

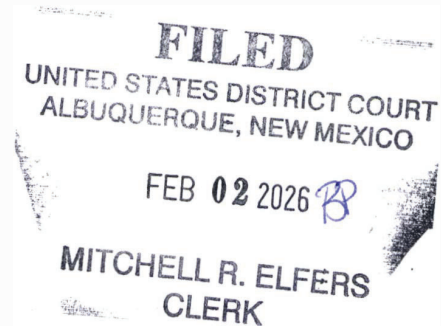
UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

ALEXIS TACO-CUNALATA



Petitioner,



26cv230-KG-GJF

v.

WARDEN, TORRANCE COUNTY DETENTION FACILITY,
DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE),
SECRETARY, DEPARTMENT OF HOMELAND SECURITY,
Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

28 U.S.C. § 2241

I. INTRODUCTION

Petitioner Alexis Taco-Cunalata, through his wife and the mother of his children, Erika Fernanda Maila Ortega, respectfully submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his unlawful detention by Immigration and Customs Enforcement ("ICE").

Petitioner is an asylum seeker with a pending asylum case, has attended two immigration court hearings, holds a valid work permit, has no criminal or penal record, and is the father of three minor children, including one United States citizen daughter and two additional minor daughters aged 15 and 12 years old.

Despite full compliance with immigration proceedings and strong family ties, Petitioner was arrested by ICE on January 5, 2026, and transferred the same day from Minnesota to Texas and then to New Mexico, where he remains detained at Torrance County Detention Facility. His continued detention violates the Due Process Clause of the Fifth Amendment.

II. JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241, as Petitioner is in federal custody and challenges the legality of his detention.

Venue is proper in the District of New Mexico because Petitioner is currently detained at Torrance County Detention Facility, located within this District.

III. FACTUAL BACKGROUND

1. Petitioner is a native and citizen of Ecuador.
2. Petitioner has a pending asylum application before the Immigration Court.
3. Petitioner has attended two immigration court hearings and has never failed to appear.
4. Petitioner holds a valid Employment Authorization Document (EAD).
5. Petitioner has no criminal convictions, no pending criminal charges, and no arrests.
6. Petitioner is the father of three minor children, including one U.S. citizen child and two additional minor children aged 15 and 12.
7. On January 5, 2026, ICE arrested Petitioner in Minneapolis, Minnesota.
8. On the same day, ICE transferred Petitioner to Texas and then to New Mexico.
9. Petitioner is currently detained at Torrance County Detention Facility.
10. Petitioner's first hearing after arrest was scheduled for February 3, 2026, nearly one month later.
11. Petitioner poses no danger to the community and is not a flight risk.

IV. LEGAL ARGUMENT

A. Violation of the Fifth Amendment

Petitioner's continued detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment.

B. No Flight Risk or Danger

Petitioner has strong family ties, no criminal history, stable residence, and full compliance with immigration proceedings.

C. Arbitrary Transfers and Family Separation

ICE's immediate multi-state transfer caused severe family separation and interfered with access to counsel.

V. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. ORDER immediate release from ICE custody, OR
2. ORDER an individualized bond hearing, with the burden on ICE,
3. PROHIBIT further transfers, and
4. Grant any other relief deemed just and proper.

VI. VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

Date: 01-28-2026

Erika fernanda Maila Ortega

Erika Fernanda Maila Ortega

Wife and Mother of Petitioner's Minor Children

DECLARATION OF ERIKA FERNANDA MAILA ORTEGA

(In Support of Petition for Writ of Habeas Corpus)

I, Erika Fernanda Maila Ortega, declare under penalty of perjury that the following is true and correct to the best of my personal knowledge:

1. I am the lawful wife of Alexis Taco-Cunalata, A  and the mother of our three minor daughters.
2. Our family consists of three minor children:
 - o one daughter who is a United States citizen, and
 - o two additional minor daughters aged 15 and 12 years old.
3. My husband has always been a present, responsible, and supportive father. He provides emotional, financial, and daily support to our daughters. His absence has caused severe emotional distress to our children, especially due to their young age.
4. On January 5, 2026, my husband was arrested by Immigration and Customs Enforcement (ICE) in Minneapolis, Minnesota, despite having a pending asylum case, a valid work permit, and no criminal history.
5. On the same day of his arrest, ICE transferred my husband out of Minnesota, first to Texas, and then to New Mexico, without providing prior notice to me or our children.
6. My husband is currently detained at Torrance County Detention Facility in New Mexico. Since his arrest, our family has been suddenly and painfully separated.
7. We have a stable home in Minnesota under a lease agreement in my name. My husband also owns a vehicle registered in his name, demonstrating our family's stability and strong ties to our community.
8. My husband has always complied with immigration requirements. He has attended all scheduled court hearings and has never failed to appear. He is not a danger to the community and is not a flight risk.
9. Our children depend on my husband not only financially, but emotionally. His detention has caused fear, anxiety, and emotional hardship for our daughters, including our U.S. citizen child.
10. I respectfully ask the Court to consider the severe impact that my husband's continued detention has on our family, particularly on our minor children, and to grant his immediate release, or in the alternative, an individualized bond hearing.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 01-28-2026

Erika fernanda Maila Ortega

Erika Fernanda Maila Ortega

Wife and Mother of Petitioner's Minor Children

Address:

Phone:

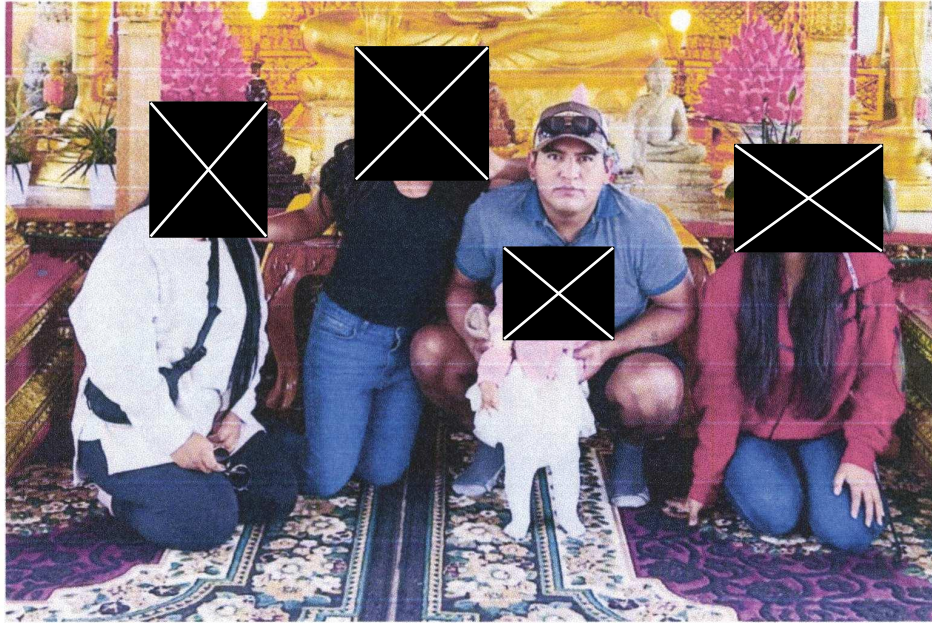
LIST OF EXHIBITS

- Exhibit A: Birth Certificate of U.S. Citizen Child
- Exhibit B: Birth Certificates of Two Additional Minor Children
- Exhibit C: Proof of Marriage (Ecuadorian ID)
- Exhibit D: Lease Agreement
- Exhibit E: Vehicle Title
- Exhibit F: Social Security Card of Alexis Taco-Cunalata
- Exhibit G: Employment Authorization Documents and Social Security Cards of Wife and Children
- Exhibit H: Passports of Minor Children
- Exhibit I: ICE Detention Locator Screenshot
- Exhibit J: EOIR Case Information Screenshot
- Exhibit K: Family photographs



Photographs showing Petitioner Alexis Taco-Cunalata caring for and bonding with his U.S. citizen infant daughter, demonstrating a close and loving parental relationship and the child's dependence on her father.

Photograph of Petitioner with his wife and three minor daughters, demonstrating family unity and strong family ties in the United States.



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v.

WARDEN, TORRANCE COUNTY DETENTION FACILITY, et al.

Respondents.

MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner Alexis Taco-Cunalata, through his wife Erika Fernanda Maila Ortega, respectfully requests permission to proceed in forma pauperis pursuant to 28 U.S.C. § 1915, and respectfully states the following:

1. Petitioner is currently detained by Immigration and Customs Enforcement at Torrance County Detention Facility in New Mexico.
2. Petitioner has no access to personal income or financial resources while detained.
3. Petitioner is the father of three minor children, including one United States citizen, who depend on him financially.
4. Petitioner's wife is solely responsible for household expenses, including rent, food, utilities, and care for the children.
5. Due to these circumstances, Petitioner is unable to pay the filing fee required to submit this habeas corpus petition.

WHEREFORE, Petitioner respectfully requests that this Court grant this Motion and allow him to proceed without payment of filing fees.

Date: 01-28-2026

Erika fernanda Maila Ortega

Erika Fernanda Maila Ortega

Wife and Mother of Petitioner's Minor Children