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

JUAN CARLOS CASTILLO-TORUNO,

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.: '26CV3977 BAS VET

[redacted]

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

1. Petitioner, Juan Carlos Castillo-Toruno, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his re-detention by the Department of Homeland Security and alleges as follows:

INTRODUCTION

2. Petitioner Juan Carlos Castillo-Toruno is a native and citizen of Nicaragua currently detained at the Otay Mesa Detention Center in San Diego, 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 having been released from federal custody by the Office of Refugee Resettlement ("ORR") while he was an unaccompanied minor and permitted to reside at liberty in the United States for approximately three and one-half years before Respondents abruptly revoked that liberty without prior notice, without identifying any changed circumstances, and without providing a pre-deprivation hearing.

4. Petitioner entered the United States without inspection as an unaccompanied minor and was subsequently encountered by immigration authorities. He was transferred to the custody of the Office of Refugee Resettlement ("ORR") and, on or about January 4, 2023, was formally released from federal custody to a sponsor in the United States. (*Ex.* 1.) DHS thereafter issued a Notice to Appear. (Ex. 2.) Although Petitioner's correct name is Juan Carlos Castillo-Toruno, the Notice to Appear incorrectly identifies him as *Juan* Carlos Castillo-Topano and omits the date and time of his initial removal hearing.

5. Following his release from federal custody, Petitioner openly resided in the United States for approximately three and one-half years. During that period, Respondents permitted him to remain at liberty, and Petitioner established substantial ties within his community.

6. On or about July 1, 2026, ICE officers arrested Petitioner during an immigration enforcement operation in Miami, Florida, while Petitioner was a passenger in a vehicle driven by his stepfather. Respondents provided no prior notice, no individualized explanation, and identified no changed circumstances justifying the revocation of Petitioner's longstanding liberty.

7. Petitioner was subsequently transferred through multiple detention facilities before ultimately being transferred to the Otay Mesa Detention Center in San Diego, California, where he presently remains detained.

8. The government's actions violate the Due Process Clause of the Fifth Amendment. By releasing Petitioner from federal custody through the Office of Refugee Resettlement ("ORR") while he was an unaccompanied minor and permitting him to reside at liberty in the United States for approximately three and one-half years, 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 through re-detention without prior notice, without identifying any changed circumstances, and without providing an opportunity to be heard before a neutral decisionmaker.

10. Before revoking Petitioner's longstanding liberty, Respondents provided no notice, no meaningful opportunity to be heard, and no individualized determination that Petitioner posed a danger to the community or a risk of flight. 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 re-detention unlawful and order his immediate release or, in the alternative, require Respondents to provide a constitutionally adequate custody hearing.

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, 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, Juan Carlos Castillo-Toruno, is a native and citizen of Nicaragua currently detained at the Otay Mesa Detention Center in San Diego, California.

19. Respondent Christopher LaRose is the Warden of the Otay Mesa Detention Center in San Diego, California, Petitioner's immediate custodian, and is responsible for Petitioner's confinement. Respondent LaRose is sued in his official capacity.

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, California. Petitioner is a native and citizen of Nicaragua who entered the United States without inspection as an unaccompanied minor.

25. Petitioner was encountered by immigration authorities shortly after his entry into the United States.

26. DHS transferred Petitioner to the custody of the Office of Refugee Resettlement ("ORR") as an unaccompanied minor. On or about January 4, 2023, the U.S. Department of Health and Human Services, Office of Refugee Resettlement, formally released Petitioner from federal custody to a sponsor in the United States pursuant to a Verification of Release. (*Ex.* 1.)

27. DHS thereafter issued Petitioner a Notice to Appear. (*Ex.* 2.) Although Petitioner's correct name is Juan Carlos Castillo-Toruno, the Notice to Appear incorrectly identifies him as Juan Carlos Castillo-Topano and omits the date and time of Petitioner's initial removal hearing.

28. Following his release from federal custody, Petitioner openly resided in the United States for approximately three and one-half years. During that period, Respondents permitted him to remain at liberty.

29. During this period, Petitioner established substantial ties within his community and lived without any allegation that he posed a danger to the community or a risk of flight.

30. On or about July 1, 2026, ICE officers arrested Petitioner during an immigration enforcement operation in Miami, Florida, while he was a passenger in a vehicle driven by his stepfather. Respondents provided no prior notice, no individualized explanation, and identified no changed circumstances justifying his re-detention.

31. Petitioner was subsequently transferred through multiple detention facilities before ultimately being transferred to the Otay Mesa Detention Center in San Diego, California, where he presently remains detained.

32. At no point prior to Petitioner's re-detention did Respondents provide notice that his longstanding liberty would be revoked or afford him any opportunity to challenge that decision before a neutral decisionmaker.

33. Nor have Respondents identified any individualized basis demonstrating that Petitioner poses a danger to the community or a risk of flight.

REQUIREMENTS OF 28 U.S.C. § 2243

34. 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).

35. 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).

36. 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

37. Exhaustion should be excused as futile because, to the extent DHS treats Petitioner as subject to detention under 8 U.S.C. § 1225(b), Immigration Judges lack jurisdiction to conduct custody redetermination proceedings. See 8 C.F.R. § 1003.19(h)(2)(i)(B). In this District, Immigration Judges routinely conclude that they lack authority to review custody where DHS invokes § 1225(b). If Petitioner were to request a custody redetermination, DHS would rely on that statutory classification to oppose review, and the Immigration Judge would be required to determine whether jurisdiction exists. Because no adequate administrative mechanism exists to obtain meaningful review of the constitutional and statutory claims presented in this Petition, requiring exhaustion would be futile.

38. 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.

39. 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 his prior release from custody 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

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. Where the federal government has released a noncitizen from custody and permitted him to reside at liberty in the United States for an extended period, any subsequent arrest and detention in the interior ordinarily must proceed, if at all, under 8 U.S.C. § 1226(a).

43. Federal courts have repeatedly recognized that individuals who were released from custody and later re-detained in the interior of the United States are not subject to mandatory detention under § 1225(b), but are instead entitled to custody review under § 1226(a).

44. 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.

45. 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.

46. Where the government has previously released a noncitizen from custody and permitted him to reside at liberty in the community for an extended period, 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 any individualized determination or identified changed circumstances therefore raises serious due process concerns.

47. 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.

48. 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

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

50. 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).

51. Petitioner was previously released from federal custody through the Office of Refugee Resettlement on or about January 4, 2023, and thereafter remained at liberty in the

United States for approximately three and one-half years. On or about July 1, 2026, ICE officers arrested Petitioner during an immigration enforcement operation in Miami, Florida, while Petitioner was a passenger in a vehicle driven by his stepfather. Respondents provided no prior notice, no individualized explanation, and identified no changed circumstances justifying the revocation of Petitioner's longstanding liberty. Nothing in the record indicates that Petitioner poses a danger to the community or a risk of flight.

52. Having previously released Petitioner from federal custody through the Office of Refugee Resettlement and permitted him to remain at liberty in the United States for approximately three and one-half years, the government created a substantial liberty interest in Petitioner's continued freedom from detention. Re-detention without prior notice, without an individualized determination, and without an opportunity to be heard 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).

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)

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

54. 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).

55. 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).

56. 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).

57. Here, Respondents have re-detained Petitioner after previously releasing him from federal custody through the Office of Refugee Resettlement and permitting him to reside at liberty in the United States for approximately three and one-half years. Respondents have provided no reasoned explanation for this re-detention and have identified no changed circumstances that would justify revoking Petitioner's longstanding liberty.

58. 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.

59. By re-detaining Petitioner in the interior of the United States, without explanation, without identifying any changed circumstances, and without providing any individualized justification, Respondents have acted arbitrarily and capriciously and in excess of their statutory authority.

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 an individualized determination, and without any identified change in circumstances 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 federal custody through the Office of Refugee Resettlement and permitting him to reside at liberty in the United States;

F) 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);

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 litem*, including releasing him under the same conditions that existed prior to his re-detention and returning all of his documents and personal belongings at the time of release, consistent with this Court's prior orders in materially similar cases;

J) 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;

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 to prevent flight or protect the community, 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) 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);

M) 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

N) 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: July 10, 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 Verification of Release issued by the Office of Refugee Resettlement and Notice to Appear (Form I-862).

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.

/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: July 10, 2026