

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

Gilbert Alonso-Portillo

Petitioners,

RICHARD JONES, Sheriff of Butler County, in his official capacity; **PAMELA BONDI**, Attorney General of the United States, in her official capacity; **KRISTI NOEM**, Secretary of the U.S. Department of Homeland Security, in her official capacity; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; **ROBERT LYNCH**, Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement, in his official capacity, and **KASH PATEL**, Director of the Federal Bureau of Investigations.

Respondents–Defendants.

Case No. 1:25-cv-306

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241
AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

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INTRODUCTION

This is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner Gilbert Alonso-Portillo, a long-term resident of the United States, is currently detained by federal immigration authorities at Butler County Jail in Ohio. His detention stems from an April 7, 2025, warrantless and unconstitutional search of his home, seizure of lawfully possessed firearms, and subsequent arrest by Immigration and Customs Enforcement (“ICE”), Federal Bureau of Investigation (“FBI”) and Homeland Security Investigations (“HSI”) —none of which was supported by probable cause, a valid removal order, or criminal charges.

Although Petitioner was provided a bond hearing, the Immigration Judge relied on the mere presence of a firearms to deem Petitioner a “danger to the community,” denying him release without meaningful consideration of his due process rights or the lack of any criminal history. This detention violates the Fourth, Fifth, and Second Amendments to the United States Constitution.

Petitioner seeks immediate judicial review of his detention, a declaration that his continued custody is unlawful, and an order for his immediate release on bond. This case raises urgent constitutional questions regarding the limits of immigration enforcement authority, the rights of noncitizens under the Constitution, and the legality of pre-removal detention in the absence of due process. It also presents serious public policy concerns arising from a warrantless search and seizure conducted without consent or exigent circumstances. The fact that Petitioner has no criminal history underscores the troubling nature of the government’s actions and raises the question of what, if anything, formed the basis for law enforcement’s suspicion. The most plausible

inference is that Petitioner was targeted based solely on his appearance and manner of speaking—markers associated with his identity as an immigrant.

JURISDICTION AND VENUE

This action arises under the United States Constitution; the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.; and the regulations implementing the INA. Petitioner brings this habeas corpus petition pursuant to 28 U.S.C. § 2241 to challenge the lawfulness of his continued immigration detention in violation of the Fourth, Fifth, and Second Amendments to the United States Constitution.

This Court has jurisdiction pursuant to 28 U.S.C. § 2241 and Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause). See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *INS v. St. Cyr*, 533 U.S. 289, 314 (2001). A writ of habeas corpus is available where, as here, a petitioner challenges the legality of executive detention on constitutional grounds, and where no adequate alternative remedy exists.

Petitioner is challenging the lawfulness of his ongoing detention in light of a constitutionally defective arrest and bond determination. This case falls squarely within the core function of habeas corpus: protection against unlawful executive restraint. See *Hamama v. Adducci*, 912 F.3d 869, 877–78 (6th Cir. 2018) (recognizing availability of habeas for constitutional detention claims); *Trump v. J.G.G.*, 604 U.S. (2025) (per curiam) (affirming habeas jurisdiction even absent a direct request for release where detention is allegedly unconstitutional).

Petitioner also invokes the Court's jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1361 (mandamus), and the All Writs Act, 28 U.S.C. § 1651. This Court has authority to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201–2202 and 5 U.S.C. §§ 702, 705–706. Sovereign immunity is waived pursuant to 5 U.S.C. § 702.

To the extent that 8 U.S.C. § 1252 is construed to limit habeas review in this context, such a construction would raise serious constitutional questions under the Suspension Clause. *See St. Cyr*, 533 U.S. at 314. Petitioner seeks individualized relief for unconstitutional detention, not a challenge to a final removal order, and thus falls outside the jurisdiction-stripping provisions of § 1252.

Venue is proper in the Southern District of Ohio pursuant to 28 U.S.C. §§ 1391(b), 1391(e)(1), and 2241(a), because Petitioner is currently detained in Butler County Jail, located within this District, and because the events giving rise to his claims—including the warrantless entry, seizure, and subsequent detention—occurred in this District. Venue is also proper under § 1391(e) because Respondents are federal officers and agencies, no real property is involved, and a substantial part of the acts and omissions occurred here.

PARTIES

I. PETITIONER

Petitioner Gilbert Alonso-Portillo is currently detained in the Butler County Jail following a warrantless search of his home and arrest by federal agents. He has no criminal convictions or history of immigration violations. Despite possessing lawfully obtained firearms in accordance

with the Ohio Constitution and under the Second Amendment of the U.S. Constitution, this constitutionally protected conduct has been improperly used to justify his continued detention without bond. Petitioner is prima facie eligible for Cancellation of Removal under INA § 240A(b).

II. RESPONDENTS

RICHARD JONES is the Sheriff of Butler County, Ohio. He is responsible for the operation of the Butler County Jail, where Petitioner is currently detained, and has immediate physical custody over Petitioner. He is sued in his official capacity.

PAMELA BONDI is the Attorney General of the United States. As head of the U.S. Department of Justice, she has ultimate supervisory authority over federal immigration enforcement and removal proceedings. She is sued in her official capacity.

KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security. In this role, she oversees the administration and enforcement of immigration laws, including detention and removal proceedings. She is sued in her official capacity.

TODD LYONS is the Acting Director of U.S. Immigration and Customs Enforcement (ICE). ICE is the agency charged with carrying out immigration detention and deportation. He is sued in his official capacity.

ROBERT LYNCH is the Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement, which has jurisdiction over Ohio. He is responsible for decisions concerning immigration enforcement and detention within this region. He is sued in his official capacity.

KASH PATEL is the Director of the Federal Bureau of Investigations (FBI), which participated in Petitioner's warrantless arrest and search and seizure. He is sued in his official capacity.

STATEMENTS OF FACTS

On April 7, 2025, Petitioner Gilbert Alonso-Portillo was subjected to a warrantless search of his home and a subsequent arrest by agents of the Federal Bureau of Investigation (FBI), Homeland Security Investigations (HSI) and Immigration and Customs Enforcement (ICE). Agents entered Petitioner's residence without a warrant, without consent, and without any known exigent circumstances. At the time of the arrest, Petitioner was not subject to a removal order, and no criminal charges have been filed against him to date. Federal agents seized property from Petitioner's home and took photographs of firearms and ammunition that were lawfully owned and properly stored. Petitioner resides in Ohio, a state that permits both open and concealed carry of firearms without a license for individuals 21 and over who are not prohibited by law under Article 1, Section 4 of the Ohio Constitution. At the time of the search, Petitioner had no criminal record, no disqualifying history, and was legally entitled under Ohio law to possess and store firearms in his residence.

Petitioner is a long-time resident of the United States and has lived in this country continuously for over seventeen years. He owns and operates a successful business, owns two houses, pays

income taxes, and is the sole provider for his family, which includes two U.S. citizen children. He has no criminal history, no prior arrests, and no record of immigration violations or prior deportations. He is not currently in lawful immigration status but is *prima facie* eligible for Cancellation of Removal under INA § 240A(b) based on his continuous residence, good moral character, and the extreme hardship that removal would cause his children.

Following his arrest, Petitioner was placed in immigration custody and did receive a bond hearing before an Immigration Judge. However, the Immigration Judge denied bond solely on the basis that "due to the weapon found in Respondent's home unlawfully in the Respondent's control[,] the Respondent is a danger to the community." This finding was made even though Petitioner's possession of firearms was lawful under Ohio law, no criminal charges were filed, and there was no evidence of misuse or illegal activity involving the weapons. The decision failed to address the legality of the initial search and did not consider Petitioner's extensive equities, clean record, or lack of actual dangerousness.

Petitioner's current detention stems from an arrest and search unsupported by a warrant, a removal order, or probable cause. The government's use of lawfully owned firearms to justify civil detention without due process violates Petitioner's constitutional rights under the Fourth, Fifth, and Second Amendments of the United States Constitution. Petitioner now seeks relief through a writ of habeas corpus under 28 U.S.C. § 2241 to remedy his ongoing unlawful and unconstitutional detention.

ARGUMENT

I. Petitioner's Detention Violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

Petitioner is currently detained by federal immigration authorities, despite having no criminal record, no removal order at the time of arrest, and no pending criminal charges. Although Petitioner received a bond hearing before an Immigration Judge, his request for release was denied solely on the ground that the presence of firearms in his home made him a danger to the community. The Immigration Judge found that "due to the weapon found in Respondent's home unlawfully in the Respondent's control[,] the Respondent is a danger to the community." *Immigration Judge's Order*, Apr. 22, 2025. This finding is unsupported by the facts and law: Petitioner resides in Ohio, where his firearm possession is lawful, he had no legal disability preventing him from owning firearms, and there is no evidence that the firearms were misused or unlawfully possessed.

Under 28 U.S.C. § 2241, noncitizens in immigration detention may challenge the legality of their confinement, including whether it comports with the Constitution and federal law. Although the Immigration and Nationality Act (INA) permits detention under certain circumstances, that detention must comply with procedural and substantive due process. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The bond hearing in Petitioner's case was constitutionally defective because it relied on the lawful conduct of firearm possession as evidence of dangerousness and failed to consider the absence of any criminal conduct, the lack of a removal order at the time of arrest, and Petitioner's strong ties to the community.

II. The Arrest and Search of Petitioner's Home Violated the Fourth Amendment.

The warrantless entry into Petitioner's home, the seizure of his property, and his arrest violated the Fourth Amendment of the United States Constitution. The Fourth Amendment protects all persons in the United States, regardless of immigration status, from unreasonable searches and seizures. See *Brignoni-Ponce*, 422 U.S. 873 (1975). Federal agents entered Petitioner's home without a warrant, consent, or exigent circumstances, and without any lawful removal order or criminal warrant authorizing the arrest. The agents' actions constituted an unlawful search and seizure, and any evidence obtained during that search—including the presence of firearms—cannot lawfully serve as a basis for continued detention.

III. The Seizure of Lawfully Owned Firearms Violated Petitioner's Second and Fourth Amendment Rights.

The firearms seized from Petitioner's home were lawfully owned and stored in accordance with Ohio law. Ohio is a permitless carry state, allowing individuals 21 and older who are not otherwise prohibited to possess and carry firearms without a license. Ohio has no notice or registration requirements. Petitioner has no criminal history and is not subject to any legal prohibition on firearm ownership. His possession of firearms was entirely lawful.

Both the Second Amendment to the United States Constitution and Article I, Section 4 of the Ohio Constitution protect the right to keep and bear arms. The Ohio Constitution explicitly provides that "*The people have the right to bear arms for their defense and security.*" *Ohio Const. art. I, § 4*. These constitutional protections are not suspended merely because an individual is the subject of immigration enforcement.

Furthermore, the entry into Petitioner’s home and the photographing and seizing of property—including firearms and ammunition—was done without a warrant, consent, or exigent circumstances. Such conduct violated the Fourth Amendment’s protection against unreasonable searches and seizures. The government’s actions, taken absent lawful justification, infringed on both Petitioner’s right to be secure in his home and his right to possess firearms under state and federal law.

IV. The Use of Lawful Firearm Possession to Justify Civil Immigration Detention Violates the Second and Fifth Amendments.

Petitioner’s ownership of firearms in his home is protected by the Second Amendment to the United States Constitution and by Article I, Section 4 of the Ohio Constitution. See *District of Columbia v. Heller*, 554 U.S. 570, 635 (2008) (recognizing an individual’s right to possess firearms for lawful purposes such as self-defense within the home). Under Ohio law, individuals 21 and older who are not legally prohibited may lawfully possess and carry firearms without a license.

Petitioner lawfully possessed firearms in his residence, had no disqualifying criminal history, and was never accused of misusing or unlawfully obtaining them. Nonetheless, the Immigration Judge denied bond solely on the basis of firearm possession, stating that “due to the weapon found in Respondent’s home unlawfully in the Respondent’s control[,] the Respondent is a danger to the community.” *Immigration Judge’s Order*, Apr. 22, 2025.

To rely on constitutionally protected conduct—lawful gun possession—as the sole basis for a finding of dangerousness effectively criminalizes the exercise of a fundamental right and violates

the Second Amendment. This reasoning also infringes on Petitioner's liberty interests under the Due Process Clause of the Fifth Amendment. See *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001) (“[G]overnment detention violates the Due Process Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections... or in certain special and narrow nonpunitive circumstances.”).

Here, the denial of liberty was not based on any individualized assessment of risk, but rather on speculation and constitutionally protected activity. Petitioner's continued detention under these circumstances is arbitrary, unsupported by evidence, and unlawful under both the Second and Fifth Amendments.

V. The Government's Actions Violate the Equal Protection Component of the Fifth Amendment.

Beyond violating substantive due process, the government's conduct in this case also raises serious equal protection concerns. See *Plyler v. Doe*, 457 U.S. 202, 210 (1982) (holding that noncitizens, even those unlawfully present, are “persons” entitled to due process and equal protection). Petitioner was treated differently from similarly situated U.S. citizens solely because of his immigration status and perceived foreignness.

Lawful firearm ownership—commonplace and constitutionally protected in Ohio—was treated as inherently dangerous solely because Petitioner is a noncitizen. There are no allegations of illegal firearm use, and no criminal charges were filed. Yet the same conduct that would be considered unremarkable for a citizen was cited as justification for branding Petitioner a danger to the community.

This disparate treatment violates the equal protection principles embedded in the Fifth Amendment. See *Yick Wo v. Hopkins*, 118 U.S. 356, 374 (1886) (“Though the law itself be fair on its face... if it is applied and administered by public authority with an evil eye and an unequal hand... the denial of equal justice is still within the prohibition of the Constitution.”). Treating lawful behavior as grounds for detention solely because the actor is an immigrant is precisely the kind of unequal application that *Yick Wo* forbids.

Such discriminatory enforcement undermines public trust and renders Petitioner’s continued detention constitutionally intolerable.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;
2. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from immigration custody;
3. Declare that Petitioner’s continued detention violates the Constitution and laws of the United States;
4. Enjoin Respondents from continuing to detain Petitioner absent an individualized showing of danger or flight risk supported by clear and convincing evidence;
5. Award reasonable attorneys’ fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, if applicable; and
6. Grant such other and further relief as the Court deems just and proper.

CONCLUSION

Petitioner Gilbert Alonso-Portillo is a long-term resident of the United States, a law-abiding father, home owner and a business owner, and a person with no criminal history. He is currently detained based on a warrantless search and arrest that violated his constitutional rights, and on a bond denial that relied solely on his lawful exercise of Second Amendment rights. His continued detention—absent criminal charges, a final removal order at the time of arrest, or a constitutionally sufficient finding of dangerousness—violates the Fourth, Fifth, and Second Amendments, as well as the immigration laws of the United States.

Because Petitioner’s detention is both unlawful and unconstitutional, and because all available administrative remedies have been exhausted or are inadequate to address the constitutional violations presented, habeas relief under 28 U.S.C. § 2241 is warranted. For the foregoing reasons, and in light of the constitutional violations and lack of lawful basis for his continued detention, Petitioner respectfully asks this Court to grant the requested relief and order his immediate release.

Respectfully submitted,

Julia Healy

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

**MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR WRIT OF HABEAS
CORPUS**

I. Legal Standard Under 28 U.S.C. § 2241

A writ of habeas corpus under 28 U.S.C. § 2241 is available to noncitizens in immigration detention who challenge the legality or constitutionality of their custody. See *Demore v. Kim*, 538 U.S. 510 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001). Federal courts retain jurisdiction to hear constitutional claims and legal questions arising from immigration detention. See *INS v. St. Cyr*, 533 U.S. 289, 300 (2001); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Hamama v. Adducci*, 912 F.3d 869, 877 (6th Cir. 2018).

Where detention is prolonged or not supported by a constitutionally sufficient basis, habeas relief is appropriate. In *Zadvydas*, the Supreme Court recognized that immigration detention must conform to constitutional due process principles. Habeas review under § 2241 is especially appropriate where no adequate administrative remedy exists or where exhaustion would be futile or incapable of providing relief.

II. Petitioner's Detention Violates Due Process Under the Fifth Amendment

Even if statutorily authorized, immigration detention must comport with the Fifth Amendment's guarantee of due process. See *Zadvydas*, 533 U.S. at 690. A constitutionally valid bond hearing requires an individualized assessment based on actual evidence of flight risk or danger to the community. See *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

Here, Petitioner was denied bond based solely on the presence of lawfully owned firearms in his home. The Immigration Judge failed to consider Petitioner's lack of criminal history, strong community ties, or any evidence that the firearms were misused. This denial of liberty, based on constitutionally protected conduct, is not supported by any individualized finding and violates substantive and procedural due process.

III. The Warrantless Search and Arrest Violated the Fourth Amendment

The Fourth Amendment protects all persons, regardless of immigration status, from unreasonable searches and seizures. See *Brignoni-Ponce*, 422 U.S. 873 (1975).

Petitioner's home was searched and he was arrested without a warrant, consent, or exigent circumstances. No removal order or criminal warrant supported the agents' entry or arrest. See *Payton v. New York*, 445 U.S. 573 (1980). The seizure of lawfully owned firearms during this unconstitutional search cannot be used as a basis for detention.

IV. Reliance on Lawful Gun Ownership Violates the Second and Fifth Amendments

Petitioner's possession of firearms was lawful under both state and federal law. See *District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. City of Chicago*, 561 U.S. 742 (2010). Ohio permits individuals 21 and older to possess firearms without a permit if they are not otherwise prohibited. See *Ohio Const. art. I, § 4*.

Using lawful gun ownership—a constitutionally protected activity—as the sole basis for detention improperly penalizes Petitioner for exercising his Second Amendment rights. It also violates the

Due Process Clause of the Fifth Amendment by denying liberty without a legitimate government interest or individualized risk assessment. See *Zadvydas*, 533 U.S. at 690–91.

V. The Government's Actions Violate the Equal Protection Component of the Fifth Amendment

The Fifth Amendment includes an equal protection guarantee that prohibits discriminatory enforcement of immigration laws. See *Plyler v. Doe*, 457 U.S. 202, 210 (1982); *Yick Wo v. Hopkins*, 118 U.S. 356, 374 (1886).

Petitioner was subjected to detention based on conduct that would not trigger such treatment for a similarly situated U.S. citizen. The government's use of Petitioner's lawful firearm possession and immigrant status to justify detention reflects disparate treatment without lawful justification. This violates equal protection principles and renders detention unconstitutional.

VI. Conclusion

For the foregoing reasons, the Court should grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release.

Respectfully submitted,

Julia Healy

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VERIFICATION

I, the undersigned attorney for Petitioner Gilbert Alonso-Portillo, hereby verify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have reviewed the foregoing Petition for Writ of Habeas Corpus and, based on my knowledge, information, and belief formed after reasonable inquiry, the facts stated therein are true and correct to the best of my knowledge.

Executed on this 9th day May, 2025.

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PROPOSED ORDER

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO**

GILBERT ALONSO-PORTILLO,	:	
Petitioner,	:	
	:	
v.	:	Case No. <u>1:25-cv-306</u>
	:	
SHERIFF, BUTLER COUNTY JAIL, et al.,	:	
Respondents.	:	

[PROPOSED] ORDER GRANTING PETITION FOR WRIT OF HABEAS CORPUS

Upon consideration of the Petition for Writ of Habeas Corpus filed by Petitioner Gilbert Alonso-Portillo pursuant to 28 U.S.C. § 2241, and the record before the Court, it is hereby:

ORDERED that the Petition is GRANTED; and it is further

ORDERED that Respondents shall immediately release Petitioner Gilbert Alonso-Portillo from custody; and it is further

ORDERED that Respondents shall not re-detain Petitioner absent a new lawful basis and full compliance with constitutional due process.

SO ORDERED.

DATED: _____, 2025

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of May 2025, I caused a true and correct copy of the **Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** and all accompanying documents to be served by electronic filing upon the following:

- **Richard Jones**, Sheriff of Butler County
Butler County Jail
705 Hanover Street
Hamilton, OH 45011
- **Pamela Bondi**, Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
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- **Kristi Noem**, Secretary of the U.S. Department of Homeland Security
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- **Todd Lyons**, Acting Director, U.S. Immigration and Customs Enforcement
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- **Robert Lynch**, Director, Detroit Field Office, U.S. Immigration and Customs Enforcement
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Dated: May 9, 2025

Respectfully submitted,

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