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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Mario Juan Tomas,

Petitioner,

v.

CHRISTOPHER J. LAROSE, WARDEN OF OTAY MESA DETENTION CENTER; GREGORY J. ARCHAMBEAULT, IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) SAN DIEGO FIELD OFFICE DIRECTOR; TODD M. LYONS, ACTING DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE/ERO); MARKWAYNE MULLIN, Secretary of the Department of Homeland Security; TODD BLANCHE, U.S. Attorney General, in their official capacities.

Respondents.

Case No.: '26CV4451 BJC BJW

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

Petitioner Mario Juan Tomas petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining her unlawfully, and states as follows:

INTRODUCTION

1. Petitioner, Mario Juan Tomas ("Mr. Tomas or "Petitioner"), a Guatemalan native, by and through his undersigned counsel, hereby petitions this Court under 28 U.S.C. § 2241, et seq., to issue a Writ of Habeas Corpus ordering Mr. Juan's release from immigration detention by the Department of Homeland Security, United States Immigration and Customs Enforcement ("ICE"). Mr. Juan seeks immediate release from custody because Respondents have held him since December 28, 2025—a prolonged period. His case was imitated in 2012, subsequently administratively closed and since his detention over 7 months has passed and he has not had any hearing on his case. His continued detention violates the U.S. Constitution and federal law as it now appears entirely punitive.

CUSTODY

2. Mr. Juan is currently in Respondents' legal and physical custody. They are detaining him at the Otay Mesa Detention Center in San Diego, California. He is under Respondents' and their agents' direct control.

PARTIES

3. Mr. Juan is a 45-year-old citizen of Guatemala. He is currently detained at the Otay Mesa Detention Center in San Diego, California. Mr. Juan is seeking asylum and cancellation of removal for non permanent residents in the United States.

4. Mr. Juan is currently in Respondents' legal and physical custody at the Otay Mesa Detention Center in San Diego, California.

5. Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention Center where Petitioner is being held. Respondent Christopher LaRose oversees the day-to-day operations of the Otay Mesa Detention Center and acts at the Direction of Respondents Archambeault, Lyons,Mullin, and Blanche. Respondent Christopher LaRose is a custodian of Petitioner and is named in his official capacity.

6. Respondent Gregory J Archambeault is the Field Office Director of ICE in San Diego, California and is named in his official capacity. ICE is the component of the DHS that is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. In his official capacity, he is the legal custodian of Petitioner.

7. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is a component of the DHS, 6 U.S.C. § 271, and an "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701(b)(1). It is the agency responsible for enforcing immigration laws, and it is detaining Mr. Juan, Respondent Lyons has custodial authority over Mr. Juan, who names him in his official capacity.

8. Respondent Todd LYONS is the acting director of Immigration and Customs Enforcement and is names in his official capacity.

9. Respondent Markwayne MULLIN is the Secretary of the DHS and is named in his official capacity. DHS is the federal agency responsible for enforcing immigration laws and granting immigration benefits. See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent

MULLIN has ultimate custodial authority over Mr. Juan, who names him in his official capacity.

10. Respondent Todd BLANCHE is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in his official capacity. He is responsible for the Immigration and Nationality Act's implementation and enforcement (see 8 U.S.C. §§ 1103(a)(1), (g)), and oversees the Executive Office for Immigration Review, the office that administers Mr. Juan's removal proceedings and is responsible for adjudicating Mr. Juan's applications. Mr. Juan names him in his official capacity.

JURISDICTION AND VENUE

11.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 Mr. [Last Name]'s detention under the INA and any inherent or plenary powers the government may claim to continue holding him.

12.This Court has jurisdiction under 28 U.S.C. § 1331, § 2241; 5 U.S.C. §§ 701–706 (Administrative Procedure Act, "APA"); and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, and the Fifth and Eighth Amendments of the United States Constitution. Jurisdiction is not limited by a petitioner's nationality, immigration status, or any other classification. *See Boumediene v. Bush*, 553 U.S. 723, 747 (2008). The Court may grant relief under the Suspension Clause; the Fifth and Eighth Amendments; 5 U.S.C. § 706 (APA); and 28 U.S.C. §§ 1361 (Mandamus Act), 1651 (All Writs Act), 2001 (Declaratory Judgment Act), and 2241 (habeas corpus).

13. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Mr. [Last Name]'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. Because Mr. [Last Name] seeks the traditional habeas remedy of release from allegedly unlawful detention, 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 v. Holder*, 638 F.3d 1196, 1211-12 (9th Cir. 2011)). And federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). No court has ruled on the legality of Mr. [Last Name]'s detention.

14. 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 happened here, Mr. [Last Name] is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243 because Mr. [Last Name]'s immediate custodian resides in this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451-52 (2004) (Kennedy, J., concurring).

FACTUAL BACKGROUND

15. Mr. Juan is a 44-year-old citizen of Guatemala. Mr. Juan is seeking asylum and an application for cancellation of removal based on his U.S. Citizen children.

16.Mr. Juan fled Guatemala as a minor. En entered the United States, alone in January 2012.

17. He was released as an unaccompanied minor and removal proceedings imitated, but paused, on September 13, 2015, allowing Mr. Juan to seek adjudication of an asylum application with USCIS under TVPRA.

18.The DHS made a motion to re-calendar in September 2017, a motion that was denied in light of the pending TVPRA application. The DHS renewed their motion and the motion was granted.

19. In September 2022, the DHS and Mr. Juan jointly motioned for administrative closure, because of Mr. Juan's approved I-130 Petition, and subsequent need to file an I-601a Waiver.

20.The case remained administratively closed until July 31, 2026. There is no hearing pending and the case remains in Santa Ana Ca.

21.Mr. Juan was apprehended while making a delivery at a base on or about December 2025.

22.Mr. Juan, sought a review of his custody status and was denied on April 27, 2026.

23. At this time Mr. Juan has been detained over 7 months, denied bond, and continues waiting for any hearing on his case.

24.Mr. Juan's continued detention without a tenable justification and without a demonstration that removal is significantly likely in the reasonably foreseeable future violates constitutional due process. Zadvydas v. Davis, 533 U.S. 678 (2001); Kydyrali v. Wolf, 499 F. Supp. 3d 768 (S.D. Cal. 2020).

25.Mr. Juan's detention without a tenable justification violates his rights under the Due Process Clause of the Fifth Amendment.

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EXHAUSTION OF REMEDIES

26. Mr. Juan has exhausted all administrative remedies, and no further ones are available. Furthermore, for habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. Hernandez, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if "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) (citation and quotation marks omitted)). Petitioner asserts that exhaustion should be waived because administrative remedies are (1) futile and (2) his continued detention results in irreparable harm.

27. Exhausting administrative remedies here is futile because Respondents contend Mr. Juan is subject to mandatory detention. As such, this administrations policies require ICE deny any request to release him from custody.

28. Moreover, no statutory exhaustion requirements apply to Petitioner's claim of unlawful custody in violation of his due process rights, and there are no administrative remedies that he needs to exhaust. See Am.-Arab Anti-Discrimination Comm. v. Reno, 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a "futile exercise because

the agency does not have jurisdiction to review" constitutional claims); In re Indefinite Det. Cases, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

29. More importantly, every day that Petitioner remains detained causes him harm that cannot be repaired. His continued detention puts his physical and mental health at greater risk, further warranting a finding of irreparable harm and the waiver of the prudential exhaustion requirement. Mr. Juan has been suffering from depression, anxiety, sadness, loss of appetite and weight, due to having been separated from his family for such an extended period of time. There is no adequate, proper and available treatment in the detention facility to address Mr. Juan's symptoms.

30. The Court must consider this in its irreparable harm analysis of the effects on Petitioner as his detention continues. See De Paz Sales v. Barr, No. 19-CV-07221-KAW, 2020 WL 353465, at *4 (N.D. Cal. Jan. 21, 2020) (noting that the petitioner "continues to suffer significant psychological effects from his detention, including anxiety caused by the threats of other inmates and two suicide attempts," in finding that petitioner would suffer irreparable harm warranting waiver of exhaustion requirement).

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FIRST CAUSE OF ACTION
Fifth Amendment Due Process Violation

31.Mr. Juan re-alleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-30 above.

32. The Supreme Court has long recognized that the Fifth and Fourteenth Amendments refer to all "persons," not just "citizens." Aliens, even inadmissible or removable aliens, must be afforded due process protection. See Yick Wo v. Hopkins, 118 U.S. 356, 369 (1886) ("The Fourteenth Amendment to the Constitution is not confined to the protection of citizens."). As stated by the Court, the provisions of the Fourteenth Amendment "are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality" Id. (emphasis added).

33.The Supreme Court has held that "even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection [of the Due Process Clauses of the Fifth and Fourteenth Amendments]" Mathews v. Diaz., 426 U.S. 67, 75 n.7 (1976); see also Plyler v. Doe, 457 U.S. 202, 210 (1982) ("Whatever his status under the immigration laws, an alien is surely a 'person' in any ordinary sense of that term."); Wong Wing v. United States, 163 U.S. 228, 238 (1896) ("Persons within the territory of the United States... even aliens... [may not]... be deprived of life, liberty or property without due process of law.").

34. As there is no final order of removal, and there doesn't appear to be one in the reasonably foreseeable future, Mr. Juan may not be removed from the United States. His

removal is not reasonably foreseeable, and his detention no longer serves any legitimate purpose under the INA.

35. In Kydyrali v. Wolf, 499 F. Supp. 3d 768 (S.D. Cal. 2020), a judge in this District granted habeas relief in a substantially similar case, applying a six-factor balancing test first articulated in Banda v. McAleenan, 385 F. Supp. 3d 1099 (W.D. Wash. 2019), which considers: (1) total length of detention to date; (2) likely duration of future detention; (3) conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal. The court determined that prolonged detention, when considered alongside other due process concerns, can rise to the level of a constitutional violation warranting release. Kydyrali, 499 F. Supp. 3d at 773.

36. Applying the Banda six-factor framework here supports granting Mr. [Last Name]'s petition.

37. The final factor—finality—strongly supports the grant of this habeas petition and request for a bond hearing. Mr. Juan is statutorily eligible to apply for asylum, cancellation of removal and until those applications are finally adjudicated, he cannot be removed from the United States. Thus, the only prospect for removal from the United States would be a speculative, and not factually unsupported prospect of removal to a third country.

38. Almost all delays in this case are attributable to the government. From the moment of his detention Respondents all but forgot about the reason of Mr. Juan's detention- the pending removal proceedings

39.In the seven, nearing eight months Mr. Juan has now been detained by ICE he has not had one hearing on his matter.

40. Furthermore, conditions of confinement also raise constitutional concerns as the medical treatment available at the Otay Mesa Detention Center is not adequate to address Mr. Juan's health conditions.

41.Mr. Juan's continued detention without a tenable justification violates his Fifth Amendment right to due process.

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PRAYER FOR RELIEF

Mr. Juan asks this Court to grant the following relief:

1. Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Juan from custody immediately;

2. Declare the continued detention of Mr. Juan without a tenable justification a violation of the Due Process Clause of the U.S. Constitution;

3. Alternatively, order an immediate bond hearing before a neutral decisionmaker where DHS bears the burden of justifying Mr. Juan's continued detention by clear and convincing evidence and where alternatives to detention and Mr. Juan's ability to pay a bond are considered

4. Order Respondents to show cause why Mr. Juan is being subjected to unlawful and unconstitutional detention; and

5. Grant any other relief that may be fit and proper.

Dated: 8.4.26

Respectfully submitted,

By: /s/ Lilia Rodriguez
Lilia Rodriguez

Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I represent Petitioner, Mario Juan Tomas and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this August 4, 2026, in San Diego, California.

/s/ Lilia Rodriguez
Lilia Rodriguez
Attorney for Petitioner

A	Notice to Appear for Unaccompanied Minor	
B	I830 Citing Detention on December 29, 2025	
C	Motion to Recalander July 2026	
D	Order Granting Motion to Recalander	