

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JAN 12 2026

EMERGENCY MOTION FOR IMMEDIATE RELEASE
(In Support of Petition for Writ of Habeas Corpus)

MITCHELL R. ELFERS
CLERK

COMES NOW Petitioner, DENNIS HUMBERTO MORENO CHOV ("Petitioner"), by and through his lawful Next Friend, MAILEN DÍAZ GARROTE, and respectfully moves this Honorable Court for an ORDER OF IMMEDIATE RELEASE from immigration detention pursuant to 28 U.S.C. § 2241, the Due Process Clause of the Fifth Amendment, and this Court's inherent equitable powers.

I. INTRODUCTION AND EMERGENCY NATURE

This is an EMERGENCY MOTION. Petitioner is being subjected to prolonged, unlawful, and punitive civil detention despite having completed all criminal proceedings and despite a judicial determination that he poses no danger to the community. Continued detention constitutes irreparable harm.

Immediate release is warranted where detention violates constitutional guarantees and where no set of conditions justifies continued confinement.

II. JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 2241. Federal courts possess broad authority to order immediate release where detention is unconstitutional. See *Boumediene v. Bush*, 553 U.S. 723 (2008).

III. FACTUAL BACKGROUND

Petitioner has resided in the United States for over twenty (20) years. On May 16, 2025, he was detained by local police for merely being present at an alleged cockfighting incident. After two court appearances, all charges were dismissed, and a judge ordered Petitioner released, expressly finding that he was not a danger to the community.

Notwithstanding this determination, ICE lodged a detainer without independent probable cause. After two months of detention, Petitioner was released. On July 12, 2025, ICE re-detained Petitioner and transferred him between multiple facilities, including a newly inaugurated detention center known as "Alligator Alcatraz," and later a facility in El

Paso, Texas.

While detained, Petitioner suffered severe physical abuse, psychological trauma, food deprivation, restricted access to water, denial of hygiene, and overcrowded conditions. Petitioner reports being beaten by guards for failing to eat at the speed demanded and being permitted to bathe only once per week, with water limited to one or two cups per day.

IV. LEGAL STANDARD FOR IMMEDIATE RELEASE

Immediate release is appropriate where detention violates due process or where conditions of confinement amount to punishment. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Bell v. Wolfish*, 441 U.S. 520 (1979).

Civil immigration detention is non-punitive. When detention becomes excessive, arbitrary, or unjustified, federal courts must intervene. See *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003).

V. ARGUMENT

A. Continued Detention Violates Due Process

Petitioner's detention has become unreasonably prolonged. He has already been denied bond by an Immigration Judge despite overwhelming evidence that he is neither a flight risk nor a danger. Prolonged detention without meaningful justification violates the Fifth Amendment. See *Jennings v. Rodriguez*, 583 U.S. 131 (2018).

B. Conditions of Confinement Are Unconstitutional

The conditions Petitioner endured constitute punishment and deliberate indifference to his health and safety, in violation of the Eighth Amendment standards applicable through the Fifth Amendment. See *Farmer v. Brennan*, 511 U.S. 825 (1994).

C. No Legitimate Government Interest Justifies Continued Detention

Petitioner has strong family ties, a lawful spouse, over twenty years of residence, employment history, and has already been found not dangerous by a criminal court. Detention no longer serves any legitimate governmental purpose.

VI. IRREPARABLE HARM

Petitioner continues to suffer ongoing psychological trauma and physical deterioration as a direct result of detention. Each additional day of confinement causes irreparable harm that cannot be remedied by monetary damages.

VII. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. ORDER the immediate release of Petitioner from ICE custody;
2. Alternatively, order Petitioner released under reasonable conditions;
3. Grant any other relief this Court deems just and proper.

VIII. VERIFICATION AND SIGNATURE

I, MAILEN DÍAZ GARROTE, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Mailen Díaz Garrote

Next Friend for Dennis Humberto Moreno Chov

Date: 01/07/2026