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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

DANIEL JAMES CUMMINS,

Petitioner,

vs.

MOISES BECERRA, Field Office Director,
ICE/San Francisco;

RON MURRAY, Warden, Mesa Verde ICE
Processing Center;

KRISTI NOEM, Secretary of Homeland
Security;

ERIC GRANT, Attorney General of the United
States,

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241
AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF

**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

I. INTRODUCTION

Petitioner Daniel James Cummins respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 and seeks declaratory and injunctive relief based on violations of his statutory and constitutional rights. Mr. Cummins, a 35-year-old Irish national with no criminal convictions, has been wrongfully held in U.S. Immigration and Customs Enforcement (ICE) custody at Mesa Verde Detention Facility for nearly three months despite:

- His complete dismissal of all criminal charges,
- A pending I-589 asylum application based on changed circumstances,
- A serious and life-threatening medical condition (chronic pulmonary aspergillosis caused by Valley Fever),
- The submission of a detailed humanitarian parole request on **November 19, 2025**, to which **ICE has failed to respond**, and
- A recent **physical assault while in ICE custody**.

Mr. Cummins' prolonged detention constitutes a violation of the Fifth Amendment's Due Process Clause and federal statutory protections under the INA. He urgently seeks immediate release under federal habeas corpus authority and a temporary restraining order under FRCP 65(b), as ICE's continued custody poses irreparable harm to his health and safety.

II. JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), § 1331 (federal question), § 1651 (All Writs Act), and Article I, § 9, cl. 2 of the United States Constitution.

Venue is proper under 28 U.S.C. § 1391(e) and § 2241(d) as Mr. Cummins is detained at **Mesa Verde ICE Processing Facility** in Bakersfield, California, and ICE's San Francisco Field Office is responsible for his custody.

III. PARTIES

- **Petitioner-Plaintiff:** Daniel James Cummins, Irish citizen, detained by ICE.
- **Respondents-Defendants:**
 - U.S. Attorney General
 - Acting ICE Director
 - San Francisco Field Office Director
 - Warden, Mesa Verde ICE Processing Center

IV. FACTUAL BACKGROUND

A. Personal and Immigration History

- Mr. Cummins entered the United States in 2018 under the Visa Waiver Program and has resided here for over **8 years**.

- He is **engaged to a U.S. citizen**, maintains deep community ties, and has no prior immigration violations.
- He filed an **I-589 asylum application** on November 17, 2025, based on **newly diagnosed chronic Valley Fever**.

B. Medical Emergency: Chronic Pulmonary Aspergillosis

- Mr. Cummins was diagnosed with **chronic pulmonary aspergillosis** caused by **Coccidioidomycosis (Valley Fever)**, a fungal disease endemic to California that is **not treatable in Ireland**.
- He is under the care of (UCSF), who confirmed his condition requires **specialist antifungal treatment and lung imaging**, not available in his home country.
- ICE has been **non-responsive** to medical records and a parole request urgently filed on **November 19, 2025**.

C. Physical Assault in Detention

- On or about **December 8, 2025**, Mr. Cummins was physically assaulted by another detainee while in ICE custody.
- Despite notifying ICE and submitting medical documentation, **ICE has failed to act**.

V. CLAIMS FOR RELIEF

1. Violation of the Fifth Amendment Due Process Clause

The Fifth Amendment prohibits the government from depriving any person of liberty without due process. Civil immigration detention must be **reasonably related to its purpose** of ensuring appearance at removal proceedings and protecting the public.

- See **Zadvydas v. Davis**, 533 U.S. 678 (2001): Holding that indefinite detention violates due process unless removal is reasonably foreseeable.
- See also **Demore v. Kim**, 538 U.S. 510 (2003): Acknowledging limited duration and purpose of mandatory detention.

Mr. Cummins' continued detention despite dismissed criminal charges, a pending asylum claim, and urgent medical needs is **punitive**, excessive, and violates substantive due process.

2. Violation of INA and Implementing Regulations

- Mr. Cummins is not subject to mandatory detention under INA § 236(c) as his charges were dismissed.

- ICE has not provided a **custody redetermination hearing**, violating **8 C.F.R. § 1236.1(d)(1)**.
- See *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), vacated on other grounds: Holding detainees are entitled to individualized bond hearings after prolonged detention.

3. Failure to Consider Parole Request (Humanitarian Grounds)

- Under **8 C.F.R. § 212.5(b)** and **ICE Parole Directive 11002.1**, ICE may release noncitizens for urgent humanitarian reasons.
- Mr. Cummins meets criteria: (a) life-threatening illness, (b) strong ties in the U.S., and (c) compliance history.
- See *Bermudez v. DHS*, No. 2:20-cv-01098 (C.D. Cal. 2020): ICE's failure to adjudicate parole may violate the APA and Due Process.

4. Request for Immediate Release Under Habeas Corpus

- Habeas corpus relief is proper where continued detention lacks a legal basis and poses health risks.
- See *Munoz v. Wolf*, 2020 WL 1542138 (S.D. Cal. 2020): COVID-risk based release ordered for detainee with lung condition.
- See *Basank v. Decker*, 2020 WL 1481503 (S.D.N.Y. Mar. 26, 2020): Recognizing that pretrial civil detainees with health vulnerabilities cannot be held during emergencies without justification.

VI. PRAYER FOR RELIEF

Petitioner respectfully requests this Court to:

1. Issue a **Writ of Habeas Corpus** under 28 U.S.C. § 2241 ordering his **immediate release**;
2. Grant a **Temporary Restraining Order and/or Preliminary Injunction** restraining ICE from removing or transferring Mr. Cummins pending adjudication;
3. Declare that ICE's detention is **unlawful** and **violative of the Fifth Amendment** and federal law;
4. Order ICE to **adjudicate** the pending humanitarian parole request filed on **November 19, 2025**;
5. Award attorney's fees and costs under the **Equal Access to Justice Act**, 28 U.S.C. § 2412;
6. Grant any further relief as the Court deems just and proper.

Respectfully submitted,

Date: December 15, 2025

/S/RobertG.Cummings
Robert G. Cummings
Attorney for Petitioner