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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: <u>WAM</u>	DEPUTY

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Case No.

Cesar Orlando Munguia (A )

Petitioner,

v.

**PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241**

2:26-cv-00456-GMN-MDC

PAMELA BONDI, Attorney General of the
United States; KRISTI NOEM, Secretary,
United States Department of Homeland
Security; MICHAEL BERNACKE, Field
Director, West Valley City Office; TODD
LYONS, Acting Director; JOHN MATTOS,
Warden, Nevada Southern Detention
Center,

Respondents.

Personal Information

1. (a) Cesar Orlando Munguia

(b) Other names used:

2. Place of confinement:

(a) Nevada Southern Detention Center

(b) 2190 E Mesquite Avenue, Pahrump, NV 89048

(c) Case number or numbers: My A No. is 

3. I am currently being held on orders by federal authorities: United States Immigration and Customs Enforcement.

4. I am currently being held pursuant to a final removal order.

Decision or Action You Are Challenging: October 21, 2005.

5. What you are challenging in this petition: immigration detention.

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: United States Immigration and Customs Enforcement.

(b) Docket number, case number, or opinion number: My A No. is


(c) Decision or action you are challenging: I was originally ordered removed on 10/21/2025.

I was taken into custody by ICE on 7/27/2025, and I have remained detained in ICE custody for more than 6 months since my initial arrest. I had a bond hearing before an immigration judge, and the judge ordered detention and said the court did not have jurisdiction to hold a bond hearing.

Your Earlier Challenges of the Decision or Action

7-9. First, second, and third appeals: None

10. Motion under 28 U.S.C. § 2255: N/A

11. Appeals of immigration proceedings:

Does this case concern immigration proceedings? Yes

(a) Date you were taken into immigration custody: 7/27/2025

(b) Date of the removal or reinstatement order: 10/21/2025

(c) Did you file an appeal with the Board of Immigration Appeals?

Yes If "Yes," provide answers.

(1) Date of filing: 11/12/2025

(2) Case number:

(3) Result: currently pending; no briefing dates

(4) Date of result:

(5) Issues raised:

(d) Did you appeal the decision to the United States Court of Appeals? If "Yes," provide answers.

(1) Name of court:

(2) Date of filing

(3) Case number:

(4) Result:

(5) Date of result:

(6) Issues raised:

12. Other appeals:

Other than the appeals listed above, have you filed any other petition, application, or motion (including a motion for bond before an immigration judge) about the issues raised in this petition? ☐ Yes ☐ No

If yes, please explain:

JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. § 2241, which grants federal courts the authority to issue writs of habeas corpus to individuals in custody if that custody violates “the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3); *see also Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (holding § 2241 is the proper vehicle through which to challenge the constitutionality of a noncitizen’s detention without bail); *Jennings v. Rodriguez*, 583 U.S. 281, 294–296 (2018) (holding that neither 8 U.S.C. § 1226(e) nor § 1252(b)(9) bar review of constitutional challenges to prolonged immigration detention).

Venue is proper in the District of Nevada under 28 U.S.C. § 1391(e) because Petitioner is detained in this district at the Nevada Southern Detention Center and a substantial part of the events or omissions giving rise to Petitioner’s claim occurred in this district.

Accordingly, Petitioner’s habeas petition is properly before this court.

PARTIES

Cesar Orlando Munguia is a citizen of El Salvador. He is detained in the control and custody of Respondents in Nevada.

John Mattos is the Warden of Nevada Southern Detention Center. Warden Mattos in his official capacity, is the immediate custodian of Petitioner.

Michael Bernacke is the Field Director of the West Valley City Office of ICE Enforcement and Removal Operations, which has jurisdiction of enforcement and removal operations over detention facilities in Nevada, including Nevada Southern Detention Center where Petitioner is detained. Bernacke, in his official capacity, is a legal custodian of Petitioner.

Todd Lyons is the Acting Director of Immigration and Customs Enforcement, which is responsible for administering and enforcing immigration laws, including

1 the detention and removal of immigrants. Lyons, in his official capacity, is a legal
2 custodian of Petitioner.

3 Kristi Noem is the Secretary of the Department of Homeland Security, which
4 oversees ICE. Noem, in her official capacity, is the ultimate legal custodian of
5 Petitioner.

6 Pamela Bondi is the Attorney General of the United States. She oversees the
7 immigration court system, which is housed within the Executive Office for
8 Immigration Review (EOIR) and includes all immigration courts and the Board of
9 Immigration Appeals (BIA). She is named in her official capacity.

10 11 GROUNDS FOR RELIEF

12 **Ground One: Petitioner's prolonged detention without the opportunity for**
13 **release on bond violates his right to due process under the Fifth**
14 **Amendment of the United States Constitution.**

15 "The Fifth Amendment's Due Process Clause forbids the Government to
16 'depriv[e]' any 'person . . . of . . . liberty . . . without due process of law.' Freedom
17 from imprisonment—from government custody, detention, or other forms of physical
18 restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*,
19 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).
20 "Arbitrary civil detention is not a feature of our American government. '[L]iberty is
21 the norm, and detention prior to trial or without trial is the carefully limited
22 exception.'" *Rodriguez v. Marin*, 909 F.3d 252, 256–57 (9th Cir. 2018) (quoting
23 *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

24 Petitioner is detained pursuant to the discretionary authority of 8 U.S.C.
25 §1226(a). It appears he had his first and only bond hearing in or around October
26 2025, and that the Immigration Judge (IJ) denied his request for release on bond
27 because the Court found it did not have jurisdiction to hold a bond hearing.
Petitioner has now been detained since July 27, 2025, or more than 6 months

1 without a bond hearing. Accordingly, his prolonged detention without the
2 opportunity to seek release on bond violates his due process rights.

3 In considering the issue of prolonged detention in ICE custody pursuant to
4 mandatory detention, the Ninth Circuit has expressed “grave doubts that any
5 statute that allows for arbitrary prolonged detention without any process is
6 constitutional or that those who founded our democracy precisely to protect against
7 the government’s arbitrary deprivation of liberty would have thought so.”
8 *Rodriguez*, 909 F.3d at 256. Addressing a similar issue, Justice Kennedy, concurring
9 in *Demore v. Kim*, 538 U.S. 510, 532 (2003), pronounced that “since the Due Process
10 Clause prohibits arbitrary deprivations of liberty, a lawful permanent resident alien
11 such as respondent could be entitled to an individualized determination as to his
12 risk of flight and dangerousness if the continued detention became unreasonable or
13 unjustified.” Other circuits have similarly determined that unreasonably prolonged
14 detention violates a noncitizen’s due process rights. *See Black v. Decker*, 103 F.4th
15 133 (2d Cir. 2024); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021).

16 Petitioner’s continued detention for several months since his first and only
17 opportunity to seek release on bond is the type of arbitrary deprivation of liberty the
18 Due Process Clause of the Constitution protects against. *See Rodriguez*, 909 F.3d at
19 257 (“The Fifth Amendment says that ‘[n]o person shall be . . . deprived of life,
20 liberty, or property without due process of law.’ An alien is a ‘person.’ To hold him
21 without bail is to deprive him of bodily ‘liberty.’ And, where there is no bail
22 proceeding, there has been no bail-related ‘process’ at all. The Due Process Clause—
23 itself reflecting the language of the Magna Carta—prevents arbitrary detention.”
24 (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 330 (2018) (Breyer, J., dissenting)
25 (internal citations omitted)).

26 Accordingly, this Court should order that Petitioner receive a new bond
27 hearing in immigration court with the burden on the government to prove that he is

1 a flight risk or presents a danger to the community. This is especially necessary
2 because Petitioner's immigration proceedings have already spanned more than 6
3 months and are likely to continue for substantially longer. Petitioner was ordered
4 removed but he appealed the decision to the Board of Immigration Appeals, and no
5 briefing dates have been set.

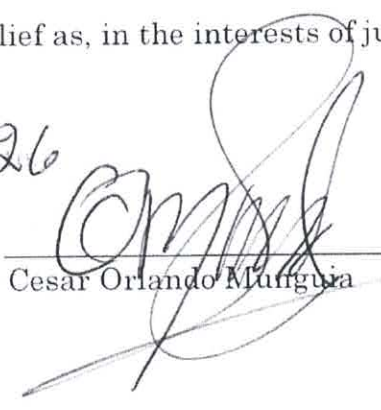
6 **PRAYER FOR RELIEF**

7 Accordingly, Petitioner respectfully requests that this Court:

8 1. Issue a writ of habeas corpus to have Petitioner brought before the
9 Court so that he may be discharged from his unconstitutional confinement within
10 30 days unless Respondents schedule a bond hearing before an immigration judge
11 at which time the judge must order the release of Petitioner unless ICE can
12 establish by clear and convincing evidence that he presents a risk of flight or danger
13 to the community;

14 2. Grant such other and further relief as, in the interests of justice, may
15 be appropriate; and

16 Dated: 02-12-2026

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18 Cesar Orlando Munguia
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