever he was needed. He showed initiative, a positive attitude, and a genuine desire to learn and improve his skills. These qualities made him a valued member of our team.

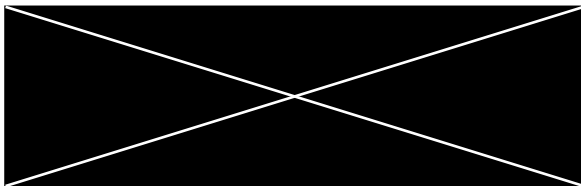
Beyond his work performance, David has always conducted himself as a respectful and law abiding individual. In all my interactions with him, I have known him to be courteous, trustworthy, and committed to building a productive future. He has demonstrated good moral character and has been a positive influence in the workplace and among those around him.

I respectfully ask that this letter be considered in evaluating David's case. Based on my experience with him, I firmly believe he is deserving of the opportunity to remain with his family, continue working, and contribute positively to the community.

If additional information is needed, I may be contacted directly.

Sincerely,

Jose Gamez
Owner, Gamez Plumbing
Phone: 



Character Reference Letter

To Whom It May Concern:

My name is Jose Gamez Jr., and I am writing this letter in support of Mr. David Alexander Gutierrez Rodas.

I have had the opportunity to know and work alongside David through our family business, Gamez Plumbing. During that time, I observed him to be a respectful, dependable, and hardworking individual who consistently carried himself with professionalism and integrity.

David was always willing to help others, accept responsibility, and perform difficult tasks without complaint. He treated customers and coworkers with respect and demonstrated a strong commitment to his work. His positive attitude and dedication earned the trust and respect of those around him.

From my personal experience, David is a person of good moral character. He has always presented himself as someone who wants to work honestly, support himself, and contribute positively to society. I believe he has a bright future ahead of him and deserves the opportunity to continue building that future with his family and community.

I respectfully ask that this letter be given favorable consideration. I am confident that David will continue to be a responsible and productive member of the community.

Please feel free to contact me if further information is required.

Respectfully,

Jose Gamez Jr.
Gamez Plumbing
Phone: [REDACTED]

