AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

Middle District of Florida

MAY 21 2026 AM 11:08
FILED - USDC - FLMD - FTM

Gabriel Ponce Bermudez

Petitioner

v.

U.S. Immigration and Customs Enforcement (ICE), Warden, Florida Soft Side South Detention Facility

Respondent
(name of warden or authorized person having custody of petitioner)

Case No. 2:26cv1726-JES-KRH
(Supplied by Clerk of Court)

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

Personal Information

1. (a) Your full name: Gabriel Ponce Bermudez
   (b) Other names you have used: none
2. Place of confinement:
   (a) Name of institution: FLORIDA SOFT SIDE SOUTH
   (b) Address: 54575 Tamiami Trail E
   Ochopee, FL. 34141
   (c) Your identification number: A# [redacted]
3. Are you currently being held on orders by:
   ☑ Federal authorities ☐ State authorities ☐ Other - explain:
4. Are you currently:
   ☐ A pretrial detainee (waiting for trial on criminal charges)
   ☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
   If you are currently serving a sentence, provide:
   (a) Name and location of court that sentenced you:
   (b) Docket number of criminal case:
   (c) Date of sentencing:
   ☑ Being held on an immigration charge
   ☐ Other *(explain)*:

Decision or Action You Are Challenging

5. What are you challenging in this petition:
   ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention
☑ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other *(explain)*:

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

(a) Name and location of the agency or court:
WARDEN, FLORIDA SOFT SIDE SOUTH DETENTION FACILITY.

(b) Docket number, case number, or opinion number:

(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
Continued immigration detention beyond six months. ICE is attempting removal to a third country without prior acceptance or significant likelihood of removal in the reasonably foreseeable future.

(d) Date of the decision or action: 10/30/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☑ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, EL PASO DIVISION.
(2) Date of filing: 02/19/2026
(3) Docket number, case number, or opinion number: No. 3:26-CV-00518-LS
(4) Result: Pending
(5) Date of result:
(6) Issues raised: Continued immigration detention beyond six months under Zadvydas v. Davis.

(b) If you answered "No," explain why you did not appeal:

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☑ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a second appeal: No final decision has been issued in the prior habeas proceeding.

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☑ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a third appeal: No third appeal was filed because the prior habeas proceeding remains pending.

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☑ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☑ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☑ Yes ☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 10/30/2025

(b) Date of the removal or reinstatement order:

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

☐ Yes ☑ No

If "Yes," provide:

(1) Date of filing:

(2) Case number:

(3) Result:

(4) Date of result:

(5) Issues raised:

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☑ No

If "Yes," provide:

(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 you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☑ No

If "Yes," provide:

(a) Kind of petition, motion, or application:

(b) Name of the authority, agency, or court:

(c) Date of filing:

(d) Docket number, case number, or opinion number:

(e) Result:

(f) Date of result:

(g) Issues raised:

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Unlawful Post-Removal-Order Detention in Violation of Due Process (No Significant Likelihood of Removal)

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Petitioner is detained pursuant to a final order of removal under 8 U.S.C § 1231 and has remained in continuous ICE re detention since October 30, 2025. Continued detention must comply with constitutional limitations. Under Zadvydas v. Davis, detention is permitted only for a period reasonably necessary to effect removal. Where removal is not significantly likely in the reasonably foreseeable future, continued detention violates due process. The existence of a criminal conviction does not authorize indefinite detention.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes ☑ No

GROUND TWO: Unlawful Re-Detention Without Proper Revocation of Order of Supervision (Violation of Agency Regulations and Due Process)

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Petitioner was previously released under an Order of Supervision prior to re-detention. Following release from criminal custody, ICE re-detained Petitioner without properly revoking the existing Order of Supervision. Federal agencies are required to follow their own regulations and procedures. Detaining Petitioner while the prior Order of Supervision remained in effect rendered the re-detention unlawful and inconsistent with due process.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes ☑ No

GROUND THREE: Arbitrary Continued Detention Based on Speculative Third-Country Removal

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

ICE has continued Petitioner's prolonged detention based on speculative third-country removal efforts to Mexico despite the absence of formal acceptance, valid travel documents, or a significant likelihood that removal can actually be effectuated in the reasonably foreseeable future. Petitioner does not possess a passport or valid travel document for Mexico, and ICE has not demonstrated official authorization from Mexico to accept Petitioner. Continued detention based on speculative removal efforts has become arbitrary and unconstitutional.

(b) Did you present Ground Three in all appeals that were available to you?

☑ Yes ☐ No

GROUND FOUR: Failure to Conduct Meaningful Post-Order Custody Review.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

ICE has continued Petitioner's prolonged detention without conducting a meaningful custody review addressing whether removal is significantly likely in the reasonably foreseeable future. Despite the absence of confirmed third-country acceptance or valid travel documentation, detention has continued without adequate consideration of release or less restrictive alternatives.

(b) Did you present Ground Four in all appeals that were available to you?

☑ Yes ☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: These grounds were not fully available earlier because Petitioner had not yet reached six months of detention when the prior habeas petition was filed. The prior petition remains pending. The present petition is based on continued detention beyond six months, changed circumstances, prolonged detention in Florida, and lack of foreseeable removal.

Request for Relief

15. State exactly what you want the court to do: Order Respondent to release Petitioner under reasonable conditions of supervision unless the Government demonstrates that removal is significantly likely in the reasonably foreseeable future; alternatively, order Respondent to show cause and provide concrete evidence that removal is foreseeable; and grant any other relief the Court deems just and proper.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

_____

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 05/17/2026

_____
Signature of Petitioner

_____
Signature of Attorney or other authorized person, if any

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Petition for Writ of Habeas Corpus was served by the U.S. Mail on May 17, 2026, upon the following parties:

Clerk of Court
United States District Court
Middle District of Florida
Fort Myers Division
2110 First Street
Fort Myers, FL 33901

Office of the United States Attorney
c/o Civil Process Clerk
2110 First Street, Suite 3-137
Fort Myers, FL 33901

Facility Administrator
Florida Soft Side South
54575 Tamiami Trail E
Ochopee, FL 34141

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