FILED
JUL 13 2026
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DOE DEPUTY

UNITED STATES DISTRICT COURT

for the

Southern District of California

FRANKLIN JAVIER RIVERA GUTIERREZ

Petitioner

v.

WARDEN OF OTAY MESA DETENTION CENTER
&
ICE

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

Case No. '26CV4031 BAS GC
(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: Franklin Javier Rivera Gutierrez
   (b) Other names you have used: None
2. Place of confinement:
   (a) Name of institution: Otay Mesa Detention Center
   (b) Address: 7488 Calzada de la Fuente
   San Diego, CA 92154
   (c) Your identification number: [redacted]
3. Are you currently being held on orders by:
   ☐ Federal authorities ☐ State authorities ☑ Other - explain:
   ICE DETENTION
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)

☐ 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: _____
(b) Docket number, case number, or opinion number: _____
(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
(d) Date of the decision or action: 02/08/2026

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

(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

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:

(b) Date of the removal or reinstatement order:

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

☐ Yes ☑ No

If "Yes," provide:

(1) Date of filing:

(2) Case number:

(3) Result:

(4) Date of result:

(5) Issues raised:

(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:

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: Continued Detention Without Sufficient Legal Justification Violates Due Process

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 Do not cite cases or law.)*:

I was arrested by local police on February 8, 2026, following an argument with my former wife while I was attempti to exercise my parental rights by visiting my daughter. The incident resulted in allegations of domestic violence, but my immigration detention is based solely on ICE's custody after that arrest and not any final criminal convictic Following my arrest, I was transferred into ICE custody, where I remain detained. my continue detention has deprived me of my liberty without an individualized determination that I present a danger to the community

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

☐ Yes ☑ No

GROUND TWO: I Have a Pending Asylum Application Demonstrating My Intent to Seek Protection Through the Legal Process.

My next immigration court hearing is scheduled for July 10, 2026. I remain committed to appearing before the Immigration Court and complying with every order issued by the Court.

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

I am a native and citizen of El Salvador. I came to the United States seeking protection because I fear returning to my country. My asylum application remains pending before the Immigration Court. My continued pursuit of asylum demonstrates that I have consistently attempted to comply with United States immigration laws My continued pursuit of asylum demonstrates that I have consistently attempted to comply with United States immigration laws r rather than evade them. I have appeared in my immigration proceedings and continue to pursue my legal remedie

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

☐ Yes ☑ No

GROUND THREE: ICE Is Relying on Allegations Rather Than Proven Criminal Conduct

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

The basis for my detention stems from allegations arising from a disagreement with my former wife during an during an attempt to visit my daughter.An arrest is not the same as a conviction. At this stage, these allegations remain unproven and should not be treated as evidence that I am dangerous.

Immigration detention should be based upon an individualized assessment supported by reliable evidence, not merely on accusations that have not resulted in a final adjudication.

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

☐ Yes ☑ No

GROUND FOUR: I Am Not a Flight Risk

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

I have every incentive to remain in the United States because my asylum case is still pending. If released, I will continue appearing for every immigration hearing, including all future proceedings ordered by the Immigration Court.My pending asylum application demonstrates that I seek lawful protection through the judicial p process and not by avoiding it.I respectfully request the opportunity to continue my case while released under reasonable conditions of supervision if the Court finds appropriate.

(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: My Continued Detention Is Causing Severe Hardship to My Family and My Relationship With My Daughter My detention has prevented me from maintaining a meaningful relationship with my daughter. The incident that led to my arrest occurred while I was attempting to see my child. Since entering ICE custody, I have been unable to provide emotional support, guidance, and parental care that every child deserves.

Request for Relief

15. State exactly what you want the court to do:

WHEREFORE, Petitioner respectfully requests that this Honorable Court grant the following relief:

Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, finding that Petitioner's continued immigration detention violates the Due Process Clause of the Fifth Amendment and applicable federal law.

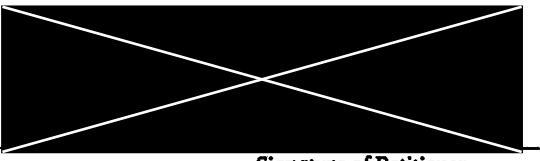
Order Respondents to immediately release Petitioner from ICE custody.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system: 7/9/26

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: 7/9/26



Signature of Petitioner

Signature of Attorney or other authorized person, if any

Karen Julissa Gonzales Alvarado

[redacted]

I, KAREN GONZALES, a citizen of the United States, attest that I know FRANKLIN JAVIER RIVERA since 2022.
I hereby want to tell a little about how I met Franklin Javier
I had the honor of meeting him at work and outside of work and I know
Who is a person who always stays away from problems
Respectful, responsible and fighter because despite the fact that
He finds himself alone in this country without the support of his parents
I always look to get ahead, working to achieve your goals
Unfortunately, it is currently in the custody of the
Immigration service which I hope and trust in God that it will come out soon
If you need more information, do not hesitate to contact me, I will be at your disposal
To give additional information.

[redacted]

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF FLORIDA
COUNTY OF OKALOOSA

I, Carol Oliver *, a Notary Public, do hereby certify that on this* 10 *day of* June *20* 25 *personally appeared before me* Karen Gonzales *, known to me to be the person whose name is subscribed to the foregoing instrument, and that she executed the same before me.*
Produced ID: FL DL G524 510 99 865-0

Notary Public State of Florida
Carol Oliver
My Commission HH 733358
Expires 2/18/2030

AFFIDAVIT OF SUPPORT AND CHARACTER REFERENCE
Date: June 13, 2026

To Whom It May Concern: My name is Jaime Marquez Hernandez, a United States citizen, born on [redacted] I currently reside at [redacted] My telephone number is [redacted] and my email address is [redacted] I am writing this affidavit on behalf of Franklin Javier Rivera Gutierrez, a citizen of El Salvador, born on [redacted] I have known Franklin Javier Rivera Gutierrez for approximately six (6) years, and our relationship has been that of friends. During these years, I have come to know him as a hardworking, responsible, and respectful young man with strong moral values. He is a devoted father who deeply cares for and supports his family and consistently demonstrates honesty, integrity, and a willingness to help others. He treats everyone with kindness and respect and has earned the trust and admiration of those who know him. As a United States citizen and based on my personal knowledge of Franklin, I can confidently attest that he possesses good moral character and deserves favorable consideration in his immigration matter.

[redacted]
Jaime Marquez Hernandez

[redacted]

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of Florida
County of Lee

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 13 day of June, 2026, by Jaime Marquez Hernandez who is personally known to me or who has produced H622420803020 as identification.

Sandra Talon Arencibia
Notary Public, State of Florida

SANDRA TALON ARENCIBIA
Notary Public
State of Florida
Comm# HH402732
Expires 5/24/2027

June 15, 2026

To Whom It May Concern:

My name is Juan Antonio Ramos Flores. I am a citizen of the United States and currently reside in the City of Chelsea, State of Massachusetts.

I am writing this letter in support of my cousin, Franklin Javier Rivera Gutierrez, born on [redacted] who is currently detained in immigration custody. I have known Franklin for his entire life. We grew up together in our native country, El Salvador, and have maintained a close family relationship throughout the years. Because of this lifelong relationship, I am in a unique position to speak about his character and values.

Franklin is a hardworking, respectful, and responsible young man. Since arriving in the United States, he has consistently demonstrated a strong desire to improve his life through honest work and dedication. He came to this country seeking better opportunities and a chance to build a stable future for himself. Throughout the time I have known him, I have never known him to be a violent person or someone who would intentionally cause harm to others. personal responsibility. He has always shown respect toward others and has maintained strong family ties. I firmly believe that he deserves the opportunity to continue pursuing his goals and to complete his immigration process while supported by his family.

I am fully willing to provide Franklin with any assistance he may need during these proceedings. I am prepared to offer him emotional support, guidance, and any other reasonable assistance necessary to help him comply with all immigration requirements and obligations.

I respectfully request that you take into consideration Franklin's character, his family support network, and his desire to contribute positively to society when making any decisions regarding his case.

Thank you for your time, consideration, and attention to this matter.

Respectfully submitted,

[redacted]

Juan Antonio Ramos Flores

[redacted]

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS **DATED: June 15, 2026**

On this 15th day of June, 2026 before me, the undersigned Notary Public, personally appeared Juan Antonio Ramos Flores, proved to me be through satisfactory evidence of identification, which was U.S Passport Card, to be the person whose name signed on the preceding or attached document in my presence.

Kenia Hernandez, Notary Public

KENIA HERNANDEZ
Notary Public
[illegible]
My Commission Expires
DECEMBER 27, 2029

5:02 PM

Ginger Clark
[redacted]

Office of Immigration Judge/USCIS

Re: Support Letter for Franklin Rivera

Dear Honorable Judge

My name is Ginger Clark. and I am a citizen of the United States. I am writing to express my strong support for Franklin Rivera, who I have known for five years, three years in my capacity as a Teacher at Choctawhatchee High School.

During his time in my classes, Franklin consistently displayed dedication to his studies, honesty with me and his classmates, and an overall desire to be helpful to the class.

I truly believe that Franklin was on a path to being a person of good character who would positively contribute to the community.

I declare under penalty of perjury that the fore going is true.

[redacted]