

Jordan Weiner (SBN 356297)

Jordan@LRCL.org

La Raza Centro Legal

474 Valencia St., Ste 295

San Francisco, CA 94103

Telephone: (415) 553-3435

Attorney for Petitioner

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ODILIO MISAEAL ORELLANA REYES,

Petitioner,

v.

SERGIO ALBARRAN, Field Office Director of
the San Francisco Immigration and Customs
Enforcement Office; TODD LYONS, Acting
Director of United States Immigration and
Customs Enforcement; KRISTI NOEM,
Secretary of the United States Department of
Homeland Security, PAMELA BONDI,
Attorney General of the United States, acting in
their official capacities,

Respondents.

CASE No.

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

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2 1. Petitioner Odilio Misael Orellana Reyes was unlawfully detained by Immigration
3 and Customs Enforcement (ICE) today in San Francisco. He entered the United States from
4 Guatemala in about 2017. He lives with his four children and wife in East Palo Alto, and they are
5 at risk of homelessness if he remains detained. He has a pending U-visa and employment
6 authorization. He has no criminal history.

7
8 2. The Due Process Clause applies to “all ‘persons’ within the United States,
9 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
10 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). “Freedom from bodily restraint has
11 always been at the core of the liberty protected by the Due Process Clause from arbitrary
12 governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

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14 3. Immigration detention is civil and thus is permissible for only two reasons: to
15 ensure a noncitizen’s appearance at immigration hearings and to prevent danger to the
16 community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, Petitioner, who has no criminal
17 history and a pending U visa application, is not a flight risk of danger. His detention is thus not
18 justified under the Constitution. *See id.*

19
20 4. Additionally, generally “the Constitution requires some kind of a hearing *before*
21 the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990)
(emphasis added).

22
23 5. Petitioner respectfully seeks a writ of habeas corpus ordering the government to
24 immediately release him from his ongoing, unlawful detention, and prohibiting his re-arrest
25 without a hearing to contest that re-arrest before a neutral decisionmaker. In addition, to preserve
26 this Court’s jurisdiction, Petitioner also requests that this Court order the government not to
27 transfer him outside of the District or deport him for the duration of this proceeding.
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JURISDICTION AND VENUE

6. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

7. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

PARTIES

8. Petitioner Odilio Misael Orellana Reyes is a man from Guatemala. He is presently in ICE custody.

9. Respondent Sergio Albarran is the Field Office Director of the San Francisco Immigration and Customs Enforcement Office. He is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner. He maintains an office and regularly conducts business in this district. He is sued in his official capacity.

10. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Lyons is sued in his official capacity.

11. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority over and responsibility for the operation and enforcement of the immigration laws;

1 routinely transacts business in this District; and is legally responsible for pursuing any effort to
2 detain and remove the Petitioner. Respondent Noem is sued in her official capacity.

3 12. Respondent Pamela Bondi is the Attorney General of the United States and the
4 most senior official at the Department of Justice. In that capacity and through her agents, she is
5 responsible for overseeing the implementation and enforcement of the federal immigration laws.
6 The Attorney General delegates this responsibility to the Executive Office for Immigration
7 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her
8 official capacity.
9

10 EXHAUSTION

11 13. There is no requirement to exhaust because no other forum exists in which
12 Petitioners can raise the claims herein. There is no statutory exhaustion requirement prior to
13 challenging the constitutionality of an arrest or detention, or challenging a policy under the
14 Administrative Procedure Act. Prudential exhaustion is not required here because it would be
15 futile, and Petitioners will “suffer irreparable harm if unable to secure immediate judicial
16 consideration of [their] claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any further
17 exhaustion requirements would be unreasonable.
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20 LEGAL BACKGROUND

21 ***A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and*** 22 ***Detention.***

23 14. The Constitution establishes due process rights for “all ‘persons’ within the
24 United States, including [noncitizens], whether their presence here is lawful, unlawful,
25 temporary, or permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting
26 *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and procedural.
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28

1 15. *First*, “[t]he touchstone of due process is protection of the individual against
2 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
3 exercise of power without any reasonable justification in the service of a legitimate government
4 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

5 16. These protections extend to noncitizens facing detention, as “[i]n our society
6 liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”
7 *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from
8 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
9 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

10 17. Substantive due process thus requires that all forms of civil detention—including
11 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v.*
12 *Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible
13 non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at
14 immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–
15 92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

16 18. *Second*, the procedural component of the Due Process Clause prohibits the
17 government from imposing even permissible physical restraints without adequate procedural
18 safeguards.

19 19. Generally, “the Constitution requires some kind of a hearing *before* the State
20 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is
21 so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d at
22 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional
23 supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)
24 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole
25 context).

20. Petitioner has a protected property interest in his U visa application and deferred action status and the numerous benefits that come with it. These benefits include, among other things, the ability to remain and legally work in the United States and eligibility for important state and federal benefits. If the government issues benefit whose “continued possession [has] become essential in the pursuit of a livelihood,” revocation of those benefits “involves state action that adjudicates important interests” such as they “are not to be taken away without [] procedural due process.” *Bell v. Burson*, 402 U.S. 535, 539 (1971). He also has a protected liberty interest in his continued freedom.

21. This case incorporates the due process arguments from *ICWC v. Noem*, No. 2:25-cv-09848, (C.D. Cal, filed Nov. 17, 2025), a pending class-action that involves the government’s arbitrary revocation of crime survivor benefits.

FACTUAL ALLEGATIONS

1. Mr. Orellana Reyes entered the United States in 2017. He lived in East Palo Alto, California with his wife and four children. His oldest child is 18 years old and the youngest is 11 years old. Mr. Orellana Reyes works as a dishwasher in a restaurant.

2. Mr. Orellana Reyes has a pending derivative U visa application. The principal U visa applicant is his daughter, who was the minor victim of a serious crime. He has employment authorization based on his pending U visa application. Upon information and belief, he has a bona fide U visa determination.

3. Mr. Orellana Reyes was apprehended by immigration officials on March 1, 2026 when they pulled over his vehicle. He is currently in ICE custody.

4. Mr. Orellana Reyes has no criminal history.

51. Mr. Orellana Reyes is being deprived of his liberty without any permissible justification. His family is suffering harm as a result of his arbitrary detention. He is the main breadwinner for the family. His wife and four children are at risk of homelessness if Mr.

Orellana Reyes is not released.

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CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Substantive Due Process—Detention)

52. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

53. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

54. Immigration detention is constitutionally permissible only when it furthers the government’s legitimate goals of ensuring the noncitizen’s appearance during removal proceedings and preventing danger to the community. *See id.*

55. Due process requires a pre-detention hearing at which the government provides notice and an opportunity to be heard regarding the revocation of deferred action status, and if removed, at which the government then proves that the class member they seek to detain is sufficiently dangerous or a flight risk that detention is required.

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process—Detention)

56. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

57. The Fifth Amendment guarantees noncitizens present in the country with due process rights, including the right to not be deprived of a liberty or property interest without

1 notice and a hearing before a neutral decision-maker.

2 58. Petitioner has a protected interest in his U visa application. He is entitled to due
3 process before the government can deprive him of his liberty or property. The Due Process
4 Clause prohibits Petitioner's detention without a pre-deprivation hearing before a neutral
5 decision-maker in which the government bears the burden of demonstrating that he poses a
6 flight risk or danger to the community.

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9 **PRAYER FOR RELIEF**

10 Petitioner respectfully request that this Court:

- 11 1. Assume jurisdiction over this matter;
- 12 2. Issue a writ of habeas corpus ordering Respondents to immediately release
13 Petitioner from custody;
- 14 3. Declare that Petitioner's arrest and detention violates the INA, implementing
15 regulations, and Due Process Clause of the Fifth Amendment.
- 16 4. Enjoin Respondents from transferring Petitioner outside this District or deporting
17 Petitioner pending these proceedings;
- 18 5. Enjoin Respondents from re-detaining Petitioner unless is detention is ordered at
19 a custody hearing before a neutral arbiter in which the government bears the
20 burden of proving, by clear and convincing evidence, that Petitioner is a flight
21 risk or danger to the community;
- 22 6. Award Petitioner is costs and reasonable attorneys' fees in this action as provided
23 for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
- 24 7. Grant such further relief as the Court deems just and proper.
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28 Date: March 1, 2026
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CASE NO. _____

Respectfully Submitted,

/s/ Jordan Weiner

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474 Valencia St., Ste 295

San Francisco, CA 94103

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Attorney for Petitioner