FILED
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CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ROBERTO ROSELL ARIAS,
A# [redacted]
Petitioner,
v.
WARDEN, SOUTH TEXAS ICE PROCESSING CENTER;
FIELD OFFICE DIRECTOR, ICE ERO – SAN ANTONIO FIELD OFFICE;
SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY;
U.S. DEPARTMENT OF HOMELAND SECURITY;
ATTORNEY GENERAL OF THE UNITED STATES;
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,
Respondents.

Civil Action No. 5:26-cv-00050

PETITIONER'S MOTION FOR IMMEDIATE ADJUDICATION AND ENFORCEMENT OF 28 U.S.C. § 2243

Petitioner, Roberto Rosell Arias, proceeding pro se, respectfully moves this Court for **IMMEDIATE ADJUDICATION** of his pending Petition for Writ of Habeas Corpus and for **STRICT ENFORCEMENT OF 28 U.S.C. § 2243**, and states as follows:

INTRODUCTION

1. This case presents a direct conflict between **Petitioner's ongoing civil detention** and the **mandatory statutory command that habeas petitions be resolved swiftly**.
2. Petitioner remains detained while his habeas petition is pending, **without a ruling from this Court**, despite the clear directive imposed by Congress.
3. The Supreme Court has long recognized that habeas corpus is a **"swift and imperative remedy in all cases of illegal restraint or confinement."** *Fay v. Noia*, 372 U.S. 391, 400 (1963).
4. **Continued delay in adjudicating a habeas petition undermines the very purpose of the writ and risks transforming judicial review into a nullity.**

PROCEDURAL POSTURE

5. Petitioner filed his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 on or about January 5, 2026.
6. On January 27, 2026, this Court issued an Order directing Respondents to file an answer or response within thirty (30) days.
7. Respondents filed a response on March 2, 2026.
8. Petitioner is currently detained at La Salle County Regional Detention Center following a transfer by ICE, which has contributed to delays and disruptions in this proceeding.
9. As of the filing of this Motion, **no adjudication has been issued**, and Petitioner remains in custody.

MANDATORY STATUTORY FRAMEWORK UNDER 28 U.S.C. § 2243

10. Congress has imposed **mandatory, non-discretionary obligations** governing the adjudication of habeas corpus petitions, reflecting the historic role of the writ as a safeguard against unlawful detention.
11. Under 28 U.S.C. § 2243, the Court must act **"forthwith"**, either by granting the writ or issuing an order directing the respondent to show cause why the writ should not be granted.
12. The statute further requires that any return be made within **three (3) days**, unless extended for good cause, and even then **not exceeding twenty (20) days**, demonstrating Congress's intent that habeas proceedings proceed with exceptional speed.

13. **The use of mandatory language—"shall" and "forthwith"—imposes a clear duty on the Court to prioritize and promptly resolve habeas petitions involving physical liberty.**
14. The Supreme Court has repeatedly emphasized that habeas corpus is not an ordinary civil proceeding, but rather a **"swift and imperative remedy in all cases of illegal restraint or confinement."** *Fay v. Noia*, 372 U.S. 391, 400 (1963).
15. In *Preiser v. Rodriguez*, 411 U.S. 475, 485 (1973), the Court reaffirmed that habeas corpus lies at the **core of protecting individuals from unlawful executive detention**, distinguishing it from traditional civil litigation.
16. More recently, the Supreme Court in *Boumediene v. Bush*, 553 U.S. 723, 779 (2008), held that the writ must be **"effective" and not merely symbolic**, requiring courts to ensure meaningful and timely review of detention.
17. **A habeas process that permits delay while a detainee remains confined fails to satisfy the constitutional minimum required by the Suspension Clause and the Due Process Clause.**
18. Accordingly, § 2243 must be enforced consistent with its purpose: **to prevent prolonged detention without prompt judicial intervention.**

ONGOING DETENTION AND CONSTITUTIONAL IMPLICATIONS

19. Petitioner remains in **civil immigration detention without a bond hearing, custody redetermination, or meaningful judicial review**, despite the availability of such procedures under the governing statutory framework.
20. The Supreme Court has made clear that **freedom from physical restraint is the most fundamental liberty interest protected by the Constitution.** *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
21. Civil detention, unlike criminal incarceration, is permissible only to the extent that it is **reasonably related to a legitimate governmental purpose** and is accompanied by adequate procedural safeguards. *Id.* at 690–699.
22. Where detention becomes prolonged without meaningful process, it **ceases to be regulatory and becomes punitive**, in violation of the Fifth Amendment. *Id.*

23. In *Demore v. Kim*, 538 U.S. 510, 532 (2003), the Supreme Court upheld limited detention under immigration statutes only in the context of **brief and finite periods of confinement**, emphasizing that such detention was constitutionally permissible because of its short duration.
24. **The present case stands in contrast: Petitioner has experienced prolonged detention without the procedural protections that justified detention in Demore.**
25. The Constitution does not permit **indefinite or unreviewed executive detention**, and the writ of habeas corpus exists precisely to prevent such conditions.
26. Each day that Petitioner remains detained without adjudication constitutes an **ongoing deprivation of liberty without due process of law.**

JUDICIAL OBLIGATION TO ENSURE MEANINGFUL HABEAS REVIEW

27. Federal courts serve as the **primary check on unlawful executive detention**, and habeas corpus is the mechanism through which that check is exercised.
28. The Supreme Court has emphasized that **the writ must provide a "meaningful opportunity" to challenge detention**, and courts must ensure that review is both real and effective. *Boumediene*, 553 U.S. at 779.
29. A process in which a detainee remains confined while judicial review is delayed **renders the writ ineffective in practice**, even if it exists in form.
30. **The constitutional guarantee of habeas corpus requires not only access to the courts, but timely adjudication of the claims presented.**
31. Where, as here, the petition has been filed, the response submitted, and the matter is ripe for decision, **continued delay cannot be reconciled with the Court's obligation to provide meaningful review.**
32. The judiciary cannot permit a situation in which **liberty is restrained first and adjudicated later at an indeterminate time**, as such a framework inverts the purpose of habeas corpus.
33. **The Court's intervention at this stage is not discretionary—it is required to preserve the integrity of the writ and to prevent continued unconstitutional detention.**

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that this Court:

A. **IMMEDIATELY ADJUDICATE** the pending Petition for Writ of Habeas Corpus;

B. **STRICTLY ENFORCE 28 U.S.C. § 2243** and recognize that further delay is inconsistent with its mandatory framework;

C. **ORDER PETITIONER'S IMMEDIATE RELEASE** from custody;

D. **IN THE ALTERNATIVE, ORDER PETITIONER'S TEMPORARY RELEASE** pending adjudication of the Petition, should the Court deem additional time necessary to issue a ruling;

E. **PROHIBIT RESPONDENTS FROM RE-DETAINING PETITIONER UNDER THE SAME STATUTORY OR FACTUAL BASIS** absent a material change in circumstances or lawful justification consistent with the Constitution;

F. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted on this 19th day of March, 2026,

X R.R.A.
Roberto Rosell Arias
A# [redacted]
La Salle County Regional Detention Center
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