UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Jhandry Guerrero Espinoza **Plaintiff,** **v.** **Immigration and Customs Enforcement,** **Sam Olson, ICE Chicago Field Office Director,** **Department of Homeland Security** **Respondents**	**Case No.: 25-cv-13629**

PETITION FOR WRIT OF HABEAS CORPUS

(28 U.S.C. § 2241)

INTRODUCTION

1. Petitioner, Jhandry Guerrero Espinoza, is a citizen of Ecuador who is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Chicago field office.

2. Petitioner's asylum application is currently active and awaiting adjudication in removal proceedings.

3. On November 6, 2025, Petitioner complied with ICE's instructions and appeared for his scheduled check-in appointment. Instead of permitting him to complete the check-in and return home, ICE arrested him without prior notice. *See* **Exhibit 1 (Confirmation of ICE Check-In Appointment).**

4. Petitioner's arrest was unlawful and punitive, serving no legitimate governmental purpose in light of his consistent compliance with immigration procedures and the pendency of his asylum claim.

5. ICE may imminently transfer Mr. Guerrero Espinoza to another state, thereby frustrating his access to counsel and this Court's jurisdiction.

6. Petitioner therefore seeks relief from this Court under 28 U.S.C. § 2241.

JURISDICTION AND VENUE

7. This Court has jurisdiction pursuant to 28 U.S.C. § 2241, as Petitioner is in custody in violation of the Constitution and laws of the United States.

8. Venue is proper in this Court because Petitioner was arrested by ICE in Chicago Field Office, Illinois, which lies within this judicial district. Respondents, including the ICE Chicago Field Office, exercise custody and authority within this district.

LEGAL STANDARD

9. Habeas corpus under 28 U.S.C. § 2241 is to challenge unlawful immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).

10. The Seventh Circuit has held that habeas relief is available when detention is imposed without individualized findings or serves no valid purpose. *Gonzalez v. O'Connell*, 355 F.3d 1010, 1018–19 (7th Cir. 2004); *Parra v. Perryman*, 172 F.3d 954, 958 (7th Cir. 1999). Even where some bond procedures are restricted, due process still requires that detention be justified by a legitimate, nonpunitive purpose. *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018); *Demore v. Kim*, 538 U.S. 510, 532 (2003).

11. Based on the recent BIA decision in *Matter of Hurtado*, 28 I&N Dec. 428 (BIA 2022), Petitioner will not be afforded a bond hearing.

12. The Administrative Procedure Act also requires agency actions to be lawful, reasoned, and not arbitrary. 5 U.S.C. § 706(2)(A).

PARTIES

13. Petitioner, Jhandry Guerrero Espinoza, is a citizen of Ecuador who is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Chicago field office.

14. Respondent U.S. Immigration and Customs Enforcement (ICE) is the federal agency within the Department of Homeland Security responsible for the arrest, detention, and removal of noncitizens, and it exercises legal authority over Petitioner's custody.

15. Respondent, Sam Olson, Field Office Director for ICE in Chicago, Illinois, is responsible for ICE enforcement operations within this district and exercises authority over Petitioner's detention.

16. Respondent, Department of Homeland Security ("DHS"), is the federal department responsible for the enforcement of immigration laws, including the administration of

detention and removal operations through its component agencies, ICE and U.S. Citizenship and Immigration Services ("USCIS").

FACTUAL BACKGROUND

17. Petitioner entered the United States on or about March 12, 2024.

18. Petitioner was subsequently served with a Notice to Appear ("NTA"), reaffirming his classification as an alien present in the United States who has not been admitted or paroled and therefore subject to custody under INA § 236. *See* **Exhibit 2 (Notice to Appear).**

19. On July 31, 2024, Petitioner filed a Form I-589 Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture, which remains pending before the Chicago Immigration Court.

20. Petitioner's asylum application is currently active and awaiting adjudication in removal proceedings.

21. On November 6, 2025, Petitioner appeared as directed for his scheduled ICE check-in appointment after receiving written notice from ICE.

22. Petitioner complied fully with ICE's instructions and appeared at the designated ICE office in Chicago.

23. Rather than allowing Petitioner to check in and return home, ICE officers arrested him immediately and without prior notice.

24. Petitioner was provided no individualized explanation as to why his detention was necessary, despite his demonstrated compliance and pending asylum proceedings.

25. ICE frequently transfers detainees to remote facilities out of state, which would deprive Petitioner of meaningful access to counsel and this Court.

26. Petitioner has no significant criminal history, strong ties to the community, and has consistently complied with all immigration requirements.

LEGAL CLAIMS

Count I: Violation of Due Process (Fifth Amendment)

27. Petitioner's detention without an individualized assessment violates the Due Process Clause of the Fifth Amendment. He appeared for his ICE check-in as required and was taken into custody without warning, explanation, or an opportunity to contest the need for detention.

28. The Supreme Court has long recognized that "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

29. Arresting Petitioner while he complied with ICE's notice undermines fairness and results in arbitrary loss of liberty. The Constitution requires that detention serve a legitimate purpose and that noncitizens receive meaningful process. *Demore v. Kim*, 538 U.S. 510, 532 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018).

Count II: Unlawful and Arbitrary Detention under 8 U.S.C. § 1226(a)

27. Petitioner entered the United States without inspection in or around March 2024 and has remained continuously present since that time. He has classified as an alien present in the United States who has not been admitted or paroled and is therefore detained under 8 U.S.C. § 1226(a), not as an "arriving alien." *See Matter of Oseiwusu*, 22 I&N Dec. 19, 21 (BIA 1998); *Jennings v. Rodriguez*, 583 U.S. 281, 287–88 (2018).

28. Under § 1226(a), the government may detain individuals in removal proceedings only after making an individualized determination that custody is necessary to ensure appearance at hearings or to protect the community.

29. The Fifth Amendment requires that civil immigration detention be justified by a legitimate, nonpunitive purpose and supported by individualized findings. *See* Parra v. Perryman, 172 F.3d 954, 958 (7th Cir. 1999).

30. Petitioner was taken into ICE custody during a routine check-in without any prior notice, individualized custody determination, or consideration of less restrictive alternatives to detention. ICE has not provided a written explanation for the necessity of his continued detention.

31. Treating Petitioner's detention as mandatory and indefinite without an individualized bond hearing violates due process and exceeds the government's lawful authority under § 1226(a).

32. The Seventh Circuit has recognized that detention without individualized findings raises serious constitutional concerns and is subject to habeas corpus review. *See* Gonzalez v. O'Connell, 355 F.3d 1010, 1019 (7th Cir. 2004).

Count III: Unjustified Detention in Violation of Due Process

33. ICE's actions subject Petitioner to unnecessary and unjustified detention, even though his asylum case is pending and he has complied with all administrative requirements. Detention imposed without individualized safeguards is constitutionally problematic. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

34. The Seventh Circuit has recognized that detention lacking individualized findings raises serious due process concerns. *Gonzalez v. O'Connell*, 355 F.3d 1010, 1020 (7th Cir. 2004). Petitioner's sudden confinement prevents him from preparing his asylum case and punishes him despite the absence of a removal order. Such detention exceeds statutory authority and violates constitutional due process.

Count IV: Arbitrary and Capricious Agency Action (Administrative Procedure Act, 5 U.S.C. § 706)

35. The Administrative Procedure Act requires that agency action not be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

36. ICE's decision to arrest and detain Petitioner during a routine check-in, despite his compliance with immigration requirements, constitutes arbitrary and capricious agency action. ICE failed to provide any explanation, individualized findings, or consideration of less restrictive alternatives.

37. By acting in a manner that disregards Petitioner's history of compliance, lack of criminal record, and pending asylum application, ICE exceeded its lawful authority and violated APA's requirement of reasoned decision-making.

38. As such, ICE's actions are unlawful under 5 U.S.C. § 706, and this Court may set them aside as arbitrary, capricious, and contrary to law.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from custody under reasonable conditions of supervision;
B. In the alternative, order Respondents to provide Petitioner with a prompt and meaningful individualized custody redetermination hearing under 8 U.S.C. § 1226(a) before an Immigration Judge, including written findings explaining the basis for any continued detention and consideration of less restrictive alternatives to confinement; and
C. Grant such other and further relief as the Court deems just, equitable, and proper.

Dated: 11/06/2025

Respectfully Submitted

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