JUDGE KATHLEEN CARDONE

FILED

AUG 21 2026

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

UNITED STATES DISTRICT COURT

for the

Western District of Texas

Brayan francisco Escobar Cruz
Petitioner

v.

David J. Venturella
Warden-ERO El Paso Camp East Montana
Respondent
(name of warden or authorized person having custody of petitioner)

Case No.
(Supplied by Clerk of Court)

EP26CV2183

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

Personal Information

1. (a) Your full name: Brayan francisco Escobar Cruz
   (b) Other names you have used: N/A
2. Place of confinement:
   (a) Name of institution: ERO el Paso Camp Montana
   (b) Address: 6920 Digital Road NA
   El Paso, TX 79936
   (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:
U.S Immigration and Customs Enforcement(ICE) El Paso, TX

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

(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
Petitioner's current immigration detention beginning July 19, 2026, while his timely administrative appeal remains pending before The BIA. Date : July 19, 2026

(d) Date of the decision or action:

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: Office of the Chief Clerk 5107 Leesburg Pike, Suite 2000 Falls Church, VA 22041
(2) Date of filing: May 8 2023
(3) Docket number, case number, or opinion number:
(4) Result: It is currently pending.
(5) Date of result: N/A - Appeal remains pending
(6) Issues raised: I do not agree with the Judge's decision, and a review of the case and the evidence presented has been requested.

(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:

The first administrative appeal remains pending before the Board of Immigration Appeals; therefore, no decision exists from wich petitioner could take a further appeal.

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

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:

The first administrative appeal remains pending before The Board of Immigration Appeals; Therefore, no decision exists from wich petitioner could take a further appeal.

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

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:

N/A

(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:

N/A

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

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes ☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: July 19, 2026

(b) Date of the removal or reinstatement order: April 18, 2023

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

☒ Yes ☐ No

If "Yes," provide:

(1) Date of filing: May 8, 2023

(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: Pending

(5) Date of result: N/A - Pending

(6) Issues raised: NOTICE of Appeal

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: Petitioner challenges his current immigration detention while his timely administrative appeal remains pending before the Board of Immigration Appels

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

An immigration Judge entered removal decision on April 18, 2023. Petitioner timely filed an appeal with the Board of immigration Appeals on may 8, 2023. That appeal remains pending and, to petitioner's knowledge, no decision has been issued by the Board. Petitioner request Judicial review of the legality of his present detention and immediate Release from ICE custody while his administrative appeal remains unresolved.

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

☐ Yes ☒ No

GROUND TWO: Brayan, Timely pursued the administrative appeal available to him and that appeal remains pending. Petitioner contends that continued detention under these circumstances violates the due process clause of the fifth amendment

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

Petitioner timely appealed the Immigration Judge's April 18, 2023 petitioner was not taken into the present ICE custody until July 19, 2026, more than three years after the appeal was filed. Therefore, the present detention did not exist when petitioner filed his BIA appeal. The BIA appeal remains pending.

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

☐ Yes ☒ No

GROUND THREE: Petitioner has timely pursued His available Administrative Appeal.

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

Petitioner timely appealed the Immigration Judge's April 18, 2023 Removal decision to the Board of Immigration Appeals on May 8, 2023. Petitioner has continued to pursue that administrative process. To petitioner's knowledge, the BIA has not issue a decision and Appeal remains pending.

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

☐ Yes ☒ No

GROUND FOUR: Petitioner challenges only His present Detention and seeks immediate Release.

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

Petitioner is presently detained by ICE while his administrative appeal remains pending before the Board of immigration Appeals. Petitioner does not ask this court to decide the merits of his pending BIA appeal or to reverse the immigration Judge's removal decision. Petitioner ask this court to review the legality of his present detention and order his immediate release from ICE custody if the court determines that continued detention is unlawful.

(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: This ground could not have been presented in petitioners May 8, 2023 appeal because petitioner's present ICE detention did not begin until July 19, 2026, more that Three years after the appeal was filed. The BIA appeal remains pending.

Request for Relief

15. State exactly what you want the court to do: Petitioner Respectfully request that his court. Grant the petition for writ of Habeas corpus declare petitioners present detention unlawful. Order petitioner's immediate release from ICE custody pending the final disposition of the appeal before the Board Immigration Appels, subject to any lawful conditions the court deems appropriate.

AND

Grant such other relief as this Honorable court deems just and proper under the law.

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: AUGUST 18

Signature of Petitioner

PRO-SE

Signature of Attorney or other authorized person, if any

JUDGE KATHLEEN CARDONE

FILED
AUG 21 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

DOCUMENTO No. 1

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

(Parte I)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

BRAYAN FRANCISCO ESCOBAR CRUZ
A No. [redacted]

Petitioner,

v.

DAVID J. VENTURELLA, in his official capacity as Respondent, and any successor custodian having immediate legal custody of Petitioner,

Respondent.

Civil Action No. EP26CV2183

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. § 2241

Petitioner, **Brayan Francisco Escobar Cruz,** through this Petition for Writ of Habeas Corpus pursuant to **28 U.S.C. § 2241,** respectfully petitions this Honorable Court for relief from his present detention by the Department of Homeland Security. Immigration and Customs Enforcement ("ICE"), and alleges as follows:

I.

INTRODUCTION

1. This action challenges the legality of Petitioner's present immigration detention.
2. Petitioner is presently confined at:

ERO El Paso Camp East Montana
6920 Digital Road
El Paso, Texas 79936.

3. Petitioner does **not** request this Court to review, modify, vacate, or otherwise overturn the Immigration Judge's removal order.
4. Instead, Petitioner seeks judicial review solely of the legality of his present detention pursuant to **28 U.S.C. §2241**, alleging that his continued confinement violates the Constitution and laws of the United States. The writ extends to persons who are in federal custody and who allege that such custody violates the Constitution or federal law.
5. Petitioner respectfully requests that this Court determine whether his continued confinement is lawful while his administrative appeal remains pending before the Board of Immigration Appeals.

II.

JURISDICTION

6. This Court possesses jurisdiction pursuant to **28 U.S.C. §2241(a) and (c)** because Petitioner is presently confined within the territorial jurisdiction of this Court under color of authority of the United States Government.
7. Venue is proper in the **United States District Court for the Western District of Texas, El Paso Division**, because Petitioner is physically detained within this judicial district. Under § 2241, the writ is generally heard by the district court where the restraint is occurring.
8. Respondent exercises legal authority over Petitioner's custody and therefore is the proper Respondent in this proceeding.

III.

THE PARTIES

Petitioner

9. Petitioner is:

BRAYAN FRANCISCO ESCOBAR CRUZ

Alien Registration Number:

A[redacted]

10. Petitioner is presently detained by Immigration and Customs Enforcement.
11. Petitioner has remained fully cooperative with immigration authorities.

Respondent

12. Respondent is:

David J. Venturella

acting in his official capacity together with any successor official having legal custody over Petitioner.

IV.

FACTUAL BACKGROUND

13. On **April 18, 2023**, an Immigration Judge entered an Order of Removal against Petitioner.
14. Exercising the statutory right afforded by the Immigration and Nationality Act, Petitioner timely filed a Notice of Appeal before the **Board of Immigration Appeals** on **May 8, 2023**.
15. The appeal remains pending before:

Office of the Chief Clerk
Board of Immigration Appeals
5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041.

16. To date, the Board of Immigration Appeals has not issued a final administrative decision regarding Petitioner's appeal.

17. While the appeal remained pending, Petitioner continued residing in the United States.
18. On **July 19, 2026**, Immigration and Customs Enforcement took Petitioner into custody.
19. On **July 31, 2026**, Petitioner was transferred to **ERO El Paso Camp East Montana**, where he remains confined.
20. Petitioner has now been deprived of his liberty while his administrative appeal continues unresolved before the Board of Immigration Appeals.



BRAYAN FRANCISCO ESCOBAR CRUZ

CERTIFICATE

I hereby certify that the foregoing Index of Exhibits accurately identifies the documents submitted in support of Petitioner's Petition for Writ of Habeas Corpus.

Respectfully submitted,

BRAYAN FRANCISCO ESCOBAR CRUZ
A No [redacted]

Petitioner

Date: _____

If you are incarcerated, on what date did you place this petition in the prision mail.