

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

Cristian Javier Perdomo-Serrano
Petitioner-Plaintiff,

V.

Todd M. Lyons,
Acting Director
U.S. Immigration and Customs Enforcement;

Rose Thompson, Warden
Karnes County Immigration Processing Center,

Respondent-Defendants

Civ. No. 5:26-cv-00910

DHS File Number:

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO
28 U.S.C. §2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

I. INTRODUCTION

Petitioner **Cristian Javier Perdomo-Serrano** respectfully submits this Emergency Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, seeking immediate release from immigration detention or, in the alternative, a prompt custody hearing that comports with due process. Petitioner challenges his **continued detention without a constitutionally adequate custody determination**, where administrative review is unavailable or functionally ineffective.

Petitioner is a native and citizen of **Honduras** who **entered the United States without inspection in or around March 2019 via McAllen, Texas**, his only entry into the country. Since that time, Petitioner has lived in the United States under ICE supervision and has **fully complied**

with all reporting requirements, including appearing for routine ICE check-ins every six (6) months.

On **January 12, 2026**, Petitioner appeared as required for a scheduled ICE check-in and was **taken into custody at that appointment**, despite his full compliance history and lack of any criminal record. Petitioner has **no criminal history whatsoever** and poses **no danger to the community and no risk of flight**.

Petitioner is the **father of a three-year-old United States citizen child**, who depends on him for emotional and financial support. Despite these overwhelming equities, ICE continues to detain Petitioner without a constitutionally adequate custody determination, where administrative review is unavailable or functionally ineffective.

Petitioner's continued detention without individualized findings of danger or flight risk violates statutory authority under the Immigration and Nationality Act ("INA") and the **Fifth Amendment's Due Process Clause**. Habeas relief is therefore the only effective remedy.

II. JURISDICTION & VENUE

This court has jurisdiction under 28 U.S.C. §§ 1331 and 2241.

Petitioner is detained within the Western District of Texas at the Karnes County Immigration Processing Center.

Venue is proper in this District. See generally *Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

III. PARTIES

Petitioner Cristian Javier Perdomo-Serrano is a citizen of Honduras currently detained by ICE at the Karnes County Immigration Processing Center in Karnes City, Texas.

Respondent Todd M Lyons is the **ICE Acting Director**, legal custodian of Petitioner and is named in his official capacity.

Respondent Rose Thompson, **Facility Warden** of Karnes County Immigration Processing Center and Petitioner's immediate custodian.

IV. STATEMENT OF FACTS

1. Petitioner is a **Honduran** national.
2. He entered without inspection to the United States on March of 2019, through McAllen, Texas.
3. Since his entry, Petitioner has **complied with all ICE supervision requirements**, including **reporting to ICE check-ins every six (6) months** at the Crosspoint ICE office, in San Antonio, Texas, never missing or violating any reporting obligation.
4. On **January 12, 2026**, Petitioner appeared for a routine ICE check-in as required. Despite his full compliance history, ICE **detained him at that appointment** and placed him into immigration custody.
5. Petitioner has **no criminal history whatsoever**. He has never been arrested, charged, or convicted of any criminal offense.
6. Petitioner is the **father of a three-year-old United States citizen child**, who depends on him for emotional and financial support.
7. Petitioner is currently detained at the **Karnes County Immigration Processing Center** pending removal proceedings.
8. Petitioner's **Master Calendar Hearing** is scheduled for **May 26, 2027, at 9:00 a.m.**, before **Immigration Judge Craig A. Harlow**. See *Exhibit B*

9. Despite Petitioner's complete lack of criminal history, long-term compliance with ICE supervision, and strong family ties, ICE continues to detain him **without any individualized finding** that he poses a danger to the community or a risk of flight.

V. STATUTORY AND CONSTITUTIONAL FRAMEWORK

10. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to review whether a noncitizen is "in custody in violation of the Constitution or laws or treaties of the United States." *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Habeas jurisdiction extends to challenges to the **fact, duration, or legality of immigration detention**, including constitutional claims. *INS v. St. Cyr*, 533 U.S. 289, 301 (2001).
11. Prolonged civil detention is constrained by the **Due Process Clause of the Fifth Amendment**, which prohibits detention that is excessive, arbitrary, or punitive in nature. *Zadvydas v. Davis*, 533 U.S. 678 (2001).
12. Where, as here, a petitioner alleges that continued detention violates due process because it is arbitrary, punitive, or unsupported by any individualized findings, habeas jurisdiction is proper.

VI. ARGUMENT

A. This Court Has Habeas Jurisdiction to Review Petitioner's Constitutional Detention Claims

Federal district courts retain jurisdiction under 28 U.S.C. § 2241 to review whether immigration detention violates the Constitution. While Congress has limited judicial review of

discretionary custody determinations, **no statute strips courts of jurisdiction to consider constitutional challenges to the fact or duration of detention itself.**

Section 1226(e) bars review of the Attorney General's discretionary judgments regarding detention or release, but it **does not preclude review of constitutional claims or questions of law.** Courts remain empowered to determine whether executive detention exceeds constitutional limits, particularly where detention is alleged to be arbitrary, punitive, or untethered from a legitimate regulatory purpose.

Petitioner does not ask this Court to review or second-guess any discretionary custody determination. Indeed, **no discretionary determination has ever been made.** Rather, Petitioner challenges the constitutionality of his continued civil detention in the absence of any individualized justification or meaningful process. Such claims fall squarely within the "historic core" of habeas corpus and are reviewable notwithstanding statutory jurisdiction-stripping provisions.

B. Petitioner's Continued Civil Detention Violates Substantive Due Process

The Fifth Amendment's Due Process Clause forbids arbitrary civil detention. Even where Congress authorizes detention for regulatory purposes, **the Constitution independently requires that detention bear a reasonable relationship to a legitimate governmental objective.** Civil detention that becomes excessive, unjustified, or punitive in effect violates substantive due process.

Immigration detention is justified only as a regulatory measure, to ensure appearance at proceedings or to protect the community. When detention continues without any individualized finding that these purposes are served, it ceases to be regulatory and becomes punitive.

Here, Petitioner's detention bears no reasonable relationship to any legitimate governmental objective:

- No criminal history.
- Has lived in the United States for almost seven (7) years.
- Full compliance with ICE supervision since 2019.
- Is the father of a three-year-old United States citizen child

ICE has never alleged, much less established, that Petitioner's detention is necessary to serve any regulatory purpose. Detention under these circumstances is arbitrary and punitive in effect, and therefore unconstitutional.

The Constitution does not permit the government to warehouse a civil detainee indefinitely simply because it can. **Where detention is divorced from individualized necessity, it violates substantive due process and must end.**

C. Petitioner's Detention Violates Procedural Due Process Because No Meaningful Custody Process Exists

Independent of substantive limits, the Fifth Amendment requires that civil detention be accompanied by **meaningful procedural safeguards**. At a minimum, due process requires:

1. A neutral decisionmaker.
2. An individualized assessment of whether detention is justified; and
3. A meaningful opportunity to contest continued custody.

Petitioner has received none of these.

Although Petitioner requested a custody hearing, the Immigration Judge declined to conduct any individualized assessment, citing a lack of jurisdiction. As a result:

- No neutral adjudicator has evaluated whether detention is necessary.
- No findings have been made regarding danger or flight risk; and
- No forum exists in which Petitioner can challenge the factual basis for his continued confinement.

This is not merely a denial of discretionary relief; it is a **complete absence of process**. Detention pursuant to a regime that provides no mechanism for testing the necessity of continued custody violates procedural due process.

The Constitution does not tolerate civil detention where the detainee is afforded **no meaningful opportunity, at any time, to challenge the factual and legal basis for confinement**.

D. Petitioner Is Subject to Arbitrary Executive Detention in Violation of Separation-of-Powers Principles

The writ of habeas corpus has long served as a critical check on arbitrary executive detention. Where the Executive detains an individual without meaningful judicial oversight and without individualized justification, the detention exceeds constitutional bounds.

Here, ICE asserts the authority to detain Petitioner indefinitely while simultaneously disclaiming any obligation to provide a forum for determining whether detention is necessary. This results in **unbounded executive detention**, insulated from both administrative and judicial review.

Such a regime is incompatible with fundamental separation-of-powers principles. **The Constitution does not permit the Executive to detain individuals at will, without accountability, findings, or process**. Where no statutory or administrative mechanism exists to test the legality of continued detention, habeas review is not only appropriate—it is essential.

E. Prolonged Civil Detention Without Any Constitutional Endpoint Is Unlawful

Even assuming arguendo that Petitioner's initial detention was lawful, **civil detention must remain reasonable in duration and scope.** Detention that continues without temporal limitation and without individualized justification violates due process.

Petitioner's detention has no defined endpoint and no mechanism for review. He remains confined not because he has been found to pose a risk, but because no decisionmaker has evaluated his custody at all.

The Constitution does not permit civil detention that persists indefinitely in a legal vacuum. **Where detention lacks both justification and review, continued confinement is unconstitutional.**

F. Exhaustion of Administrative Remedies Is Excused

Exhaustion in habeas proceedings is prudential, not jurisdictional, and is excused where administrative remedies are unavailable, inadequate, or futile.

Here, exhaustion would be futile because:

- The Immigration Judge has disclaimed jurisdiction to provide custody review;
- No administrative mechanism exists to address Petitioner's constitutional claims;
- Continued detention inflicts ongoing constitutional injury.

Requiring exhaustion under these circumstances would serve no purpose other than to prolong unlawful detention, which the Constitution forbids.

G. Release Is the Appropriate Habeas Remedy

Where civil detention violates the Constitution, **release, not remand, is the appropriate remedy.** Courts possess broad equitable authority under § 2241 to order release where detention lacks constitutional justification.

Because Petitioner's continued detention violates substantive and procedural due process, the writ should issue and Petitioner should be released from custody forthwith. At a minimum, the Court should order prompt release unless the government provides a constitutionally adequate, individualized custody determination within a strictly limited timeframe.

VII. CONCLUSION

1. Petitioner's ongoing detention is unlawful, unconstitutional, and unsupported by the facts or the law. Immediate release is warranted. At minimum, Petitioner is entitled to a prompt and meaningful custody hearing that complies with due process.

VIII. CLAIMS FOR RELIEF

COUNT I – Unlawful Detention (28 U.S.C. § 2241)

Respondents are detaining Petitioner in violation of the Constitution and laws of the United States.

COUNT II – Declaratory Relief

A declaration is warranted that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Grant this Petition for Writ of Habeas Corpus;
2. Order Respondents to **immediately release** Petitioner; or
3. In the alternative, order a **prompt, constitutionally adequate custody hearing** with the burden on DHS;

4. Declare that Petitioner's detention violates the Constitution; and
5. Grant any other relief the Court deems just and proper.

Respectfully submitted,

/s/ Rodolfo Castillo
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Attorney for Petitioner
Texas Bar No. 24000489
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San Antonio, TX 78227
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X. SIGNATURE & VERIFICATION

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I and others working under my supervision have discussed with Petitioner the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on 02/11/2026

/s/ Rodolfo Castillo
Rodolfo A. Castillo
Attorney for Petitioner

EXHIBITS

1. **Exhibit A** – ICE Detainee Locator record confirming that **Petitioner Cristian Javier Perdomo-Serrano** is currently detained by U.S. Immigration and Customs Enforcement at the **Karnes County Immigration Processing Center** in **Karnes City, Texas**.
2. **Exhibit B** – Automated Case Information System record reflecting **Petitioner's upcoming Master Calendar Hearing**, as scheduled by the Immigration Court.
3. **Exhibit C** – Copy of **Cristian Javier Perdomo-Serrano** Passport, submitted as proof of identity.
4. **Exhibit D** – Copy of Petitioner's U.S. citizen child's birth certificate
5. **Exhibit E** – **Attorney Declaration** authenticating Exhibits A–D, submitted in support of the Emergency Petition for Writ of Habeas Corpus.

**ATTORNEY DECLARATION IN SUPPORT OF PETITION FOR WRIT OF HABEAS
CORPUS**

I, **Rodolfo Castillo**, declare as follows:

1. I am an attorney licensed to practice law and represent **Petitioner** in the above-captioned matter.
2. **Petitioner** is currently detained by **U.S. Immigration and Customs Enforcement** at the **Karnes County Immigration Processing Center in Karnes City, Texas**.
3. I have reviewed the **Petitioner's** immigration records.
4. **Petitioner** has no criminal history.
5. **Petitioner** has always abided by ICE and Immigration Judge rules.
6. All documents referenced herein are kept and maintained in the ordinary course of my legal practice.

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

Executed on February 11, 2026, at **San Antonio, Texas**.

/s/ Rodolfo Castillo
Rodolfo A. Castillo
Attorney for Petitioner