FILED
JUL 15 2026
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

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

Bastidas Silva Diony
Petitioner

v.

Christopher J. Larose, Warden
Otay Mesa Detention Center
Respondent
(name of warden or authorized person having custody of petitioner)

Case No. '26CV4072 BAS JLB
(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: Bastidas Silva Diony
   (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 92154
   (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)

☐ 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: U.S. Immigration and Customs Enforcement (ICE) Otay Mesa Detention Center San Diego CA.
(b) Docket number, case number, or opinion number: _____
(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
Petitioner is challenging his Prolonged and excessive detention Petitioner is requesting his immediate release From the custody
(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

(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: 05/23/2025

(b) Date of the removal or reinstatement order: 01/26/2026

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

☒ Yes ☐ No

If "Yes," provide:

(1) Date of filing: 02/12/2026

(2) Case number: [redacted]

(3) Result: STILL Pending

(4) Date of result: Pending

(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: Re-detention VIOLATION OF Freedom

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 Do not cite cases or law.)*:

I entered The United States by appointment with CBPone on 05/01/2024, Immigration stopped me, took ADN sample, Photos, and Interviewed me. Re-detention 05/23/2025 in Federal court by immigration agents through The same Process with the difference that I was harassed and the Interview was Flawed.

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

☐ Yes ☐ No

GROUND TWO: Violation OF due Process

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 Do not cite cases or law.)*:

Revocation OF the humanitarian Parole OF a non-citizen Various Courts affirm that the Prior waiver OF Liberty creates an interest in Liberty For The beneficiary and grants due an interest in Liberty accordance with due Process.

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

☐ Yes ☐ No

GROUND THREE: Illegal detention in a Federal Court in Compliance with Probation requirements.

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 Do not cite cases or law.)*:

I submitted my asylum application in April 2025.
I submitted my asylum application and a lawyer For my defense on May 23, 2025.
At the time my arrest I had my work Permit, social security number, Real ID, and my tax return.

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

☐ Yes ☐ No

GROUND FOUR: Reconsideration of Immigration relief Case No. 26-cv-1249 TWR (DDL) (S.D. Cal. entered Mar. 12, 2026).

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

I entered the United States through CBP One, I complied with all United States and immigration laws, I have no criminal record in The United States or my country of origin Venezuela, I always kept my Personal Information up to date until the day of my arrest, I had stable and legal job.

(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:

Request for Relief

15. State exactly what you want the court to do: I respectfully request my immediate release, as my reconsidering that my immigration relief was inadequate, and I request the assistance of a Federal attorney who can help me with my case and secure my release from this Prolonged detention. I do not have legal and Financial resources for my defense. the current situation in mi country, Venezuela, Is contributing to my mental deterioration because I am separate from my family; therefore; I request your help and consideration In my case. I would request a Public Defender.

Declaration Under Penalty Of Perjury

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

07/07/2026

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: 07/07/2026

[redacted]

Signature of Petitioner

Signature of Attorney or other authorized person, if any

Petition

-I am addressing the Federal court explaining the circumstances of my case and why I am requesting my immediate release, reconsidering the previous bail decision which I belive was not the appropriate Immigration remedy for my case based on the different decisions made by this court and advocating in my defense. *(1-2)

- I am originally from Venezuela. I arrived in the uited states to seguest Asylum in may 2024 and was released under humanitarian Parole.

I was then given a court date of January 6, 2025, in San Diego, CA, which I attended. the Judge instructed me to apply for Asylum before the end of the year and to appear with a lawyer at the next court hearing on may 23, 2025.

That day I appeared with my lawyer and my Asylum appeal, which had already been filed in April 2025.

-I left court room (1), and was illegally arrested, violating my due process rights as stipulate in the fifth and sixth Amendments to the united states constitution.

I base my argurment on similar cases where the most appropriate decision was immediate release; (see, at)

Rivera V. Warden, Otay Mesa Det. Ctr, No. 26-CV-375-JES-AHG, 2026 U.S. Dist. LEXIS 24553, 2026 WL 310193, at *1-2 (S.D. Cal. Feb. 5, 2026);

Besalti V. Larose, No. 26-CV-270-JES-JLB, 2026 U.S. DIST. LEXIS 17569, 2026 WL 242042, at *1-2 (S.D. Cal. Jan. 29, 2026);

Singh V. Larose, No. 26-CV-0556-JES-VET, 2026 U.S. DIST. LEXIS 26528, 2026 WL 353355, at *1-2 (S.D. Cal. Feb. 9, 2026);

Ramales V. Larose, No. 26-CV-501-JES-DEB, 2026 U.S. DIST. LEXIS 22519, 2026 WL 280216, at *1-2 (S.D. Cal. Feb. 3, 2026);

Minhas V. Bondi, No. 26-CV-492-JES-BLM, 2026 US. DIST. LEXIS 22507, 2026 WL 280220, at * 1-2 (S.D. Cal. Feb. 3, 2026);

taking into account the arguments presented in this motion, I request legal representation to ensure a fair and legal process, as I am not a lawyer and do not have the resources for one. I trust in the judicial system of this country and this court to resolve my case. Thank you very much.

II

ATTACHMENT A
Respondents

Patrick Divver
Regional Director of Enforcement and Removal Operations(ERO)
San Diego Field Office
U.S. Immigration and Customs Enforcement(ICE)

MARK WAYNE MULLIN
Secretary
U.S. Department of Homeland Security(DHS)

TODD LYONS
Acting director immigration and custom enforcement

SERGIO ALBARRAN
acting director ICE SAN FRANCISCO FIELD OFFICE

PETITIONER DECLARATION

- I been on detention for already 13 months .
- I was detain on may 23 2025
- I was arrested for no reason after i went to present the pettion of asylum to ICE
- They use excessive force to the detain me,they also hurt my hands,with my hand cups.
- I been living in united states for one year already
- I have always live on the same place all this time
- I enter thrue **CBP ONE** on my 01 2024
- I have my work opermit , and social securty ,I have my real ID
- The also disclose my asylum with out giving me the opportunity of present my proof and i file ansylum appeal, on februry 12 20226
- I have my soon and wife on **venezuela**
- My soon has asthma and bad body development
- Also my mother have a tention desorder ,My dad have type 2 diabetes
- Am sole provider of my house soon wife also my parents
- due that the economy on venezuela is not good eathier health service
- Also i have report taxes on the shorth time i been on **UNITED STATES OF AMERICA**
- I have develop medical probles because of prollonged dettention with **ICE**
- The water provided is insufficient and not treated correctly, Itdamage my intestinal flora
- depression sadness,spinal pain, gastritis,
- muscular problems due to the terrible bed condition on the detention
- Is getting worse due to the harsh conditions of residing in detention.
- The living conditions in the detention center are very terrible
- the medical attention is very low.
- the showers are unsanitary to which you have high risk of an infection.
- **I have now been incarcerated for 13 months and my BIA appeal is still pending.** I respectfully requesting this Court with a writ of habeas corpus to take jurisdiction to immediate **release me from detention or in an alternative to a bond hearing. I ready to comply with ice on any kind of supervision also.**
- Finally,I would request a PUBLIC DEFENDER since i have been detained for an extended time and i don't have the resources to pay for one.

Thank you.