Print Form

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PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 – IMMIGRATION CASES

INSTRUCTIONS – READ CAREFULLY

This sheet contains some of the Central District of California's rules and procedures that must be followed to file a petition under 28 United States Code (U.S.C.) Section 2241 challenging whether your immigration detention is legal. This information sheet is meant to be used for informational purposes only and is not legal advice.

1. **Who Should Use This Form.** This petition is intended for individuals in custody or otherwise subject to official restraint because they are in immigration proceedings or subject to removal. Do not use this form if you have been charged with or convicted of a criminal offense and seek to challenge your conviction, sentence, or some other aspect of your criminal proceedings.

2. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. A false statement of a material fact may lead to prosecution for perjury.

3. **Answer all the questions.** If you do not fill out the form properly, you may be asked to give more information. You may file this form along with more pages if necessary. All hard copy filings must be filed using paper sized 8½ by 11 inches. Do not use the back of any page. You may, but are not required to, attach documents relevant to your claims, such as a Notice to Appear, prior release order (such as an Order of Supervision or Order of Release on Own Recognizance), order of removal, or other ICE or immigration court documents.

4. **Name of Warden**: If you are in detention, the petition must name the warden of the facility where you are located as a Respondent.

5. **Required Filing Fee.** You must include the $5.00 filing fee required by 28 U.S.C. § 1914(a). If you are financially unable to pay the filing fee, fill out the attached Declaration and Application to Proceed In Forma Pauperis ("IFP") in a Federal Habeas Action. You must sign the IFP application.

6. **Consent.** Under the Court's rules, habeas cases are ordinarily assigned to a District Judge and referred to a Magistrate Judge. In such cases, the Magistrate Judge prepares a "Report and Recommendation" for a District Judge to review and issue a final decision. You can choose to have your entire case handled by a Magistrate Judge by filling out and signing the attached "Consent to Magistrate Judge" form. If you consent, and if the Respondent(s) consents, then your case will be assigned solely to a Magistrate Judge. The Court encourages parties to consent to a

Magistrate Judge. Consent allows the case to proceed before a single judicial officer and avoids the delay associated with the preparation and review of a "Report and Recommendation." However, consent is entirely voluntary and there is no penalty for declining consent.

7. **Submitting documents to the Court.** Mail your hard copy petition, your IFP application, and your Consent to Magistrate Judge form to:

   Clerk of the United States District Court for the Central District of California
   Edward R. Roybal Federal Building & U.S. Courthouse
   255 East Temple Street, Suite 180
   Los Angeles, California 90012
   ATTENTION: Intake/Docket Section

   If you want file-stamped copies of your petition, IFP application, and Consent Form, you must enclose an additional copy of each filing, a self-addressed stamped envelope, and include a cover sheet that asks the Court to file-stamp and return copies to you.

8. **Service of Petition.** After you submit your petition to the Court, the Court will review your petition and, if it meets legal requirements, the Court will serve it on the Government Respondent(s) if service has not already been accomplished.

9. **Answer or Response to Petition and Reply; deadlines.** After your petition has been served, the Court will issue an order that sets deadlines for the Government Respondent(s) to respond to the petition and for you to file a reply to Government Respondent(s)' response.

10. **Change of Address.** You are required to let the Court and other parties to the lawsuit know if your contact information changes. That includes if you are released from detention and have a new address as a result. This requirement ensures that all case filings can be sent to the correct mail address. For this reason, you must inform the Clerk's Office in writing of any changes to your contact information. Failure to keep a current address on file with the Clerk's Office may result in the dismissal of your case.

PETICIÓN DE AUTO DE HABEAS CORPUS CONFORME AL TÍTULO 28 U.S.C. § 2241 – CASOS DE MIGRACIÓN

FAVOR LEER ESTAS INSTRUCCIONES DETENIDAMENTE

Este aviso incluye algunas de las reglas y procedimientos del Distrito Central de California que deben cumplirse para presentar una petición para disputar la legalidad de su detención migratoria, conforme al Título 28 del Código Federal, Art. 2241. Este aviso tiene fines informativos únicamente, y no constituye asesoramiento legal.

1. **Quién debe llenar este formulario.** Esta petición es para aquellas personas que estén detenidas o sujetas a alguna restricción oficial porque se encuentren en trámites de migración o estén sujetas a deportación. No use este formulario si está acusado o ya fue condenado de un delito y pretende impugnar la condena, la pena o algún otro aspecto de su proceso penal.

2. **Cómo preparar la petición.** La petición debe estar mecanografiada o escrita en letra clara, y deberá firmarse bajo pena de perjurio. Puede que se le procese por perjurio si incluye alguna falsedad esencial. **Aunque las presentes instrucciones están en español, esta Petición y todo otro formulario procedente del tribunal y destinado a éste deben llenarse en inglés.**

3. **Responda todas las preguntas.** Puede que se le pida más información si no llenó el formulario debidamente. De ser necesario, agregue hojas al formulario, pero toda hoja debe ser tamaño carta. No escriba en el dorso de ninguna hoja. Si bien no se requiere, puede anexar documentos pertinentes a su petición, como la Notificación de Comparecencia, orden de excarcelación previa (orden de libertad vigilada u orden de libertad bajo palabra), orden de deportación, u otros documentos de ICE o de un tribunal de migración.

4. **Nombre del alcaide**: Si se encuentra detenido, su petición deberá nombrar como Demandado al alcaide de su reclusorio.

5. **Tasa judicial obligatoria.** Deberá incluir la tasa judicial de $5.00 que exige el Título 28 U.S.C. § 1914(a). Si no tiene los medios para pagar la tasa judicial de una acción federal de habeas corpus, deberá llenar la Declaración y Solicitud para Proceder In Pauperis (IFP) que se anexa. Deberá firmar esa solicitud IFP.

6. **Consentimiento.** Conforme a las reglas del Tribunal, los casos de habeas corpus generalmente se asignan a jueces de distrito y se remiten a jueces adjuntos. En esos casos, el juez adjunto prepara un "Informe y Recomendación" para que el juez de distrito lo revise y expida el fallo final. Si usted prefiere que un juez adjunto tramite todo su proceso, favor de llenar y firmar el "Consentimiento para proceder ante juez

adjunto” que se anexa. Si usted así lo consiente, y el Demandado también, su proceso se le asignará exclusivamente a un juez adjunto. El Tribunal exhorta a las partes a que den su consentimiento y procedan ante un juez adjunto. Esto permite que el caso proceda ante sólo un funcionario judicial y además evita las demoras ocasionadas por la preparación y la revisión del “Informe y Recomendación”. Sin embargo, este consentimiento es netamente voluntario y no habrá sanción alguna si prefiere no dar su consentimiento.

7. **Cómo presentar sus documentos en el Tribunal.** Envíe copias en papel de su petición, su solicitud IFP y su “Consentimiento a proceder ante juez adjunto” a:

   Clerk of the United States District Court for the Central District of California
   Edward R. Roybal Federal Building & U.S. Courthouse
   255 East Temple Street, Suite 180
   Los Angeles, California 90012
   ATTENTION: Intake/Docket Section

   Si desea recibir copias selladas de su petición, su solicitud IFP, y su “Consentimiento a proceder ante juez adjunto”, incluya una copia de cada presentación, un sobre con sello y dirección, y una portada en que se solicita al Tribunal que estampe los documentos y se los regrese a usted.

8. **Traslado de la petición.** Una vez presentada su petición en el Tribunal, el Tribunal la repasará y si reúne los requisitos legales, le correrá traslado al Demandado del gobierno, si es que no se ha corrido traslado todavía.

9. **Plazos para la contestación a la petición y la réplica.** Una vez que se haya dado traslado a su petición, el Tribunal expedirá una orden que dispone los plazos para que el Demandado del gobierno conteste la petición y para que usted presente su réplica a la contestación del Demandado.

10. **Cambio de dirección.** Usted está obligado a informar al Tribunal y a las otras partes de la demanda si ha habido algún cambio en sus datos de contacto. Esto incluye si lo han excarcelado y por lo tanto tiene nueva dirección. Por este motivo deberá informar a la Secretaría del Tribunal por escrito de cualquier cambio en sus datos de contacto, y puede que se desestime su caso si no informa a la Secretaría del Tribunal de su dirección actual.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FULL NAME Petitioner(s), v. NAME OF WARDEN Respondent(s).	CASE NUMBER: (leave blank – supplied by Clerk of Court)

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN IMMIGRATION CUSTODY (28 U.S.C. § 2241)

PERSONAL INFORMATION

1. (a) Your full name: ______________________________

   (b) Named used by immigration court if different than above: ______________________________

2. A-Number: ______________________________

3. Place of Detention: ______________________________

CURRENT DETENTION AND IMMIGRATION PROCEEDINGS

4. Date you were taken into present immigration custody or other official restraint:

____

5. Describe how and where you were taken into immigration custody:

6. What country or countries does the Government allege you are a citizen of?

____

7. Do you have an order of removal?

☐ Yes ☐ No

8. If yes, on what date was the removal order issued? ______________________

9. Which countries does the removal order designate for removal? ______________

10. Is the Government trying to remove you to a country or countries other than the countries designated in an order of removal?

☐ Yes ☐ No

11. If so, what country or countries? ______________________________

12. If you have an order of removal, provide the type of order:

☐ Removal order issued by an Immigration Judge (IJ)

☐ Expedited removal order

☐ Reinstated removal order

☐ Other: __________________

13. If an IJ issued the order of removal, did you waive an appeal to the Board of Immigration Appeals (BIA)?

☐ Yes ☐ No

14. If you appealed to the BIA, has the BIA dismissed your appeal?

☐ Yes ☐ No

15. If yes, on what date did the BIA dismiss your appeal?__________________________________

16. If the BIA dismissed your appeal, did you file a petition for review with the Ninth Circuit Court of Appeals?

☐ Yes ☐ No

17. If your case is pending at the Ninth Circuit, do you have a stay of removal?

☐ Yes ☐ No

18. Do you have a pending immigration case in which you are contesting the Government's removal charges or seeking relief from removal?

☐ Yes ☐ No

19. If yes, where is your case currently pending?

☐ Immigration Court

☐ BIA

☐ Ninth Circuit Court of Appeals. Provide Case Number: ____________________________

☐ Other ____

20. Has an IJ granted any applications for relief from removal?

☐ Yes ☐ No

21. If yes, on what date did the IJ grant the relief? ____

22. What type of relief from removal?

23. Have you had a bond hearing in immigration court?

☐ Yes ☐ No

24. If you answered "yes" to Question 23, then provide:

(a) Date of bond hearing: ____

(b) The IJ found that:

☐ I am not eligible for a bond hearing.

☐ I cannot be released because I am a danger or flight risk.

☐ I should be released on the following conditions:

☐ Other: ____

25. If you were denied release at a bond hearing, did you appeal to the BIA?

☐ Yes ☐ No

26. If you answered "yes" to Question 25, then provide:

(a) Date of Appeal to BIA: ____

(b) Outcome of Appeal

☐ Affirmed IJ bond decision

☐ Reversed IJ bond decision

☐ I am waiting for BIA bond decision

☐ Other: ____

27. If you answered “no” to Question 25, state if you plan to appeal to the BIA or, if not, explain why you do not plan to appeal to the BIA:

PREVIOUS DETENTION

28. Prior to your current detention, have you ever been detained and later released from immigration custody?

☐ Yes ☐ No

29. If you answered “yes” to Question 29, please describe all the periods in which you have previously been in immigration custody.

30. Were you subject to any conditions upon your previous release(s)?

☐ Yes ☐ No

31. If you answered “yes” to uestion 31, please describe any conditions of your previous release(s):

☐ Order of Supervision

☐ Order of Release on Recognizance

☐ Parole

☐ Other: ____

GROUNDS FOR YOUR PETITION

32. State every ground (reason) that supports your claim that you are being held or restrained unlawfully. State the facts supporting each ground. You may attach additional pages if necessary to provide legal arguments and supporting authority. You may also attach any documents relevant to your claims.

GROUND ONE:

Supporting facts:

GROUND TWO:

Supporting facts:

GROUND THREE:

Supporting facts:

REQUEST FOR RELIEF

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

DECLARATION UNDER PENALTY OF PERJURY

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

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: ______________________

____

Signature of Petitioner

____

Signature of Attorney or other authorized person, if any

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

____
Petitioner

CONSENT TO
MAGISTRATE JUDGE

____
Respondent(s)

I. NOTICE OF MAGISTRATE JUDGE'S AVAILABILITY

1. Under the Court's rules, habeas cases are ordinarily assigned to a district judge and referred to a magistrate judge. For any final ruling in the case, the assigned magistrate judge prepares a "Report and Recommendation" for the district judge to review. After reviewing the "Report and Recommendation," the district judge will make a final ruling.
2. A magistrate judge is available under 28 U.S.C. § 636 (c) to conduct all proceedings in this case, including a final ruling on your claims. However, a magistrate judge can handle all matters in the case if all parties voluntarily consent.
3. The Court encourages parties to consent to magistrate judge jurisdiction. Consent allows the case to proceed before a single judicial officer and avoids the delay associated with the preparation and review of a "Report and Recommendation."
4. However, consent is entirely voluntarily and you are free to withhold consent to magistrate judge jurisdiction. There is no penalty for declining consent.
5. If both parties consent to have a magistrate judge decide the case, the Court will determine whether to assign the case to a magistrate judge for all purposes. If the case is so assigned, the case will proceed only before the magistrate judge. Either party may appeal the magistrate judge's rulings directly to the Ninth Circuit Court of Appeals, as if a district judge had decided the matter.
6. If both parties do not consent to have a magistrate judge decide the case, the case will be assigned to a district court judge and referred to a magistrate judge.

II. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES

☐ **I consent and agree the case can be assigned only to a Magistrate Judge**

☐ **I do not consent that the case can be assigned only to a Magistrate Judge**

Executed on: ______________ ______________________________
Date *Signature of Petitioner*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

______________________________ PLAINTIFF/PETITIONER v. ______________________________ DEFENDANT/RESPONDENT	CASE NUMBER ______________________________ **REQUEST TO PROCEED IN FORMA PAUPERIS WITH DECLARATION IN SUPPORT**

I, ____ declare under penalty of perjury, that the foregoing is true and correct; that I am the petitioner/plaintiff in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefore, I state that because of my poverty I am unable to pay the costs of said proceedings or to give security therefore and that I am entitled to redress.

I further declare under penalty of perjury that the responses which I have made to the questions and instructions below are true, correct and complete.

1. Are you currently employed? ☐ Yes ☐ No

   a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer: ____
   ____

   b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. ____

2. Have you received, *within the past twelve months*, any money from any of the following sources?

Public benefits?	☐ Yes	☐ No
Business, profession or form of self-employment?	☐ Yes	☐ No
Rent payments, interest or dividends?	☐ Yes	☐ No
Pensions, annuities or life insurance payments?	☐ Yes	☐ No
Gifts or inheritances?	☐ Yes	☐ No
Any other income (other than listed above)?	☐ Yes	☐ No
Loans?	☐ Yes	☐ No
Any other income (other than listed above)?	☐ Yes	☐ No

   If the answer to any of the above is yes, describe such source of money and state the amount received from each source during the past twelve (12) months: ____
   ____
   ____

3. Do you own any cash, or do you have money in a checking or savings account? (include any funds in prison accounts, if applicable) ☐ Yes ☐ No

   If the answer is yes, identify each account and separately state the amount of money in each account for each of the *six (6) months* prior to the date of this declaration. ______________________________

   ____

   ____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ☐ Yes ☐ No

   If you answer is yes, describe the property and state its approximate value: ______________________

   ____

   ____

5. In what year did you last file an Income Tax Return? ______________________________

   Approximately how much income did your last return reflect? ______________________________

6. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support: ______________________________

   ____

   ____

7. Estimate your average monthly expenses below:

Housing		Credit Cards	
Transportation		Child Care	
Food		Insurance	
Medical		Loans	
Utilities		Other	

______________________________ ______________________________
State County (or City)

I, ______________________________ declare under penalty of perjury that the foregoing is true and correct. Executed on:

______________________________ ______________________________
Date Plaintiff (Signature)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PLAINTIFF(S) v. DEFENDANT(S).	CASE NUMBER **NOTICE OF RESOURCES FOR PRO SE LITIGANTS**

Parties in court without a lawyer are called "*pro se* litigants." These parties often face special challenges in federal court. *Pro se* litigants are required to comply with Court orders, the Local Rules, and the Federal Rules of Civil Procedure. See C.D. Cal. L.R. 83-2.2.3. The Local Rules are available on the Court's website, https://www.cacd.uscourts.gov/court-procedures/local-rules.

<u>Option for Submitting Documents Electronically:</u> *Pro se* litigants may submit documents for filing through the Court's Electronic Document Submission System (EDSS) instead of mailing or bringing documents to the Clerk's Office. Only internet access and an e-mail address are required. Documents are submitted in PDF format through an online portal on the Court's website. To access EDSS and for additional information, visit the Court's website at https://apps.cacd.uscourts.gov/edss.

<u>Option for Electronic Service of Court Documents:</u> All court documents for *pro se* litigants are served in paper format via U.S. Mail. However, if you have a PACER account and are a party in a pending case in the Central District of California, you can choose to receive automatic email notifications of new filings if you are representing yourself and not incarcerated; registration is optional, and opting for electronic service means you will no longer receive paper copies. In addition, if you choose to opt-in to electronic service, please be advised that you will only be able to access your document ONE TIME for free. Therefore, you must download or print the document the first time you view it as you will be charged for accessing the document a second or subsequent time. For more information, visit the Court's website at https://www.cacd.uscourts.gov/e-filing/electronic-filing-and-case-access-people-without-lawyers.

<u>Information and Guidance on Civil Litigation:</u> The Court cannot provide legal advice to any party, including *pro se* litigants, but there are free *"Pro Se Clinics"* that can provide information and guidance about many aspects of civil litigation in this Court. These *Pro Se* Clinics are operated by private nonprofits and are not affiliated with the Court. Please see the information below on how to contact the clinics and how to access the resources they have available.

Los Angeles

Public Counsel runs a free Federal *Pro Se* Clinic where *pro se* litigants can get information and guidance. The Clinic is located in Suite 170 at the Roybal Federal Building and Courthouse, 255 East Temple Street, Los Angeles, California, 90012. *Pro se* litigants can call or submit an on-line application to request services as follows: on-line applications can be submitted at https://publiccounsel.org/services/federal-court/ or call (213) 385-2977, ext. 270. The Clinic is also open for in-person consultations on a first come basis on Wednesdays from 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m., and offers virtual walk-in consultations on a first come basis on Thursdays, from 1:00 p.m. to 2:30 p.m. More information about the Clinic's services may be found at https://prose.cacd.uscourts.gov/los-angeles or https://publiccounsel.org/services/federal-court/.

Orange County

The Public Law Center runs a free Federal *Pro Se* Clinic where *pro se* litigants can get information and guidance. The Clinic is located at the Ronald Reagan Federal Building and United States Courthouse, 411 West 4th Street, Santa Ana, California in Room 1055. Note that the Clinic is open twice a week on a hybrid schedule. *Pro se* litigants may call to request an appointment at (714) 541-1010, ext. 222; walk-in appointments may be available on Thursdays from 10:00 a.m. to12:00 p.m. and 1:30 to 3:30 p.m. More information may be found by visiting https://prose.cacd.uscourts.gov/santa-ana and https://www.publiclawcenter.org/clinics/#federal-pro-se.

Riverside

The Public Service Law Corporation runs a free Federal *Pro Se* Clinic at the Riverside federal courthouse where *pro se* litigants can get information and guidance. The clinic is located in the 1st floor Clerk's Office of the George E. Brown Federal Building, 3420 12th Street, Riverside, California, 92501 (note that the clinic is open for in-person appointments on a first come basis Tuesdays and Thursdays from 9:00 a.m. to 3:00 p.m. until further notice). For more information, *pro se* litigants may call (951) 682-7968 or they may visit the *Pro Se* Home Page at https://prose.cacd.uscourts.gov/riverside.

Law Library Access

The LA Law Library, located across the street from the Felicitas and Gonzalo Mendez United States Courthouse at 301 W. First Street, Los Angeles, CA 90012, also has extensive resources for pro se litigants, including those in federal court. The LA Law Library provides the assistance of research librarians as well as access to computers for research. The LA Law Library can be reached via email at reference@lalawlibrary.org, or via telephone at (213) 785-2513.

The Orange County Public Law Library, located at 515 N. Flower St., Santa Ana, CA 92703, also extensive resources for pro se litigants, including those in federal court. The OC Law Library provides the assistance of research librarians as well as access to computers for research. The OC Law Library can be reached via telephone at (714) 834-3397. For more information, visit the OC Law Library's website at www.ocpll.org.