JUDGE KATHLEEN CARDONE

FILED
AUG 31 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTY CLERK

UNITED STATES DISTRICT COURT

for the

Western District of Texas

YOSELKY ORELLANA PRESA

Petitioner

v.

WARDEN, EL PASO SERVICE PROCESSING CENTER, et all

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

Case No: EP26CV2257
(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: YOSELKY ORELLANA PRESA
   (b) Other names you have used: N/A
2. Place of confinement:
   (a) Name of institution: EL PASO SERVICE PROCESSING CENTER
   (b) Address: 8915 Montana Avenue, El Paso, Texas 79925
   (c) Your identification number: A# [redacted]
3. Are you currently being held on orders by:
   ☑ Federal authorities ☐ State authorities ☐ Other - explain:
   U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE).
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: I am presently detained by ICE.
U.S. Immigration and Customs Enforcement (ICE), El Paso Field Office / El Paso Service Processing Center.

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

(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:

I challenge my August 11, 2026 re-detention by ICE and my continued civil immigration confinement without a meaningful individualized custody determination. I do not challenge the merits of the immigration Judge's removal order in this habeas petition.

(d) Date of the decision or action: 08/11/2026

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:

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:

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:

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: 08/11/2026

(b) Date of the removal or reinstatement order: N/A

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

☑ Yes ☐ No

If "Yes," provide:

(1) Date of filing: 04/01/2026

(2) Case number: A# 220-652-424

(3) Result: Pending

(4) Date of result: N/A

(5) Issues raised: N/A

(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.

GROUND ONE:

As applied to my individual circumstances, my re-detention under 8 U.S.C. § 1225(b)(2)(A), after more than four years of successful release and compliance on Form I-220A and without any new circumstance demonstrating danger or flight risk, violates the Due Process Clause of the Fifth Amendment.

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 Do not cite cases or law.)*:

DHS released me on Form I-220A in 2022. I remained in the community for more than four years, attended all required ICE, EOIR, and USCIS appointments, maintained a fixed residence, worked lawfully, paid taxes, supported my family, and had no criminal convictions. ICE re-detained me on August 11, 2026 while I voluntarily appeared for a scheduled reporting appointment.

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

☐ Yes ☑ No

GROUND TWO:

My re-detention without a meaningful opportunity to contest the necessity of continued confinement before a neutral decisionmaker violates procedural due process under Mathews v. Eldridge, 424 U.S. 319 (1976).

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

No neutral decisionmaker has evaluated whether my present confinement is necessary despite my lengthy history of successful compliance, lack of criminal convictions, strong family ties, fixed residence, business, sponsors, and willingness to accept conditions of supervision.

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

☐ Yes ☑ No

GROUND THREE:

My continued civil confinement is arbitrary and excessive because it is not reasonably related to any present danger or flight risk.

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

For more than four years I demonstrated that I would appear as required. I have a pending BIA appeal, a pending Cuban Adjustment Act application, a lawful permanent resident wife, an infant child, stable housing, business and property interests, tax history, and extensive community support.

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

☐ Yes ☑ No

GROUND FOUR:

Less restrictive conditions can fully protect the Government's legitimate interests, and due process therefore requires release or a prompt individualized custody determination.

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

I am willing to comply with ICE reporting, SmartLINK, GPS monitoring, electronic supervision, geographic restrictions, an approved residence, or any other reasonable condition. My prior record demonstrates that community supervision has successfully ensured my compliance.

(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:

Request for Relief

15. State exactly what you want the court to do:

I respectfully request that the Court grant habeas relief; order my release under appropriate conditions; or, alternatively, order a prompt constitutionally adequate individualized custody determination before a neutral decisionmaker. I also request appropriate relief protecting my access to this Court during the pendency of this action. See attached Petition and Memorandum for complete grounds and requested relief.

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: 8-26-2026

Signature of Petitioner

Signature of Attorney or other authorized person, if any

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