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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JULIO CESAR ACEVEDO CRUZ,

Petitioner,

v.

Jeremy Casey, Warden at Imperial Regional Detention Facility;

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.: '26CV4115 GPC JLB

[redacted]

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

1. Petitioner, Julio Cesar Acevedo Cruz, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his continued immigration detention following his prior release from immigration custody and years of liberty in the community, and alleges as follows:

INTRODUCTION

2. Petitioner Julio Cesar Acevedo Cruz is a native and citizen of Nicaragua currently detained at the Imperial Regional Detention Facility in Calexico, California.

3. Petitioner brings this action under 28 U.S.C. § 2241 to challenge the legality of his detention by the Department of Homeland Security following his release from immigration custody, his prolonged residence at liberty in the United States, his affirmative participation in the asylum process administered by federal immigration authorities—including government-directed biometrics, security vetting, and the issuance of employment authorization—and his subsequent arrest and detention in the interior of the country after years of cooperation with those authorities.

4. Shortly after entering the United States on or about November 19, 2022, Petitioner was taken into immigration custody. Approximately two days later, Respondents released him from physical immigration custody and permitted him to remain at liberty in the United States.

5. Following his release, Petitioner affirmatively sought protection under the immigration laws by filing Form I-589, Application for Asylum and for Withholding of Removal. In connection with that application, USCIS required Petitioner to submit biometrics and fingerprints, conducted security vetting, and thereafter approved his application for employment authorization by issuing him an Employment Authorization Document, while permitting him to remain at liberty in the community.

6. Throughout this process, Petitioner openly disclosed his identity, residence, fingerprints, and continued presence in the United States to federal immigration authorities. Petitioner complied with every governmental requirement imposed upon him, was authorized to work pursuant to a DHS-issued Employment Authorization Document valid through November

2030, and openly resided in the community for more than three and one-half years without any allegation that he posed a danger to the community or a risk of flight.

7. On or about June 26, 2026, while walking on a public street in Florida, Petitioner was arrested by ICE officers and taken back into immigration custody. Respondents provided no prior notice, no individualized explanation, and identified no changed circumstances justifying Petitioner's sudden detention after more than three and one-half years of liberty following his release from immigration custody and his affirmative participation in the federal immigration system.

8. Petitioner was subsequently transferred through multiple detention facilities before ultimately arriving at the Imperial Regional Detention Facility in Calexico, California, where he remains detained.

9. Respondents' continued detention of Petitioner is unlawful. Having released Petitioner from immigration custody, permitted him to reside openly in the United States for more than three and one-half years, required him to submit biometrics, undergo security vetting, issued him an Employment Authorization Document valid through November 2030, and initiated removal proceedings while allowing him to remain at liberty, Respondents may not abruptly deprive Petitioner of his physical liberty without constitutionally adequate process and without any individualized determination justifying his detention.

10. Instead, Respondents have detained Petitioner without providing any individualized custody determination, without identifying any changed circumstances, and without affording him any meaningful opportunity for a custody determination before a neutral decisionmaker.

11. The government's actions therefore violate the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment.

12. 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 detention unlawful and order his immediate release or, in the alternative, require Respondents to provide a constitutionally adequate custody hearing.

CUSTODY

13. Petitioner is currently in the legal and physical custody of Respondents and is detained at the Imperial Regional Detention Facility in Calexico, California, within the jurisdiction of this Court.

JURISDICTION AND VENUE

14. 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.

15. 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).

16. 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.

17. 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).

18. 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).

19. 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

20. Petitioner, Julio Cesar Acevedo Cruz, is a native and citizen of Nicaragua currently detained at the Imperial Regional Detention Facility in Calexico, Imperial County, California.

21. Respondent Jeremy Casey is the Warden of the Imperial Regional Detention Facility in Calexico, California, Petitioner's immediate custodian, and is responsible for Petitioner's confinement. Respondent Casey is sued in his official capacity.

22. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security (DHS).

23. Respondent David J. Venturella is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement (ICE).

24. Respondent Todd Blanche is the Acting Attorney General of the United States and the head of the U.S. Department of Justice (DOJ).

25. All Respondents are named in their official capacities.

STATEMENT OF FACTS

26. Petitioner is currently detained at the Imperial Regional Detention Facility in Calexico, California. Petitioner is a native and citizen of Nicaragua who entered the United States without inspection on or about November 19, 2022.

27. Shortly after his entry, Petitioner was encountered by immigration authorities and taken into immigration custody.

28. Approximately two days later, Respondents released Petitioner from immigration custody and permitted him to remain at liberty in the United States. Thereafter, Petitioner openly resided in the community for more than three and one-half years while complying with the requirements imposed by federal immigration authorities.

29. During the ensuing years, Respondents repeatedly acknowledged Petitioner's presence in the United States through the administration of his affirmative asylum application. USCIS required Petitioner to submit biometrics and fingerprints, conducted security vetting, and ultimately issued Petitioner an Employment Authorization Document valid through November 2030, authorizing him to live and work in the United States while permitting him to remain at liberty pending his immigration proceedings.

30. After adjudicating Petitioner's affirmative asylum application, USCIS referred the matter to the Immigration Court. On or about April 27, 2026, DHS served Petitioner with a Notice to Appear commencing removal proceedings under INA § 240 and scheduled an initial Master Calendar Hearing in Miami, Florida.

31. Petitioner appeared as directed at his removal proceedings. At no point during the more than three and one-half years following his release from immigration custody did Respondents notify Petitioner that they intended to re-detain him, allege that he had violated any condition imposed upon him, contend that he posed a danger to the community or a risk of flight, or otherwise identify any individualized basis warranting his renewed detention.

32. Prior to re-detaining Petitioner, Respondents provided no prior notice that they intended to re-detain him, no opportunity to contest that decision before a neutral decisionmaker, and identified no changed circumstances justifying his sudden re-detention.

33. Following his arrest, Petitioner was transferred through multiple detention facilities before ultimately arriving at the Imperial Regional Detention Facility in Calexico, California, where he remains detained.

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. In habeas corpus proceedings, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive

prudential exhaustion where "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Here, exhaustion should be excused because administrative remedies are (1) futile and (2) Petitioner's continued detention results in irreparable harm.

38. Exhaustion would be 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 hearings for individuals DHS classifies as subject to § 235(b) or designates as Arriving Aliens. See 8 C.F.R. § 1003.19(h)(2)(i)(B). In this District, Immigration Judges routinely state on the record that they lack authority to review custody where DHS invokes § 235(b). If Petitioner were to request a bond hearing, DHS would rely on that statutory classification to block review, and the Immigration Judge would be required to decline jurisdiction. Because no administrative mechanism exists to obtain custody review under DHS's asserted detention authority, any attempt to exhaust administrative remedies would be futile.

39. 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.

40. Petitioner suffers irreparable harm for each additional day he remains unlawfully detained. The loss of physical liberty constitutes an injury that cannot be adequately remedied after the fact. Continued incarceration following Petitioner's prior release from immigration custody, after more than three and one-half years of liberty in the community, further magnifies

that ongoing harm. Courts routinely excuse exhaustion where prolonged or unlawful detention inflicts irreparable injury. Petitioner's continued detention therefore warrants waiver of prudential exhaustion.

LEGAL FRAMEWORK

41. 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.

42. 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.

43. Where the federal government has previously released a noncitizen from immigration custody, permitted him to remain at liberty in the United States for an extended period, and later re-detains him in the interior while removal proceedings are pending, serious statutory and constitutional questions arise concerning both the government's authority to effect that renewed detention and the process required before depriving the individual of his physical liberty.

44. Federal courts have recognized that when the government releases a noncitizen from immigration custody, permits that individual to remain at liberty in the community for an extended period, and later re-detains the individual in the interior of the United States, the renewed detention presents substantial constitutional questions concerning whether the deprivation of physical liberty occurred with constitutionally adequate process.

45. 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.

46. 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.

47. By releasing Petitioner from immigration custody, permitting him to remain at liberty in the United States for more than three and one-half years, processing his affirmative asylum application, requiring him to submit biometrics and undergo security vetting, issuing him an Employment Authorization Document, initiating removal proceedings under section 240 of the Immigration and Nationality Act, and permitting him to appear before the Immigration Court while remaining at liberty, Respondents created a substantial liberty interest in Petitioner's continued freedom from physical restraint. Abruptly revoking that liberty without prior notice, without identifying any changed circumstances, and without a meaningful opportunity to be heard violates the Due Process Clause.

48. Where the government has previously released a noncitizen from immigration custody and permitted him to remain at liberty in the community, that release reflects the government's determination that continued physical detention was not necessary at that time. Once that liberty has been established, it may not be withdrawn without constitutionally adequate process. Re-detention without any individualized determination or identified changed circumstances therefore raises serious due process concerns.

49. 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 articulate a reasoned explanation for its actions based on the relevant facts and circumstances.

50. Re-detaining a noncitizen after a prolonged period of liberty, without identifying any changed circumstances, without providing an individualized justification, and without articulating a reasoned explanation for the decision to re-detain the individual, constitutes arbitrary and capricious agency action.

CLAIM FOR RELIEF

COUNT 1

Violation of Due Process U.S. Constitution Amendment V

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

52. 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).

53. Petitioner was previously released from immigration custody approximately two days after entering the United States. Thereafter, Respondents permitted Petitioner to remain at liberty in the United States for more than three and one-half years while processing his affirmative asylum application, requiring him to submit biometrics and undergo security vetting, issuing him an Employment Authorization Document, initiating removal proceedings under section 240 of the Immigration and Nationality Act, and allowing him to appear before the Immigration Court while remaining at liberty. On or about June 26, 2026, while walking on a public street in Florida, Petitioner was arrested by ICE officers and returned to immigration custody without prior notice, without any identified changed circumstances, and without any individualized explanation. Nor have Respondents identified any individualized facts demonstrating that Petitioner's continued detention is necessary because he poses a danger to the community or a risk of flight.

54. Having released Petitioner from immigration custody, permitted him to remain at liberty in the United States for more than three and one-half years, processed his affirmative asylum application, required him to submit biometrics and undergo security vetting, issued him an Employment Authorization Document, initiated removal proceedings, and allowed him to appear before the Immigration Court while remaining at liberty, Respondents created a substantial liberty interest in Petitioner's continued freedom from physical restraint. Abruptly revoking that liberty without prior notice, without identifying any individualized basis or changed circumstances, and without affording Petitioner a meaningful opportunity to be heard constitutes a deprivation of liberty without due process of law. 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)

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

56. 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).

57. Agency action is arbitrary and capricious where the agency fails to consider relevant factors, offers an explanation that runs counter to the evidence before it, 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).

58. An agency must articulate a reasoned explanation for its actions that is supported by the facts and circumstances of the individual case. *Dep't of Com. v. New York,* 139 S. Ct. 2551, 2569 (2019).

59. Here, Respondents re-detained Petitioner after previously releasing him from immigration custody, permitting him to remain at liberty in the United States for more than three and one-half years, processing his affirmative asylum application, requiring him to submit biometrics and undergo security vetting, issuing him an Employment Authorization Document, initiating removal proceedings under section 240 of the Immigration and Nationality Act, and allowing him to appear before the Immigration Court while he remained at liberty. Respondents have provided no reasoned explanation for revoking Petitioner's liberty and have identified no changed circumstances or individualized facts justifying his re-detention.

60. Respondents have failed to provide any individualized assessment demonstrating that Petitioner's continued detention is necessary. Nor have Respondents identified any individualized facts establishing that Petitioner poses a danger to the community or a risk of flight, or explaining why less restrictive alternatives to detention would be inadequate.

61. By re-detaining Petitioner in the interior of the United States after previously releasing him from immigration custody and permitting him to remain at liberty for more than three and one-half years, without identifying any changed circumstances, without providing any individualized justification, and without articulating a reasoned basis for revoking that liberty, Respondents have acted arbitrarily, capriciously, and not in accordance with law.

62. 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 into the United States and permitting him to reside at liberty;

F) Declare that Respondents' actions re-detaining Petitioner without constitutionally adequate process, 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 by releasing him under the same conditions that existed immediately prior to his re-detention;

J) Enjoin Respondents from re-arresting or re-detaining Petitioner absent compliance with the Due Process Clause, including constitutionally adequate notice, an individualized determination supported by identified changed circumstances, and a meaningful opportunity to be heard 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, 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 may not continue to detain Petitioner without constitutionally adequate process and, to the extent Respondents seek to continue Petitioner's detention, require that any further custody determination comply with the requirements of the Due Process Clause;

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,

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Dated: July 17, 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 relating to Petitioner's immigration history, employment authorization, asylum application, removal proceedings, and detention.

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.

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Dated: July 17, 2026