Jose Martines Rostro
NAME
A[redacted]
PRISON NUMBER

Imperial Regional Detention facility
PLACE OF CONFINEMENT

1572 Gateway Rd Calexico CA.
ADDRESS

FILED
JUL 31 2026
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

United States District Court
Southern District Of California

Jose Martines Rostro
(FULL NAME OF PETITIONER)
Petitioner

v.

Warden Jeremy Casey.
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER, E.G. PAROLE OFFICER)
Respondent

and
The Attorney General of the State of California, Additional Respondent.

Civil No. '26CV4401 BAS JAC
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

1. 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 or case number (if you know): _____
     (c) Date of sentencing: _____
   - ☑ Being held on immigration charge
   - ☐ Other (explain): _____
     _____

2. Are you currently being held on orders by:
☑ Federal authorities ☐ State authorities ☐ Other - explain:

3. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities
☐ Pretrial detention
☑ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed
☐ Disciplinary proceedings
☐ Other (specify):

4. Provide more information about the decision or action you are challenging:
(a) Name and location of the court or agency: Imperial Immigration Court 2409 La Brucherie Rd, Imperial Ca 92251
(b) Case number, docket number or opinion number (if you know): [redacted]
(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): Immigration and Custom Enforcement's Prolonged detention and their decision to detain me without a bond hearing since I'm not a recent Enerant.
(d) Date of the decision or action: 12-19-2025

5. Did you **appeal** the decision, file a grievance or seek an administrative remedy?
☐ Yes ☑ No

(a) If your answer to 5 was "Yes," give the following information:

(1) Name of court, agency or authority:
(2) Date of filing:
(3) Case number, docket number or opinion number:
(4) Result:
(5) Date of result:
(6) Issues raised:

(b) If your answer to 5 was "No," explain why you did not appeal: Any appeal would be futile

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

☐ Yes ☑ No

(a) If your answer to 6 was "Yes," give the following information:

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

(2) Date of filing: _____
(3) Case number, docket number or opinion number: _____
(4) Result: _____
(5) Date of result: _____
(6) Issues raised: _____

(b) If your answer to 5 was "No," explain why you did not appeal: Any appeal would be futile

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

☐ Yes ☑ No

(a) If your answer to 7 was "Yes," give the following information:

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

(2) Date of filing: _____
(3) Case number, docket number or opinion number: _____
(4) Result: _____
(5) Date of result: _____
(6) Issues raised: _____

(b) If your answer to 7 was "No," explain why you did not appeal: Any appeal would be futile.

8. **State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground.** If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available court remedies as to each ground on which you request action by the federal court. Moreover, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

You should *raise in this petition all available grounds* on which you base your allegations that you are being held in custody unlawfully.

GROUND ONE: I have being detained for over Six months. Courts in the Ninth Circuits have recognized the six-months bright-line rule.

(a) Supporting FACTS (state *briefly* without citing cases or law)

I have been Cursently detained for over seven months with no bond hearing. Courts in this Circuit have recognized a six-months "presumptively reasonable period of detention" after where "the alien is eligible for Conditional release if he can demonstrate that there is no significant likelihood of removal in the reasonable foreseeable future" Clark V. Martinez, 543 U.S. 371 378, 125 S.Ct. 716, 160 L.Ed.2d 734 (2005) (quoting Zadvydas, 533 U.S at 701). My detention has become unconstitutionally prolonged and violates the 5th Amendment of the Constitution.

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

☐ Yes ☑ No

GROUND TWO: I am detained under 1226(a), not 1225 (b), because I was not arriving or seeking admission when I was arrested by ICE.

(a) Supporting FACTS (state *briefly* without citing cases or law):

I entered the united state of America in October of 2015 and since then I have been living and working in United States. I have an Social Security and also pay my Tax. I live in [redacted] where I have maintained a good relationship with my neighbors and Community at large. I have a pending U-visa which I believe that it is going to be approved soon. I have a son who is a united states of America Citizen. If deported back to my home Country, life will be hard for my son, for he will grow without the love and Care of a father. I was arrested by ICE on 12-19-2025 and Since then I have been detained. I miss my son and i'm worried about him since i'm not there to care and provide all that he needs. I have One DUI and I admit my mistakes and I promise never to involve in it again. The Condition of my Confinement has been affecting me mentally, emotionally, psychologically and healthwise. most times, I am deeply depressed as I have difficulties Communicating with my family and loved ones.

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

☐ Yes ☑ No

GROUND THREE: My detention has become unconstitutionally prolonged and violates the fifth amendment of the Constitution.

(a) **Supporting FACTS** (state *briefly* without citing cases or law): It is well-settled that the fifth Amendment entitles aliens to due process in deportation proceedings. The due process clause applies to all persons within the united states, including aliens whether their presence here is lawful, unlawful, temporary or permanent. More than a decade ago in the Zadvydas decision, the united states Supreme Court signaled its Concerns about the Constitutionality of a statutory scheme that ostensibly authorized indefinite detention of non-Citizens. Two years later, when the Court upheld the Constitutionality of 8 U.S.C.S § 1226(c) in the Demore decision, it emphasized that for detention under the Statute to be reasonable, it must be for a brief period of time. Justice Kennedy explained in his Concurrence in the Demore decision that were there to be an unreasonable delay by the Immigration and Naturalization Service in pursuing and completing deportation proceedings, it Could become necessary to know whether the detention is to protect against risk of flight but to incarcerate.

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

☐ Yes ☑ No

GROUND FOUR: I am not a flight risk or Danger to the Community.

(a) **Supporting FACTS** (state *briefly* without citing cases or law): I have lived in the united States for more than ten years and i have fixed address where i live [redacted] I also have friends and family who are willing to write a support letter for sponsorship if granted a bond hearing.

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

☐ Yes ☑ No

9. If any of the grounds listed in 4A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not presented, and give your reasons for not presenting them:

None of these grounds has been presented to any state or federal Court, petitioner is presenting it for the first time to this Court.

10. Do you have any petition or appeal now pending in any court, either state or federal, as to the execution of sentence under attack?
☐ Yes ☑ No

11. Give the name and address, if known, of each attorney who represented you in the following stages of the execution of sentence attacked herein:

(a) In any post-conviction proceeding N/A
N/A

(b) On appeal from any adverse ruling in a post-conviction proceeding
N/A

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding. Orders my immediate release from detention or in the alternative, order a bond hearing where the government bears the burden of proof by clear and convincing evidence that my detention is necessary.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

07/27/2026
(DATE)

SIGNATURE OF PETITIONER

INSTRUCTIONS FOR FILING
PETITION UNDER 28 U.S.C. § 2241 FOR WRIT OF HABEAS CORPUS
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

(1) This petition must be legibly handwritten or typewritten. You must tell the truth in the petition and you must sign the petition under penalty of perjury. If you do not tell the truth in this petition, you may be prosecuted for and convicted of perjury.

(2) Answer all the questions on the form as concisely as you can. You do not need to cite cases. Include the facts supporting your ground for relief. If briefs or arguments are submitted, they should be submitted as a separate memorandum.

(3) You must pay a **$5.00 filing fee** to have your petition filed. The $5.00 fee must be submitted with the petition, not separately. If you do not have the $5.00 for the filing fee and any other costs, you may request permission to proceed in forma pauperis. To do so, fill out and submit the "Motion to Proceed in Forma Pauperis" form provided by the Court with your petition. You also **MUST** have an authorized officer at the penal institution complete the "Prison Certificate" statements stating the amount of money and securities on deposit to your credit in any account in the institution.

(4) You may only challenge a judgment entered by one court in a single petition. If you want to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.

(5) You must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.

(6) When the petition is fully completed, the original and at least one copy must be mailed to:

Clerk of U.S. District Court
Southern District of California
333 W. Broadway, Suite 420
San Diego CA 92101

(7) Petitions that do not conform to these instructions will be returned with a notation as to the deficiency.