

United States District Court
Eastern District of Michigan

Elio Calderon Aguilar,

Petitioner,

v.

Civil No. 2:25-cv-12831
Honorable Robert J. White

Angela Dunbar, Warden, North Lake
Processing Center, Robert Lynch, ICE
Field Office Director, Kristi Noem,
Secretary of the Department of
Homeland Security;
and Pamela Bondi,
Attorney General of the United States,

Respondents.

Petitioner's Reply To Respondent's Opposition to Petitioner's Amended
Request for a Writ of Habeas Corpus

1. Petitioner does not object to the dismissal of all Respondents except for Robert Lynch, ICE Field Office Director.
2. This Court should grant Petitioner's Writ and release him from detention. Petitioner's final order of removal is from 2003. For ICE to detain Petitioner now, after more than 20 years, and to keep him detained indefinitely, without the opportunity for a custody redetermination or immigration court hearing of any sort, constitutes cruel and unusual punishment and denies Petitioner his basic right to constitutional due process.

3. Petitioner's "encounter" with ICE on August 13, 2025, was not an "encounter". Rather, it was a forcible and unnecessary arrest. Petitioner and his husband were in their car when they were surrounded by five police cars. Armed and masked officers exited their vehicles and proceeded to arrest Petitioner without explanation and without cause. Petitioner was not notified that his 2003 removal order had been reinstated until August 25, 2025, 12 days after he was detained. Petitioner is not a criminal and not a danger to society. Petitioner has been married to his U.S. citizen husband since 2017 and has been peacefully living in Dearborn, Michigan, since 2014.

5. On October 6, Petitioner's credible fear interview was conducted.

6. If the interviewing officer determines that Petitioner has a credible fear of returning to Honduras, the immigration court will schedule a hearing for withholding only proceedings. If the interviewing officer's determination is negative, Petitioner can request a review by an immigration judge. In either case, however, there is simply no reason to detain Petitioner while this process continues.

7. In addition to the above, Petitioner should be released from custody as he suffers from more than one serious medical condition, including being HIV positive and diabetic.

8. Under 28 U.S.C. §2241, a district court may grant a writ of habeas corpus if

a petitioner is in federal custody in violation of the Constitution or a federal law.

9. 8 U.S.C. § 1231(2)(A) provides for mandatory detention under sections 1182(a)(2), 1182(a)(3)(B), 1227(a)(2), or 1227(a)(4)(B). § 1182(a)(2) pertains to individuals convicted of certain crimes, which Petitioner has not been convicted of. *Villegas de la Paz v. Holder*, § 1182(a)(3)(B) pertains to terrorists, which Petitioner is not. § 1227(a)(2) pertains to individuals convicted of multiple crimes of moral turpitude, aggravated felonies, or similar, none of which apply to Petitioner, and § 1227(a)(4)(B) pertains to individuals whose presence or activities in the United States would have potentially serious adverse foreign policy consequences for the United States. Petitioner is not that individual. Petitioner's detention is, in fact, improper under 8 U.S.C. § 1231.

10. While Petitioner does not agree with Respondent's decision to reinstate his final order of removal, the reinstatement itself does not require that Petitioner be detained.

11. Petitioner has the right to request withholding of removal and possible other forms of relief. Respondents do not have the right, however, to detain Petitioner while he exercises these rights.

12. The only issue before this Court is whether ICE has legal authority to detain Respondent, and it does not.

13. There is no court, other than this one, that has jurisdiction to determine if

Respondent can and should be released from custody while he pursues his entitlement to relief in the immigration court.

For the reasons stated above, Petitioner requests this Court to grant his writ and release him from custody.

Respectfully submitted,

/s/Francyne Stacey
Attorney for Petitioner

Certificate of Service

I certify that on October 8, 2025, I electronically filed Petitioner's Reply to Respondent's Opposition to Petitioner's Amended Request for a Writ of Habeas Corpus with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

/s/Francyne Stacey
Attorney for Petitioner