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

# 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, et al.,**

Respondents.

Civil Action No. EP26CV2183

# DOCUMENT NO. 5

# MOTION FOR IMMEDIATE RELEASE PENDING ADJUDICATION OF PETITION FOR WRIT OF HABEAS CORPUS

Petitioner **Brayan Francisco Escobar Cruz**, pursuant to **28 U.S.C. § 2241**, respectfully moves this Honorable Court for an Order directing his immediate release from Immigration and Customs Enforcement ("ICE") custody while this Petition for Writ of Habeas Corpus is pending, and in support thereof states as follows:

# I.

## INTRODUCTION

Petitioner is presently detained at:

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

Petitioner respectfully requests immediate release because the legality of his present detention is the subject of the accompanying Petition for Writ of Habeas Corpus.

This Motion does **not** seek review or reversal of the Immigration Judge's removal order.

Instead, Petitioner requests only temporary relief from continued detention while this Court adjudicates whether that detention complies with the Constitution and laws of the United States.

# II.

# PROCEDURAL HISTORY

1. On April 18, 2023, an Immigration Judge entered an Order of Removal.
2. On May 8, 2023, Petitioner timely filed an appeal before the Board of Immigration Appeals.
3. The appeal remains pending.
4. On July 19, 2026, ICE placed Petitioner into custody.
5. On July 31, 2026, Petitioner was transferred to ERO El Paso Camp East Montana.
6. Petitioner remains detained.

# III.

# ARGUMENT

Petitioner respectfully submits that continued detention should be reviewed by this Court under **28 U.S.C. § 2241**, which authorizes federal district courts to determine whether a person is in custody in violation of the Constitution or laws of the United States.

Petitioner has exercised the administrative remedies available to him by filing a timely appeal with the Board of Immigration Appeals.

The appeal remains pending.

Petitioner is not attempting to avoid the immigration process.

To the contrary, Petitioner seeks to continue pursuing that process through the lawful administrative review provided by Congress.

Petitioner asserts that continued detention while the administrative appeal remains unresolved raises substantial constitutional questions concerning the lawfulness of his present confinement and warrants prompt judicial review. Federal courts have recognized that habeas corpus under § 2241 may be used to challenge the legality of immigration detention itself, separate from direct review of a removal order.

Petitioner further represents that he intends to comply with all future proceedings before the immigration authorities and with any lawful conditions this Court may impose should relief be granted.

# IV.

# REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Expedite consideration of the accompanying Petition for Writ of Habeas Corpus;

B. Determine whether Petitioner's continued detention is lawful under the Constitution and laws of the United States;

C. If the Court concludes that continued detention is unlawful, order Petitioner's immediate release from ICE custody subject to any lawful conditions the Court deems appropriate;

D. Grant such other and further relief as the Court considers just and proper.

Respectfully submitted,



**BRAYAN FRANCISCO ESCOBAR CRUZ**

A No. [redacted]

**Petitioner**

Date: AUGUST 18 2026