

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

NO IFP

FILED
CLERK, U.S. DISTRICT COURT

DEC 10 2025

CENTRAL DISTRICT OF CALIFORNIA
BY LP DEPUTY

Hector Jose Martinez Lopez
Petitioner

v.

Case No. 5:25-cv-03607-KK-ADS
(Supplied by Clerk of Court)

Department of Homeland Security
Adelanto ICE Processing Center Warden ET.91
Respondent
(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Hector Jose Martinez Lopez
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: Adelanto ICE Processing Center - Warr
(b) Address: 10250 Ranchero Road
Adelanto CA 92301
(c) Your identification number: _____
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
Department of Homeland Security (B.H.C) ICE
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☒ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. A false statement may lead to prosecution.
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and _____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

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- ☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: _____

~~(b) Docket number, case number, or opinion number: _____~~

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): _____

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) ~~Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?~~

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

May 23rd 2025

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☐ No

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C 2241

Grounds for your Challenge in This Petition

GROUND ONE: Fourth Amendment

Petitioner was Illegally Detained BY ICE- Department of Homeland Security when petitioner encounter by mask men May 23rd 2025 petitioner was asking the individuals to identified them self but there was no response they then handcuff petitioner asking no question because of my accent and I don't speak English so good petitioner was scarred of my life

389 (1932). Courts have framed the obligation for an agency to follow its own regulation as deriving from 706 (2) (A) or other APA provisions. See eg., *Suncor Energy (U.S.A) Inc . V United States Env't Prot. Agency.*, 50 F. 4th 1339, 1352 (10th Cir. 2022)(holding that EPA action violated 706 (2) (A) because it ignored the agency's regulatory definition of facility) ; *Kidd v. Mayorkas* , 734 F. Supp. 3D 967 , 983-984 (C.D Cal. 2024) (ICE policy of warrant less " knock and talk " violated agency's regulation and thus 706 (2) (A). Agencies must adhere to internal procedures designed to provide protection to individuals. *Morton v Ruiz*, 415 U.S 199, 235 (1974) (where the right of individuals are affected , its is incumbent upon agencies to follow their own procedures. See also *Lopez*, 318 F. 3d at 247; *Beshir v. Holder*, 853 F. Supp . 2D 1, 11 (D.D.C 2011) (DHS Secretary's discretion to issues procedures rule pausing processing of adjustment of status application limited by regulation requiring adjudicate

GROUND TWO :FIFTH AMENDMENT

Petitioner due process was violated due to political retaliation with the Trump administration because petitioner is from Venezuela petitioner is getting ill treatment

The Due Process Clause of the Fifth Amendment required the Government to provide due process of law before it deprives someone of life liberty or property. Under judicial precedent the Clause promise more than fair process: It also provides heightened protection against government interference with certain fundamental rights and liberty interested. When a fundamental right is at stake, the Government can act only by narrowly tailored means that serve a compelling state interest. Identifying enumerated rights carries a serious risk of judicial overreach, so the U.S Supreme Court exercise the utmost care whenever it is asked to break new ground in this field. To that end , *Glucksberg's*-two-step inquiry disciplines the substantive due process analysis. First, it insists on a careful description of the asserted fundamental liberty interest. Second, it stress that the Due Process Clause specially protects only those fundamental rights and liberties which are, objectively, deeply rooted in this Nation History and tradition.

GROUND THREE :

This Action arise under the Constitution of the United States and the Immigration and Nationality Act (INA) 8 U.S.C 1101 et seq.. as amended by the Illegal Immigration Reform and Immigrant Responsibility Act 1996 (IIRIRA) , Pub L. No 104-208, 110 Stat 1570 and Administrative , Procedure Act (A.P.A) . 5 U.S.C Sec 701 et seq .

The United States Constitution ('Suspension Clause) and 28 U.S.C Sec 1331, as Petitioner is presently in custody under color of the authority of the United States , and such custody is in violation of the Constitution .Law, or Treaties of the United States and Nation . This court may granted relief , **5 U.S.C 702, and the All Writs Act, 28 U.S.C Sec 1651.**

GROUND FOUR :

DETENTION IN VIOLATION OF THE STATUTE AND REGULATION

Section 241 of the Immigration and Nationality Act permits the detention of an alien with a final order of removal for a period of 90 days . Beyond the statutory period , the Supreme Court has held that six months is ~~presumptive reasonable period~~ of detention for the government to effect removal . **Zadvy v Davis , 533 U.S 678. 701.** Once six months have passed , the alien must be release is there in no reasonable likelihood of removal in the reasonably foreseeable future **Zadvydas v. Davis , 533 U.S 699. 700.** In this case , (D.H.S) has detained petitioner for more than six months since the issuance of his order of removal . No special circumstance exit to justify petitioner continued detention

Arbitrary and Capricious for Lack of Explanation

Agency action considered arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem , offered an explanation for its decision that runs counter to the evidence before the agency or is so implausible that it could not be ascribed to difference in a view or the product of agency expertise . Motor Vehicle Mfrs. Ass'n of U.S Inc v. State Farm. Mut Auto Ins. Co., **463 U.S. 29. 43** (1983). As the Ninth Circuit has explained, the critical factor in Motor Vehicle was that the agency submitted no reasons at all for its decision **McFarland v. Kempthorne.**

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☐ No

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Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE:

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☐ No

GROUND TWO:

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☐ No

GROUND THREE:

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do:

Pray to Release from Custody

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 12/05/25



Signature of Petitioner

Signature of Attorney or other authorized person, if any