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

FILED

JUL 07 2026

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY ENO
DEPUTY CLERK

UNITED STATES DISTRICT COURT

for the

Eastern District of California

Abel Iriartes Perez

Petitioner

v.

Warden, Central Valley Annex

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

Case No. 1:26-CV-5224-KES-SAB (HC)
(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: Abel Iriartes Perez
   (b) Other names you have used: N/A
2. Place of confinement:
   (a) Name of institution: Central Valley Annex
   (b) Address: 254 Taylor Ave, McFarland, CA 93250
   (c) Your identification number: [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: U.S. Immigration and Customs Enforcement (ICE) Central Valley Annex, California

(b) Docket number, case number, or opinion number: [redacted]

(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
Petitioner challenges only his continued ICE detention under 8 U.S.C. § 1231(a)(6), not the March 9, 2005 removal order.

(d) Date of the decision or action: 02/20/2026

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:

(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 appeal:
Petitioner did not appeal because he was not advised of his rights and did not understand the appeal process.

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:

Petitioner did not file a second appeal because no first appeal was filed and he did not understand the appeal process.

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:

Petitioner did not file a third appeal because no prior appeals were filed and he did not understand the appeal process.

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: 02/20/2026

(b) Date of the removal or reinstatement order: 03/09/2005

(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: SEE ATTACHMENT A

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 Do not cite cases or law.)*:

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

☐ Yes ☑ No

GROUND TWO: SEE ATTACHMENT A

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 Do not cite cases or law.)*:

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

☐ Yes ☑ No

GROUND THREE: SEE ATTACHMENT A

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 Do not cite cases or law.)*:

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

☐ Yes ☑ No

GROUND FOUR: SEE ATTACHMENT A

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

(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: Petitioner did not present these grounds in immigration appeals because he is not challenging the March 9, 2005 removal order. These grounds challenge only his current continued ICE detention under 8 U.S.C. § 1231 (a)(6), which arose after he was re-detained on February 20, 2026. Petitioner did not understand the legal proces and had no meaningful opportunity to raise these detention claims before.

Request for Relief

15. State exactly what you want the court to do: WHEREFORE, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus; declare that his continued post-removal-order detention violates Due Process; order his immediate release from ICE custody under an Order of Supervision or other reasonable conditions of supervision; 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:

06-18-26

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: 06-18-26

[redacted]

Signature of Petitioner

Signature of Attorney or other authorized person, if any

ATTACHMENT A

GROUNDS FOR PETITION FOR WRIT OF HABEAS CORPUS

Petitioner: Abel Iriartes-Perez [redacted]

GROUND ONE

Continued detention under 8 U.S.C. § 1231(a)(6) violates Due Process because removal is not significantly likely in the reasonably foreseeable future.

Petitioner is detained by ICE under 8 U.S.C. § 1231(a)(6) following a final order of removal dated March 9, 2005. The removal order is more than twenty years old. ICE previously released Petitioner under an Order of Supervision after removal was not accomplished. That prior release shows that ICE has already been unable to complete removal in the past.

Petitioner has now been detained again since February 20, 2026. ICE has not provided a confirmed travel document, a confirmed flight date, or proof that Cuba has accepted Petitioner for removal in the reasonably foreseeable future. Under Zadvydas v. Davis, post-removal-order detention may last only for the period reasonably necessary to accomplish removal. Where removal is not significantly likely in the reasonably foreseeable future, continued detention is unconstitutional.

Relief requested: Petitioner asks the Court to order his release under an Order of Supervision or other reasonable conditions of supervision.

GROUND TWO

ICE's re-detention of Petitioner after years of supervision is arbitrary without a new individualized justification.

After the 2005 final order, ICE released Petitioner under an Order of Supervision. Petitioner lived in the community for many years under ICE supervision. ICE cannot rely only on the old final order to justify re-detaining Petitioner indefinitely in 2026.

To continue detention after years of supervision, ICE should have a current and individualized reason, such as actual evidence that removal is imminent or proof that Petitioner presently cannot be supervised in the community. Petitioner's prior release and supervision history show that less restrictive alternatives are available, including ICE reporting, address updates, travel restrictions, and compliance with lawful removal instructions. Relief requested: Petitioner asks to be returned to supervision unless the Government proves a specific and current reason for continued physical detention.

GROUND THREE

ICE has failed to provide a meaningful post-order custody review based on concrete evidence.

A custody review must be meaningful. It is not enough for ICE to state only that removal is pending, that a travel document is being requested, or that removal efforts are ongoing. ICE must have actual evidence showing that removal is significantly likely in the reasonably foreseeable future.

Here, Petitioner has a final removal order from March 9, 2005, was previously released under supervision, and has now been detained again since February 20, 2026. The available information does not show a confirmed travel document, acceptance by Cuba, or a scheduled removal date. Without concrete evidence of imminent or reasonably foreseeable removal, ICE's custody review is insufficient and continued detention violates Due Process.

Relief requested: Petitioner asks the Court to order release unless the Government produces concrete evidence that removal is significantly likely in the reasonably foreseeable future.

GROUND FOUR

Continued physical detention is excessive because Petitioner can be safely supervised in the community.

Petitioner is not asking this Court to cancel, reopen, or stay the 2005 removal order. He asks only to be released from physical custody under reasonable supervision while ICE continues any lawful removal efforts.

ICE previously released Petitioner under an Order of Supervision, which shows that supervision was available and workable. Reasonable conditions may include ICE check-ins, address reporting, travel restrictions, electronic monitoring if ICE deems it necessary, and compliance with all lawful removal-related instructions. Continued physical detention is excessive unless the Government proves that detention is currently necessary and that supervision is inadequate.

Relief requested: Petitioner asks for immediate release under an Order of Supervision or other reasonable ICE supervision conditions.