

JUDGE LEON SCHYDLOWER

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS – EL PASO DIVISION

BY: RMRC DEPUTY
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WESTERN DISTRICT OF TEXAS
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Tatyana Chekmarieva, Next Friend of Danny Domingo Pichardo Calderon Arauz
Petitioner
v.
U.S. Immigration and Customs Enforcement, Respondent

Case No.: _____

EP 26CV00009

PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241) AND MOTION TO
EXPEDITE

I. PARTIES

Petitioner:

Danny Domingo Pichardo Calderon Arauz

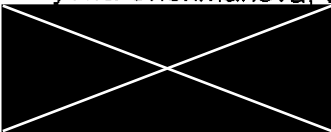
A# [REDACTED] Correct Date of Birth: [REDACTED] [ICE RECORD IS INCORRECT]

Currently detained at:

El Paso Processing Center – East Montana
8915 Montana Ave
El Paso, TX 79925

Next Friend / Filing Party:

Tatyana Chekmarieva, wife of Petitioner



Email: tati444sal@yahoo.com

Respondent:

- U.S. Immigration and Customs Enforcement – ERO El Paso Field Office
11541 Montana Ave, Suite E
El Paso, TX 79936
- ICE Field Office Director, El Paso
- Warden, East Montana Processing Center

II. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody within the Western District of Texas.
2. Petitioner is currently detained at the El Paso / **East Montana Processing Center, Texas.**
3. This petition challenges the **lawfulness and constitutionality** of Petitioner's continued immigration detention.

III. STATEMENT OF FACTS

4. Petitioner was first detained by ICE in 2018.
5. From 2019 through December 2021, Petitioner was detained for approximately three (3) years.
6. During this entire period:
 - Petitioner did not appear before an Immigration Judge for years
 - Petitioner received no bond hearing
 - Petitioner was transferred through **multiple detention facilities in different states**
7. While detained, Petitioner developed serious medical conditions.
8. Petitioner required surgery while in ICE custody, demonstrating significant medical harm caused by prolonged detention.
9. In **December 2021**, Petitioner finally appeared before an Immigration Judge.
10. The Immigration Judge **ORDERED PETITIONER RELEASED**, specifically to allow him to pursue asylum.
11. Petitioner was released and complied with all ICE requirements.
12. Petitioner filed an **asylum application**, which remains **PENDING**.
13. Petitioner has **NO final order of removal**.
14. Petitioner's Immigration Court case remains open, with a hearing scheduled for **April 2028**.

IV. UNLAWFUL RE-DETENTION

15. In **August 2025**, Petitioner appeared for a **routine ICE check-in**, fully compliant with supervision.
16. ICE **re-detained Petitioner** at that appointment.
17. ICE officers stated that Petitioner "**has no case**," which is false.

18. ICE is relying on an incorrect **Date of Birth** in its records and has **refused to correct it**, despite official documentation.
19. This incorrect government record has caused ICE to misidentify Petitioner's immigration case.
20. Since re-detention, Petitioner's prior medical conditions have **returned and worsened**.
21. Continued detention is causing serious **medical risk**.
22. Petitioner is separated from his **spouse and infant child**, causing extreme hardship.

V. RESPONDENT'S STATEMENT REGARDING ATTORNEY MISCONDUCT AND EXTREME HUMANITARIAN HARDSHIP

Petitioner respectfully submits this statement to explain additional circumstances contributing to his unlawful detention, including attorney misconduct, lack of informed consent, and extreme humanitarian hardship.

In 2022, Petitioner retained a private immigration attorney to handle his immigration and USCIS matters. Petitioner provided this attorney with all original immigration documents and paid the required legal fees.

Over the following years, the attorney failed to take meaningful action on Petitioner's case and failed to adequately communicate with Petitioner regarding the status of the case.

Just days before a scheduled USCIS interview in July 2025, the attorney informed Petitioner and spouse that he had lost all of Petitioner's original immigration documents.

As a direct result of the attorney's loss of these documents, Petitioner was unable to present required evidence, and his USCIS case was rejected.

During the USCIS interview, Petitioner was asked by the officer to sign a withdrawal form.

Petitioner asked his attorney what the withdrawal form meant and what the consequences of signing would be.

The attorney failed to explain the meaning or legal consequences of the withdrawal and instructed Petitioner to sign the form.

Petitioner signed the withdrawal without informed consent, without understanding its meaning, and without understanding that it could lead to detention.

Within days of the USCIS case rejection, Petitioner was detained by ICE during a routine check-in appointment, despite having a pending asylum case and no final order of removal.

Petitioner remains detained and suffers from ongoing medical conditions that require care and monitoring. His health has deteriorated due to detention.

Petitioner is married and has a four-month-old infant child.

Petitioner's detention has caused severe and extreme hardship to his family:

His spouse cannot work because she is the sole caregiver for their infant.

The family is facing loss of housing.

Their infant child has been deprived of parental care and stability during a critical stage of early development.

The combination of:

Attorney misconduct and negligence

Loss of critical original documents

Lack of informed consent regarding the withdrawal form

Serious medical vulnerability

Extreme hardship to an infant child

renders Petitioner's continued detention fundamentally unfair, unconstitutional, and in violation of due process.

These factors independently and collectively support immediate habeas relief, humanitarian release, or, at minimum, an immediate bond hearing.

VI. REPRESENTATION BY ATTORNEY WITH SUSPENDED LICENSE

Petitioner further states that the attorney who represented him during his USCIS proceedings was not authorized to practice law at the relevant time. Upon later investigation, Petitioner learned that his former attorney's license to practice law had been suspended during the period in which the attorney:

Petitioner was never informed that the attorney's license was suspended. Petitioner reasonably relied on the attorney's instructions believing him to be a licensed legal professional.

Because the attorney lacked authorization to practice law, Petitioner was effectively unrepresented during critical stages of his case.

Any legal advice provided by an attorney with a suspended license is invalid, including advice to sign a withdrawal form.

Petitioner's signature on the withdrawal form was therefore:

Not knowing

Not voluntary

Not informed

Obtained through unauthorized practice of law

The resulting USCIS rejection and subsequent ICE detention are direct consequences of representation by an unlicensed attorney.

Detention based on actions taken under the guidance of a suspended attorney violates fundamental fairness and the Fifth Amendment Due Process Clause.

These facts constitute extraordinary circumstances warranting immediate habeas relief.

IV. LEGAL ARGUMENT

A. Detention Under 8 U.S.C. § 1253(a) Is Improper

Detention under 8 U.S.C. § 1253(a) applies only when a noncitizen willfully refuses to cooperate with removal. Petitioner has a pending asylum application, an approved I-130 petition, no final order of removal, and has fully complied with all ICE and court requirements. Withdrawal of the I-485 does not render Petitioner removable while asylum proceedings are pending. ICE cannot lawfully rely on § 1253(a) to justify detention.

B. Continued Detention Violates Due Process

Petitioner has been detained for over four months without judicial review, bond hearing, or individualized custody determination. This prolonged detention, particularly given Petitioner's prior three-year detention, violates the Fifth Amendment Due Process Clause.

As described in Section, Petitioner's detention is based in part on a withdrawal of a pending Form I-485 application executed without informed consent and under fundamentally unfair circumstances, further rendering continued detention unconstitutional.

C. Arbitrary Re-Detention, and Administrative Errors

ICE re-detained Petitioner despite a prior Immigration Judge's release order and a pending asylum case. ICE continues to rely on an incorrect Date of Birth, refuses to correct its records, and takes actions that prejudice Petitioner's liberty, constituting arbitrary and unlawful government action.

D. Medical Neglect

ICE knew of Petitioner's prior medical conditions. Continued detention has caused them to worsen, and ICE has failed to provide adequate care, placing Petitioner at serious risk.

E. Detention Resulting from Unauthorized Practice of Law

Federal courts recognize that proceedings tainted by representation from an unlicensed attorney violate due process.

Petitioner's detention is the direct result of such unauthorized practice.

V. EQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order immediate release from ICE custody, or in the alternative,
3. Order an immediate bond hearing before an Immigration Judge;
4. Order ICE to correct Petitioner's Date of Birth in all official records; and
5. Grant any other relief the Court deems just and proper.
6. Grant immediate release due to detention arising from unauthorized practice of law and lack of valid legal representation.

VI. MOTION TO EXPEDITE

Expedited consideration is warranted due to:

- Government record errors

- Unauthorized practice of law
- Detention exceeding four months without judicial review;
- A pending asylum case and future court hearing;
- An approved I-130 petition establishing a lawful family-based claim;
- Serious and worsening medical conditions;
- Extreme hardship to Petitioner's spouse and infant; and
- Risk of irreparable harm if detention continues.

VII. DECLARATION OF NEXT FRIEND

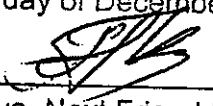
DECLARATION OF TATYANA CHEKMARIEVA, NEXT FRIEND FOR DANNY DOMINGO PICHARDO CALDERON ARAUZ

I, Tatyana Chekmarieva, declare as follows:

1. I am Petitioner's spouse and authorized Next Friend.
2. Petitioner is detained at El Paso Processing Center – East Montana and cannot prepare or sign a declaration at this time.
3. I have personal knowledge of the facts stated herein and could testify competently if called.
4. [Include the separate declaration above—detention history, I-485 withdrawal, medical/family hardship, ineffective counsel, etc.]
5. I submit this declaration under penalty of perjury in support of the Petition for Writ of Habeas Corpus and Motion to Expedite.

Executed on this 25 day of December, 2025, in Florida.

Signature: _____


Tatyana Chekmarieva, Next Friend for DANNY DOMINGO PICHARDO CALDERON ARAUZ

DECLARATION OF TATYANA CHEKMARIEVA

Next Friend for Danny Domingo Pichardo Calderon Arauz

I, Tatyana Chekmarieva, declare as follows:

1. I am a citizen of the United States and currently reside in Florida. I am the wife of the Danny Domingo Pichardo Calderon Arauz
2. Petitioner in the above-captioned matter, and I am authorized to act as his Next Friend for purposes of this Petition for Writ of Habeas Corpus.
3. Petitioner is currently detained by U.S. Immigration and Customs Enforcement (ICE) at the El Paso Processing Center – East Montana, in El Paso, Texas. He is unable to prepare or sign a declaration at this time due to his detention.
4. I have personal knowledge of the facts stated herein, and if called to testify, I could and would competently testify to these facts.
5. Petitioner was previously detained by ICE from 2019 through December 2021. During that detention, he was transferred between multiple facilities, did not receive a bond hearing or merits hearing, and developed serious medical conditions requiring surgical treatment.
6. In December 2021, an Immigration Judge ordered Petitioner released so that he could pursue asylum proceedings. Petitioner complied with all ICE requirements and filed an asylum application in 2021 in Miami, Florida, which remains pending and has not been transferred to Texas.
7. On August 18, 2025, Petitioner appeared for a routine ICE check-in and was re-detained. ICE has asserted incorrectly that he "has no case," despite a pending asylum application, a scheduled Immigration Court hearing on April 13, 2028, and an approved I-130 family-based petition filed by me.
8. Prior to his re-detention, Petitioner and I appeared for an adjustment-of-status interview (Form I-485) with retained counsel. At the time of the interview, counsel was unprepared, had lost or failed to bring critical case documents, and did not adequately explain the legal nature, purpose, or consequences of withdrawing the I-485 application.
9. Petitioner was not advised that withdrawal of the I-485 could:
 - o Eliminate procedural protections;

- Be misinterpreted by ICE as abandonment of lawful claims; or
 - Increase the likelihood of detention despite a pending asylum case and approved family-based petition.
10. We later learned that the attorney's law license had been suspended, a fact not disclosed during representation. As a result, the withdrawal of the I-485 was executed without informed consent, under ineffective assistance of counsel, and under fundamentally unfair circumstances.
11. Within days of the interview and withdrawal, Petitioner was taken into ICE custody during a routine check-in appointment, immediately preceding the loss of his liberty.
12. Since re-detention, Petitioner's prior medical conditions have returned or worsened. His detention has caused extreme hardship to our family, including:
- Separation from me and our four-month-old infant;
 - Severe financial instability; and
 - Risk of losing our home.
13. I submit this declaration under penalty of perjury in support of the Petition for Writ of Habeas Corpus and Motion to Expedite.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 25 day of December, 2025, in Florida.

Signature: _____

Tatyana Chekmarieva, Next Friend for Danny Domingo Pichardo Calderon Arauz

