

MOTION TO AMEND PETITION FOR WRIT OF HABEAS CORPUS

(28 U.S.C. § 2241)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CHRISTINA MARTINEZ,
Petitioner (Pro Se),

v.

RICHARD K. JONES, et al.,
Respondents.

MOTION TO AMEND PETITION FOR WRIT OF HABEAS CORPUS

Petitioner **Christina Martinez**, proceeding **pro se**, respectfully moves this Court for leave to amend her Petition for Writ of Habeas Corpus pursuant to **Federal Rule of Civil Procedure 15(a)(2)**. This Motion is filed **before adjudication on the merits**, and amendment is sought to clarify jurisdictional grounds and narrow the petition to a **pure unlawful-custody claim**.

Leave to amend should be freely given where justice so requires. *Foman v. Davis*, 371 U.S. 178, 182 (1962).

I. PURPOSE OF AMENDMENT

Petitioner seeks to amend her habeas petition to:

1. **Exclude all medical-care allegations;**
2. **Clarify that the petition challenges only the legality of her arrest and detention;**
3. **Assert that ICE custody is the direct fruit of an unlawful arrest initiated by Montgomery County, Ohio;**
4. **Establish that no valid or timely ICE warrant existed at the time custody was imposed;**

5. **Seek immediate release** as the sole remedy.

This amendment eliminates any “conditions of confinement” issues and places the petition squarely within the **core purpose of habeas corpus** – unlawful custody.

II. FACTUAL BASIS (AS AMENDED)

1. On **August 13, 2025**, Petitioner was a **passenger**, not a driver, during the incident leading to arrest.
 2. Petitioner was arrested by Montgomery County, Ohio, for **obstructing official business**, despite:
 - o No active warrant,
 - o No probable cause attributable to Petitioner,
 - o No criminal conduct as a passenger.
 3. Petitioner was booked into **Montgomery County Jail** and detained for approximately **34 days**.
 4. On **September 17, 2025**, all criminal charges were **dismissed**.
 5. Upon dismissal, Petitioner was **not released**, but instead transferred into ICE custody.
 6. At the time of transfer:
 - o **No ICE warrant had been issued contemporaneously with the arrest;**
 - o No judicial warrant supported continued detention;
 - o ICE paperwork was generated **after the fact**, while Petitioner was already in custody.
 7. Petitioner has **no criminal history**, no convictions, and no history of violence.
 8. Petitioner poses **no threat to public safety or homeland security**.
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III. LEGAL ARGUMENT

A. Habeas Relief Is Proper Where Custody Flows from an Unlawful Arrest

Habeas corpus lies where detention violates the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).

An arrest unsupported by probable cause violates the **Fourth Amendment**, and custody flowing directly from such arrest is unlawful.

Brown v. Illinois, 422 U.S. 590, 601 (1975).

Where later detention is the **direct product of an initial unlawful seizure**, habeas relief remains available.

United States v. Crews, 445 U.S. 463, 470 (1980).

B. Passenger Status Eliminates Probable Cause

The Supreme Court has made clear that **mere presence** in a vehicle does not create probable cause.

- *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979)
- *United States v. Di Re*, 332 U.S. 581, 593 (1948)

Petitioner's arrest as a **passenger**, absent individualized suspicion, was unconstitutional.

C. ICE Lacked a Valid or Timely Warrant

ICE may not rely on civil detainers or post-hoc administrative paperwork to justify warrantless detention.

- An ICE Form I-200 or I-205 is **not a judicial warrant**
Morales v. Chadbourne, 793 F.3d 208, 217 (1st Cir. 2015)
- Warrantless immigration arrests must comply with **Fourth Amendment timing and probable-cause requirements**
Gonzalez v. ICE, 975 F.3d 788, 807 (9th Cir. 2020)

Petitioner was already restrained when ICE documents were produced, rendering custody unconstitutional.

D. §1252 Does Not Bar Review of a Pure Fourth Amendment Custody Challenge

Petitioner does **not** challenge:

- A final order of removal,
- Discretionary enforcement decisions,
- The merits of immigration proceedings.

She challenges **only the legality of her arrest and detention.**

The REAL ID Act does **not** strip jurisdiction over constitutional habeas claims challenging unlawful custody.

INS v. St. Cyr, 533 U.S. 289, 314 (2001).

District courts retain jurisdiction over **pure detention challenges** under §2241.

Demore v. Kim, 538 U.S. 510, 517 (2003).

IV. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

1. **Grant leave to amend** the Petition for Writ of Habeas Corpus;
 2. Find that Petitioner's arrest and detention violate the **Fourth Amendment**;
 3. Order **immediate release from custody**;
 4. Grant any further relief the Court deems just and proper.
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Respectfully submitted,

Christina Martinez 

Petitioner, Pro Se
Butler County Jail
Hamilton, Ohio

Date: January 30, 2026