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Attorneys for Petitioner Fredy Armando Martinez Lopez

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

FREDY ARMANDO MARTINEZ LOPEZ,

[A ],

Petitioner,

v.

KRISTI NOEM, SECRETARY OF
HOMELAND SECURITY; TODD M. LYONS,
ACTING DIRECTOR, UNITED STATES
IMMIGRATION AND CUSTOMS
ENFORCEMENT; PAMELA JO BONDI,
UNITED STATES ATTORNEY GENERAL;
JESUS ROCHA, ACTING FIELD OFFICE
DIRECTOR, ICE SAN DIEGO FIELD
OFFICE; CHRISTOPHER LAROSE,
WARDEN, OTAY MESA DETENTION
CENTER, in their official capacities,

Respondents.

Case No. '25CV2734 TWR VET

**PETITION FOR A WRIT OF
HABEAS CORPUS, PURSUANT TO
28 U.S.C. § 2241**

I.

INTRODUCTION

1. Petitioner Fredy Armando Martinez Lopez (hereinafter “Mr. Martinez” or “Petitioner”), a 43-year-old native and citizen of Guatemala, who has resided in Massachusetts since approximately 2006, respectfully petitions this Court for a writ of habeas corpus on the ground that he is being unlawfully detained and will likely be transferred to yet another distant detention center in another state, in violation of federal law and the Due Process Clause of the Fifth Amendment. Mr. Martinez’s detention is based on an unwarranted and unreasonable interpretation of 8 U.S.C. § 1225(b)(2)(A), and associated federal regulations, to detain noncitizens for expedited removal, even if they have resided in the United States for more than two years. Officers of United States Immigration and Customs Enforcement (hereinafter “ICE”), within the United States Department of Homeland Security, are holding Mr. Martinez in an unlawful and indefinite detention without bond, after he was arrested in Boston, Massachusetts by ICE agents while going to work with his brother on September 10, 2025.

2. Immediately after ICE agents arrested him in his home city of Boston, Mr. Martinez was taken to the Buffalo Federal Detention Facility in Batavia, New York. Before counsel for Mr. Martinez could even schedule an appointment to speak with him either by telephone or video, he was again moved to the Port Isabel Service Detention Center in Los Fresnos, Texas. He was then moved once again, this time to the Otay Mesa Detention Center in San Diego, California. He remains in ICE custody at the Otay Mesa Detention Center, as of the date of this petition.

3. Mr. Martinez is not married at the moment. He is a widower. His long time spouse, Richard Gene Seagoe, passed away on January 20, 2019. Prior to his untimely death, Mr. Seagoe and Mr. Martinez consulted with an immigration attorney in Boston, Massachusetts about

1 the process of legalizing Mr. Martinez's immigration status. Unfortunately, his spouse was
2 stricken with cancer, and was passed away fairly quickly. This tragic event, coupled with the
3 COVID-19 pandemic, sent Mr. Martinez into a severe depression, and he did not pursue any other
4 way to legalize his status.

5
6 4. Mr. Martinez requested a bond hearing with the United States Immigration Court,
7 but that bond request was withdrawn because there was no Notice to Appear for removal
8 proceedings under section 240 of the Immigration and Nationality Act, 8 U.S.C. § 1229a, filed
9 by the United States Department of Homeland Security. Furthermore, a Board of Immigration
10 Appeals decision purports to prohibit the release of noncitizens like Mr. Martinez on bond. See
11 Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025).

12
13 5. Mr. Martinez has no connection to any other state besides Massachusetts. His
14 entire time in the United States has been spent in Massachusetts, where he was married, and where
15 other family members and community connections are located. He fears being transferred to yet
16 another remote location where his access to counsel, family, and supporting community will be
17 severely curtailed, as it has been for a month already.

18
19 6. Mr. Martinez's Fourth Amendment and Due Process rights have been and continue
20 to be violated as of today. He remains in ICE custody and there is no Notice to Appear issued,
21 depriving him of the right to contest his removability before an immigration judge. Mr. Martinez
22 seeks his immediate release and an order from this Court preventing ICE from transferring again
23 to another location.

24 25 II.

26 JURISDICTION AND VENUE

27
28 7. This action arises under the Due Process Clauses of the Fifth Amendment to the
United States Constitution and the Administrative Procedure Act, Pub. L. 79-404.

1 14. Respondent Jesus Rocha is the Acting Field Office Director of the ICE San Diego
2 Field Office. He is in responsible for carrying out ICE's immigration detention operations in
3 San Diego, California. He is being sued in his official capacity.

4 15. Respondent Christopher La Rose is the Warden at Otay Mesa Detention Center.
5 He is in charge of overseeing the administration and management of the Otay Mesa Detention
6 Center, which houses immigration detainees such as Mr. Martinez. He is being sued in his
7 official capacity.
8

9
10 IV.

11 STATEMENT OF FACTS

12 16. Mr. Martinez entered the United States without inspection and has been a resident
13 of Massachusetts since at least 2006. To the best of his recollection, he has never been in removal
14 proceedings. For the last nineteen years, he has been living and working in the Boston,
15 Massachusetts area and has never applied for any sort of immigration benefit.
16

17 17. According to Mr. Martinez, on September 10, 2025 he was working with his
18 brother in downtown Boston. He had just exited his brother's work van when several masked
19 ICE agents came out of three unmarked vehicles and cornered them both and arrested them
20 without explanation. Other than their Hispanic appearance and being in work clothes, there is no
21 explanation as to why they would be approached by ICE agents.
22

23 18. As of today, Mr. Martinez has been denied release by ICE and has been transferred
24 to multiple locations, as detailed in the Introduction to this petition. He is currently detained at
25 the Otay Mesa Detention Center. His continued detention and move is not only clearly erroneous
26 and unreasonable but also unconstitutional.
27

28 19. At a minimum, Mr. Martinez seeks a writ of habeas corpus and release from
custody under bond. He claims that he is neither a danger to the community nor a flight risk, and

1 is being unreasonably held by ICE and must be released under bond or on an order of supervision.
2 Mr. Martinez further claims that detention and multiple moves to remote locations by ICE, is both
3 unreasonable and unconstitutional, and in violation of 8 U.S.C. §1226 and the Administrative
4 Procedures Act.
5

6 V.

7 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

8 20. No prior writ of habeas corpus has been made by Mr. Martinez.

9 21. No court has previously addressed the merits of Mr. Martinez's case.

10 22. Mr. Martinez contends that he is highly likely to win his application for relief
11 which includes asylum and withholding of removal before the immigration court. As of today,
12 however, the Department of Homeland Security has not even issued a Notice to Appear in order
13 to commence his removal proceedings.
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16 VI.

17 **CAUSES OF ACTION**

18 **COUNT ONE**

19 *Violation of 8 U.S.C. § 1357(a)(2):*
20 *Warrantless Arrests Without Probable Cause of Flight Risk*

21 23. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation
22 in the preceding paragraphs as if fully set forth herein.
23
24

25 24. Respondents ICE arrested Petitioner without probable cause and without warrants.
26 Before his arrest, Respondents failed to make an individualized finding of flight risk. The failure
27 to meet these requirements is a violation of 8 U.S.C. § 1357(a)(2).
28

COUNT TWO

***Violation of 8 C.F.R. § 287.8(c)(2)(ii):
Warrantless Arrests Without Probable Cause of Flight Risk***

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

26. Respondents ICE arrested Petitioner without a warrant and without “reason to believe” that he was “likely to escape before a warrant can be obtained” in violation of 8 C.F.R. § 287.8(c)(2)(ii). The reason to believe standard meets the probable cause standard of the Fourth Amendment. *Perez Cruz v. Barr*, 926 F.3d 1128, 1137 (9th Cir. 2019).

27. Arrest in violation of the regulation is unlawful. *See Sanchez v. Sessions*, 904 F.3d 643, 650 (9th Cir. 2018); *Perez Cruz v. Barr*, 926 F.3d 1128, 1137 (9th Cir. 2019).

COUNT THREE

Fourth Amendment: Arrests Without Probable Cause

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

29. The Fourth Amendment prohibits Respondents from arresting an individual for an immigration violation without probable cause.

30. Respondents ICE arrested Petitioner without probable cause that he was a noncitizen unlawfully in the United States.

COUNT FOUR

(Failure to Identify Officers and Basis for Arrest in Violation of 8 C.F.R. § 287.8(c)(3))

31. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

32. The regulations require arresting officers identify themselves as “an immigration officer who is authorized to execute an arrest” and “state that the person is under arrest and the reason for the arrest.” 8 C.F.R. § 287.8(c)(3).

1 33. Respondent ICE failed to identify themselves at the time of arrest and failed to inform
2 Petitioner of the reasons for his arrest.

3 **COUNT FIVE**
4 ***(Violation of Due Process)***

5 34. Petitioner incorporates the allegations in the paragraphs above as though fully set
6 forth here.

7 35. The government may not deprive a person of life, liberty, or property without due
8 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
9 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
10 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653
11 (2001).

12 36. The government’s detention of Petitioner violates his rights to due process because he
13 has been detained without lawful authority, infringing on his fundamental right to liberty.
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VII.

PRAYER FOR RELIEF

WHEREFORE, in view of the arguments and authority noted herein, the Petitioner respectfully requests that this Court grant the following relief:

1.order his immediate release, or set a bond hearing under the proper standard as soon as practicable; or in the alternative;

2.issue an order directed to the Respondents to show cause why the Petitioner should not be released from custody;

3.grant Petitioner reasonable attorney's fees; and

4.grant Petitioner such other and further relief as the Court determines appropriate.

Respectfully Submitted,

Dated: October 15, 2025

s/ Lori B. Schoenberg

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Dated: October 15, 2025

s/Carlos E. Estrada*

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**Application for admission pro hac vice forthcoming.*