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14 UNITED STATES DISTRICT COURT  
15 CENTRAL DISTRICT OF CALIFORNIA

16 PEDRO GUZMAN; by and through  
17 his next friend, JUAN CARLOS  
CHABES,

18 Petitioner,

19 vs.

20 MICHAEL CHERTOFF, Secretary,  
21 Department of Homeland Security;  
JAMES T. HAYES, Field Office  
22 Director, U.S. Immigration and  
Customs Enforcement; RONALD J.  
23 KRAMER, Consul General of the  
United States; LEROY BACA,  
24 Sheriff of the County of Los Angeles;  
ROBERT OLMSTED, Captain, Los  
25 Angeles County Men's Central Jail

26 Respondents.  
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CASE NO.:

**PETITION FOR HABEAS RELIEF  
AND WRIT OF MANDAMUS;  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

1 LUCAS GUTTENTAG (SBN 90208)  
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18 \*Application for *Pro Hac Vice* Pending

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## INTRODUCTION

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2           1.     Petitioner Juan Carlos Chabes brings this action on behalf of his  
3 developmentally-disabled brother, Pedro Guzman, to compel the United States  
4 government to return him from Mexico after he was unlawfully deported on May  
5 10, 2007. Immigration authorities acting in concert with officials of the Los  
6 Angeles County Sheriff's Department deported Pedro Guzman to Tijuana,  
7 Mexico, even though he is a native-born United States citizen born and raised in  
8 Los Angeles County. There are no circumstances under which an American  
9 citizen may lawfully be deported from this country. Since learning of Mr.  
10 Guzman's illegal deportation on May 12, his family members (including Mr.  
11 Guzman's mother, Petitioner, and other relatives) have desperately and  
12 continuously searched for him for days and nights in Tijuana, Mexico without  
13 success. Petitioner now brings this action to force the federal government and  
14 L.A. County Sheriff's department to take all necessary measures to find his  
15 missing brother and return him safely to the United States, before he is seriously  
16 injured or even perishes. To date, federal officials have refused requests by family  
17 members and counsel to assist in the search for Mr. Guzman.

18           2.     Because Mr. Guzman is developmentally disabled and has mental  
19 health problems, he is unable to care for himself properly or take appropriate steps  
20 to obtain necessary assistance to assure his safety and well-being in Mexico and to  
21 facilitate his return home to Los Angeles. Mr. Guzman is not able to remember  
22 his family's telephone number. Mr. Guzman is not familiar with Tijuana, knows  
23 no one in the city and has insufficient resources to purchase food or shelter. Left  
24 on his own, Mr. Guzman is likely to be victimized by criminals. His family is  
25 justifiably concerned about his ability to survive on his own.

26           3.     The illegal deportation of Mr. Guzman is the consequence of  
27 practices and policies reflective of a reckless disregard for human life on the part  
28 of officials and personnel of the Department of Homeland Security ("DHS"),

1 including the Los Angeles District of the United States Immigration and Customs  
2 Enforcement ("ICE") Division, and administration of the Los Angeles County  
3 Men Central Jail working in conjunction with ICE. On January 25, 2005, the Los  
4 Angeles County Board of Supervisors approved a Memorandum of Understanding  
5 with DHS to create a pilot project in which Sheriff Department personnel  
6 interview convicted foreign-born inmates confined within the Los Angeles County  
7 Jail system to determine the inmates' immigration status and if the inmates are  
8 deportable under federal immigration law. Eight Sheriff's Custody assistants  
9 completed a brief training by ICE and, pursuant to the MOU, have been granted  
10 limited federal power, among other things, to refer inmates to ICE for deportation.  
11 When exercising federal immigrant enforcement powers, the Sheriff Department  
12 personnel are subject to the supervision and direction of ICE officers. In this case,  
13 ICE officers have not undertaken reasonable or prudent efforts to assure that  
14 County deputies interviewing and processing Mr. Guzman at the Inmate Reception  
15 Center ("IRC") of the County Jail are adequately familiarized with the  
16 complexities fo immigration law or even the basics of ascertaining and verifying  
17 U.S. citizenship status such that there existed a high likelihood of erroneous  
18 determination of Mr. Guzman's status.

19 4. Compounding these systemic deficiencies, the illegal deportation of  
20 Mr. Guzman is also a foreseeable result of the detrimental effect that jail  
21 overcrowding has produced on the ability of Los Angeles County Sheriff's  
22 Department to perform its mandated duties. In particular, the facts of the  
23 circumstances surrounding Pedro Guzman's incarceration and wrongful  
24 deportation - the failure of the Sheriff's department to properly identify his mental  
25 health issues, the rush to judgment on his citizenship status and the lack of  
26 accountability checks to ensure his rights were not violated - frame the reality of a  
27 jail system that is overcrowded and systemically (even chronically) in violation of  
28 federal, state and county law. The deputies who interviewed Mr. Guzman are

1 poorly versed in the complexities of immigration law and were bound to make this  
2 tragic error. Additionally, the deputies are pressured to process inmates through  
3 the Inmate Reception Center as quickly as possible with little regard for his rights,  
4 because there are so many inmates to process. The assumption that a group of  
5 deputies who have been well trained in lock-down procedures, but have received  
6 little training in immigration law, can make correct judgments as to who is and  
7 who is not a U.S. citizen has led to this horrific tragedy.

### 8 9 JURISDICTION AND VENUE

10 5. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. § 2241,  
11 as a habeas petition filed by a wrongfully deported United States citizen. See  
12 Rivera v. Ashcroft, 394 F.3d 1129, 1136-38 (9th Cir. 2004). Jurisdiction is also  
13 conferred pursuant to 28 U.S.C. § 1361, as a mandamus action to compel an  
14 officer or employee of the United States or any agency thereof to perform a non-  
15 discretionary duty owed to the Petitioner.

16 6. Venue is proper because all of the Defendant-Respondents are  
17 amenable to service of process in this district. See Braden v. 30th Judicial Circuit  
18 Court of Ky., 410 U.S. 484, 485 (1973) (“So long as the custodian can be reached  
19 by service of process, the court can issue a writ ‘within its jurisdiction’ . . .”).  
20 Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because this is  
21 a civil action in which the respondents are officers or employees of the United  
22 States or an agency thereof acting in their official capacity; a substantial part of  
23 the events or omissions giving rise to the claim occurred in the Central District of  
24 California; and the petitioner resides in the Central District of California and there  
25 is no real property involved in this action.

### 26 PARTIES

27 7. Petitioner Pedro Guzman (“Mr. Guzman”) is a native-born United  
28 States citizen. He resided in Lancaster, California until he was wrongfully

1 deported by the Los Angeles County Sheriff's Department and agents of the  
2 Department of Homeland Security. He is presently missing, presumably  
3 somewhere in Tijuana, Mexico.

4 8. Petitioner Juan Carlos Chabes ("Mr. Chabes") is a United States  
5 citizen and the a half brother of Pedro Guzman. He is a resident of Lancaster,  
6 California. Because Mr. Guzman cannot access the courts, his brother, Mr.  
7 Chabes, acts as his next friend. Mr. Chabes has searched for his brother after the  
8 government illegally deported him, but has been unable to find him. He has  
9 sought the aid of American authorities in order to secure assistance in the search,  
10 but his attempts to date have been ignored.

11 9. Respondent Michael Chertoff is sued in his official capacity as the  
12 Secretary of the Department of Homeland Security ("DHS"). In this capacity, he  
13 has responsibility for the administration and enforcement of the nation's  
14 immigration and naturalization laws pursuant to sections 102 and 402 of the  
15 Homeland Security Act of 2002, 6 U.S.C. § 112 and § 202, respectively. See also  
16 Immigration and Nationality Act (INA) § 102, 8 U.S.C. § 1103 (charging the  
17 Secretary of DHS with "administration and enforcement of . . . laws relating to the  
18 immigration and naturalization of aliens.").

19 10. Respondent James Hayes is the Field Office Director for the Los  
20 Angeles District of the United States Immigration and Customs Enforcement  
21 Division ("ICE") of the Department of Homeland Security. He is responsible for  
22 the enforcement of the immigration laws within this district.

23 11. Respondent Ronald J. Kramer is the Consul General for the United  
24 States Consulate in Tijuana, Mexico. He is responsible for protecting the interests  
25 of United States citizens located within his jurisdiction.

26 12. Respondent Leroy Baca is the Sheriff of Los Angeles County. In this  
27 capacity, he is responsible for the administration of the Los Angeles County  
28 Men's Central Jail and for the officers who have been deputized to act as

1 immigration agents in the jail.

2 13. Respondent Robert Olmsted is the Captain of the Los Angeles County  
3 Men's Central Jail. In this capacity, he is responsible for the administration of the  
4 jail and was the immediate custodian of Mr. Guzman at the time he was deported.

5 **FACTUAL ALLEGATIONS**

6 14. Pedro Guzman was born on September 25, 1977 in Los Angeles,  
7 California. He is the second of seven children.

8 15. Mr. Guzman grew up in Lancaster, California, with his mother and  
9 six siblings, the eldest of whom is Petitioner Juan Carlos Chabes. He attended  
10 grade school and high school in Lancaster, California.

11 16. Mr. Guzman is developmentally disabled and suffers from mental  
12 health problems. As a result, he attended special classes throughout his time in  
13 school. Nonetheless, he struggled in his studies and stopped attending high school  
14 after his junior year. One of the effects of his developmental disability is his  
15 inability to read or write well. In addition, he is unusually prone to the  
16 suggestions of others, due to his diminished mental abilities.

17 17. His inability to read well relates to his disability, not his greater skill  
18 in English than Spanish.

19 18. Mr. Guzman had not been to Tijuana for over ten years prior to his  
20 deportation.

21 19. Mr. Guzman was arrested for the misdemeanor offense of Trespassing  
22 upon Land under Cultivation, in violation of California Penal Code 602, on or  
23 about April 3, 2007. He was convicted of misdemeanor vandalism and sentenced  
24 on April 19, 2007. After Mr. Guzman apparently pled guilty, the judge suspended  
25 imposition of the sentence and placed Mr. Guzman on three years probation with a  
26 condition that he serve 120 days in County Jail, of which he received credit for 30  
27 days of combined good time and time served.

28 20. At some time after his sentencing, Mr. Guzman was transferred to the

1 Men's Central Jail in Los Angeles, California and processed thereto at the Inmate  
2 Reception Center. At his initial processing, he responded to a question by an  
3 immigration custody assistant as to his citizenship by stating that he was born in  
4 California.

5 21. Upon information and belief, Los Angeles County Sheriff's  
6 Department officials somehow identified him as a non-citizen unlawfully present  
7 in the United States, met with him at that jail, and obtained his signature on a  
8 document that ordered his removal to Mexico. Upon information and belief, Mr.  
9 Guzman did not knowingly and voluntarily authorize federal officials to deport  
10 him to Mexico. Upon information and belief, he was never taken before an  
11 Immigration Judge, let alone a judicial officer with authority to adjudicate the  
12 question whether he is a United States citizen.

13 22. Upon information and belief, at some time after his interview by  
14 Sheriff's Department officials, Mr. Guzman was transferred into the custody of  
15 Immigration and Customs Enforcement (ICE) officials and subsequently deported  
16 to Mexico.

17 23. On May 11, 2007, Mr. Guzman phoned his brother Juan Carlos at  
18 their home in Lancaster, California. Although Juan was not at home, Mr. Guzman  
19 spoke briefly with his sister-in-law, Vicki Chabes. He stated that he had been  
20 deported to Tijuana. Before Vicki could find out where exactly he was and give  
21 him instructions, the line was cut. She overheard him ask, "Where am I?". Mr.  
22 Guzman did not call back.

23 24. On May 12, 2007, several of Mr. Guzman's relatives, including his  
24 mother, brother and sister-in-law traveled to Tijuana, Mexico in an attempt to find  
25 Mr. Guzman. Relatives have remained in Tijuana, searching for him at various  
26 shelters, morgues, and other establishments, continuously since that time. His  
27 mother has returned for only two days during that time period. As of this time,  
28 Pedro Guzman remains missing.



1 return him to the United States violates Mr. Guzman's Fifth and Fourteenth  
2 Amendment rights to procedural and substantive due process and equal protection.

3 **COUNT TWO: VIOLATION OF EIGHTH AMENDMENT**

4 29. Paragraphs 1 through 28 are incorporated herein.

5 30. DHS's deportation of Pedro Guzman constitutes banishment in  
6 violation of the Eighth Amendment's prohibition against cruel or unusual  
7 punishments.

8 **COUNT THREE: MANDAMUS**

9 31. Paragraphs 1 through 30 are incorporated herein.

10 32. Mr. Guzman has a clear and certain right to issuance of the writ.  
11 Respondents have a nondiscretionary duty not to deport United States citizens and  
12 to ensure their return if they are wrongfully deported.

13 33. Mr. Guzman has exhausted all other available remedies. He is  
14 therefore entitled to mandamus relief.

15  
16 **PRAYER FOR RELIEF**

17 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 18 (1) Assume jurisdiction over this matter;
- 19 (2) Order that Respondents sua sponte rescind the removal order issued  
20 against Mr. Guzman;
- 21 (3) Enjoin Respondents from denying Mr. Guzman admission to the  
22 United States on any basis;
- 23 (4) Order Respondents to take all necessary measures to locate Mr.  
24 Guzman in Mexico and facilitate his return to the United States;
- 25 (5) Award reasonable costs and attorneys' fees and expenses pursuant to  
26 the Equal Access to Justice Act, 28 U.S.C. § 2412(d) and any other  
27 applicable law; and
- 28 (6) Grant such further relief as the Court deems just and proper.

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Dated: June 10, 2007

Respectfully submitted,

ACLU FOUNDATION OF  
SOUTHERN CALIFORNIA

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