IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ANGEL GABRIEL ORTIZ HERNANDEZ, Petitioner, v. CHRISTOPHER LaROSE, Warden, Otay Mesa Detention Center; DAVID VENTURELLA, Acting Director, U.S. Immigration and Customs Enforcement; GREGORY J. ARCHAMBEAULT, Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; and TODD BLANCHE, U.S. Attorney General, U.S. Department of Justice, Respondents.	CIVIL ACTION NO. '26CV4689 TWR JLB JUDGE _____

PETITION FOR WRIT OF HABEAS CORPUS

AND NOW, comes Petitioner, Angel Gabriel Ortiz Hernandez, by and through his attorneys, and files the within Petition for Writ of Habeas Corpus, stating as follows:

A. INTRODUCTION

1. Petitioner, Angel Gabriel Ortiz Hernandez, [redacted], is in the physical custody of Respondents at the Otay Mesa Detention Center in San Diego, California. Unlike a person recently arrived at the border and awaiting an initial decision on removal, Petitioner is a longtime resident of the United States who was ordered removed and granted withholding of removal by an Immigration Judge in 2022, and who thereafter lived in the community under supervision, with employment authorization, for approximately four years.

2. Petitioner challenges his ongoing detention as unlawful under the Immigration and Nationality Act ("INA") and the Due Process Clause of the Fifth Amendment. On or about July 14, 2022, an Immigration Judge sitting in Annandale, Virginia, ordered Petitioner removed to Guatemala but granted him withholding of removal under 8 U.S.C. § 1231(b)(3), prohibiting his return to Guatemala. Petitioner was released and lived openly in Virginia, complied with the conditions of his release, maintained employment, and paid taxes.

3. On or about August 12, 2026, without any change in his circumstances known to Petitioner, Respondents arrested Petitioner and transferred him approximately 2,300 miles from his home and community in the Washington, D.C. area to the Otay Mesa Detention Center in San Diego, California, where he has been detained since on or about that date. On information and belief, Respondents re-detained Petitioner in order to pursue his removal to a country other than Guatemala that was not designated in his removal proceedings (a "third country"), and have not provided Petitioner notice of any such country or a meaningful opportunity to seek protection from removal to it.

4. Withholding of removal is a country-specific form of protection. To grant it, an Immigration Judge first enters an order of removal and then withholds removal to the designated country. A noncitizen granted withholding therefore remains subject to a final order of removal and, if detained, is held under 8 U.S.C. § 1231(a). He is not an "applicant for admission" detained under 8 U.S.C. § 1225(b), and he is not detained pending an initial removal decision under 8 U.S.C. § 1226(a).

5. Detention under § 1231(a) is authorized only for a period reasonably necessary to accomplish the noncitizen's removal. See *Zadvydas v. Davis*, 533 U.S. 678 (2001). Because Petitioner cannot lawfully be removed to Guatemala, and because, on information and belief, no

third country has agreed to receive him, there is no significant likelihood of Petitioner's removal in the reasonably foreseeable future.

6. To the extent Respondents seek to remove Petitioner to a third country, the Due Process Clause entitles him to notice of the proposed country of removal and a meaningful opportunity to apply for protection, including protection under the Convention Against Torture, before any such removal is carried out.

7. This Petition challenges only the lawfulness of Petitioner's detention and the process due before any removal to a third country. It does not seek review of, and does not challenge, the 2022 order of removal itself. Jurisdiction in this Court is therefore not affected by 8 U.S.C. § 1252.

B. JURISDICTION

8. Petitioner is in the physical custody of Respondents at the Otay Mesa Detention Center in San Diego, California.

9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(1) and (c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).

10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

11. The proper respondent in a habeas action challenging present physical confinement is the petitioner's immediate custodian, and jurisdiction lies in the district of confinement. *Rumsfeld v.*

Padilla, 542 U.S. 426, 434-35, 443 (2004). Petitioner's immediate custodian is the Warden of the Otay Mesa Detention Center, who is located within this District.

12. This Petition challenges Petitioner's detention and the procedures attending any removal to a third country; it does not seek review of Petitioner's order of removal. Accordingly, the jurisdiction-channeling and jurisdiction-stripping provisions of 8 U.S.C. § 1252(a)(5) and (g) do not bar this Court's jurisdiction over Petitioner's claims.

C. VENUE

13. Venue lies in the United States District Court for the Southern District of California, the judicial district in which Petitioner is detained. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973). The Otay Mesa Detention Center is located in San Diego, San Diego County, California, which lies within the Southern District of California. 28 U.S.C. § 84(d).

14. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers and employees of the United States acting in their official capacities, and because a substantial part of the events or omissions giving rise to the claims, including Petitioner's continued detention, is occurring in the Southern District of California.

D. REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must award the writ or order Respondents to show cause "forthwith," unless it appears from the application that the petitioner is not entitled thereto. 28 U.S.C. § 2243. If an order to show cause issues, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

16. Habeas corpus is "perhaps the most important writ known to the constitutional law, 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).

E. PARTIES

17. Petitioner Angel Gabriel Ortiz Hernandez, [redacted], is a native and citizen of Guatemala who has been in immigration detention at the Otay Mesa Detention Center since on or about August 12, 2026. Petitioner may be identified in certain records of U.S. Immigration and Customs Enforcement as "Ortiz-Hernandez."

18. Respondent Christopher LaRose is the Warden and Facility Administrator of the Otay Mesa Detention Center, where Petitioner is detained. As the on-site official responsible for the facility, the Warden has immediate physical custody of Petitioner. The Warden is sued in an official capacity.

19. Respondent David Venturella is the Acting Director of U.S. Immigration and Customs Enforcement. In that capacity he oversees ICE operations nationwide, including detention and removal decisions, and is responsible for setting and enforcing ICE policy. He is sued in an official capacity.

20. Respondent Gregory J. Archambeault is the Field Office Director of the San Diego Field Office of ICE Enforcement and Removal Operations, which exercises jurisdiction over immigration detention in the area of Petitioner's confinement, including the Otay Mesa Detention Center. In that capacity the Field Office Director is responsible for the administration and management of ICE detention affecting Petitioner and exercises legal control over Petitioner's custody. The Field Office Director is sued in an official capacity.

21. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. He is sued in an official capacity. DHS is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

22. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review is a component. He is sued in an official capacity. EOIR operates the immigration courts, which would adjudicate any reopening of Petitioner's proceedings or any claim for protection from removal to a third country.

F. LEGAL FRAMEWORK

23. The INA prescribes distinct detention regimes that turn on a noncitizen's posture in the removal process.

24. Section 1226 governs the detention of noncitizens in pending removal proceedings, before an order of removal has been entered. 8 U.S.C. § 1226. Section 1225(b) governs the detention of certain applicants for admission at or shortly after arrival. 8 U.S.C. § 1225(b). Neither provision governs Petitioner, whose removal proceedings concluded in 2022 with a final order of removal.

25. Section 1231 governs the detention of noncitizens who have been ordered removed. 8 U.S.C. § 1231(a). Upon entry of a final order of removal, the Government is directed to remove the noncitizen within a ninety-day "removal period," § 1231(a)(1); the noncitizen is detained

during that period, § 1231(a)(2); and, following that period, certain noncitizens "may be detained," § 1231(a)(6).

26. Withholding of removal under 8 U.S.C. § 1231(b)(3) is a mandatory, country-specific protection. An Immigration Judge grants it only after entering an order of removal, and it bars the Government from removing the noncitizen to the specific country as to which protection is granted. A noncitizen granted withholding remains subject to a final order of removal and, if detained, is detained under § 1231(a). Petitioner was granted withholding of removal to Guatemala in 2022 and is accordingly detained, if at all, under § 1231(a).

27. The Supreme Court has construed the post-removal-period detention authority of § 1231(a)(6) to permit detention only for "a period reasonably necessary to bring about that alien's removal from the United States," and not to authorize detention where there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 689, 701 (2001). "Freedom from imprisonment, from government custody, detention, or other forms of physical restraint, lies at the heart of the liberty that the Clause protects." *Id.* at 690.

28. Because withholding of removal bars Petitioner's return to Guatemala, the only country designated in his proceedings, Petitioner can be removed, if at all, only to a third country that agrees to receive him. Where no such country has been designated or has agreed to accept the noncitizen, there is no significant likelihood of removal in the reasonably foreseeable future, and continued detention is not authorized. *Id.* at 701.

29. Separately, before the Government may remove a noncitizen to a third country not designated in the noncitizen's removal proceedings, the Due Process Clause requires notice of the proposed country and a meaningful opportunity to seek protection from removal to it,

including under the Convention Against Torture. That requirement is heightened for a noncitizen who, like Petitioner, has already established an entitlement to protection from removal to his country of origin. See *D.V.D. v. DHS*, 778 F. Supp. 3d 355 (D. Mass. 2025).

30. No statutory exhaustion requirement applies to Petitioner's challenge to the lawfulness of his detention under 28 U.S.C. § 2241. To the extent any administrative process bears on Petitioner's detention, resort to it would be futile and inadequate to remedy the ongoing deprivation of Petitioner's liberty.

G. FACTS

31. Petitioner is a native and citizen of Guatemala. He entered the United States without inspection in or about August 2007 and has resided continuously in the United States since that time, a period of approximately nineteen years, making his home in the Washington, D.C. area.

32. In or about 2021, Petitioner was arrested on a charge of public intoxication and briefly held, after which he was transferred to ICE custody, placed in removal proceedings, and released on bond.

33. On or about July 14, 2022, an Immigration Judge sitting in Annandale, Virginia, ordered Petitioner removed and granted him withholding of removal to Guatemala under 8 U.S.C. § 1231(b)(3).

34. Following the grant of withholding, Petitioner was released from custody and lived in the community under the conditions imposed upon him. He obtained employment authorization, was steadily employed, filed tax returns, and paid taxes. He did not depart the United States at any time after his 2007 entry.

35. On or about August 12, 2026, Petitioner was arrested by ICE. Shortly thereafter, Respondents transferred Petitioner across the country, from the Washington, D.C. area to the Otay Mesa Detention Center in San Diego, California, approximately 2,300 miles from his home and community, where he has been detained since on or about August 12, 2026.

36. On information and belief, Respondents have detained Petitioner pursuant to his 2022 final order of removal under 8 U.S.C. § 1231(a), and are considering or pursuing his removal to a third country not designated in his removal proceedings. On information and belief, Respondents have not designated any third country to Petitioner, have not provided him notice of any proposed third country, and have not afforded him a meaningful opportunity to seek protection from removal to any such country.

37. Petitioner cannot lawfully be removed to Guatemala. On information and belief, no third country has agreed to receive Petitioner. There is therefore no significant likelihood of Petitioner's removal in the reasonably foreseeable future, and his continued detention serves no permissible purpose.

38. Absent relief from this Court, Petitioner faces continued detention, far from his home and community, and the prospect of removal to a third country without notice or any opportunity to seek protection, notwithstanding an Immigration Judge's determination that he faces persecution in his country of origin.

H. CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration and Nationality Act (8 U.S.C. § 1231)

39. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

40. Petitioner is detained under 8 U.S.C. § 1231(a) pursuant to a final order of removal. Detention under § 1231(a) is authorized only for a period reasonably necessary to accomplish removal and does not extend to detention where there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

41. Because Petitioner cannot be removed to Guatemala and, on information and belief, no third country has agreed to receive him, there is no significant likelihood of his removal in the reasonably foreseeable future. Petitioner's continued detention is not authorized by § 1231(a) and violates the INA.

COUNT II

Violation of Due Process -- Removal to a Third Country

42. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

43. The Due Process Clause of the Fifth Amendment prohibits Respondents from removing Petitioner to a third country not designated in his removal proceedings without providing him notice of the proposed country and a meaningful opportunity to seek protection from removal to it, including under the Convention Against Torture. That protection is heightened where, as here, an Immigration Judge has already found Petitioner entitled to protection from removal to his country of origin.

44. On information and belief, Respondents detained Petitioner in order to effectuate a third-country removal and have done so without the notice and opportunity to be heard that due process requires. Detaining Petitioner to carry out a removal that itself would violate due process is unlawful.

COUNT III

Violation of Due Process -- Deprivation of Liberty

45. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

46. The Government may not deprive a person of liberty without due process of law. U.S. Const. amend. V. "Freedom from imprisonment ... lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

47. Petitioner has a fundamental liberty interest in freedom from physical detention. Respondents' continued detention of Petitioner -- a longtime resident who lived in the community under supervision, with employment authorization, for years after being granted withholding of removal -- without any individualized determination that his detention is justified to accomplish a removal that is significantly likely to occur, violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Angel Gabriel Ortiz Hernandez respectfully requests that this Honorable Court:

a. Assume jurisdiction over this matter;

b. Order that Petitioner not be transferred outside the Southern District of California while this Petition is pending;

c. Issue an Order to Show Cause directing Respondents to show cause, within three days, why the Petition should not be granted;

d. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody under appropriate conditions of supervision or, in the alternative, to afford Petitioner an individualized custody hearing;

e. Enjoin Respondents from removing Petitioner to any third country not designated in his removal proceedings without first providing him notice of the proposed country and a meaningful opportunity to seek protection from removal to it;

f. Declare that Petitioner's detention is unlawful; and

g. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted, Dated: August 17, 2026

/s/ Brad Thornton
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VERIFICATION

On this 17th day of August, 2026, I declare under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct to the best of my knowledge. I make this verification on behalf of Petitioner, Angel Gabriel Ortiz Hernandez, because Petitioner is currently detained and because of the urgent nature of the relief requested, and I am authorized to make this verification as a member of the legal team representing Petitioner.

/s/ Brad Thornton Date: 8-17-26
Brad Thornton, Esq.