

JOSE GUZMAN BERNAL
P.O. Box 5346
El Paso TX. 79954

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CLERK, U.S. DISTRICT COURT
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH ALASKA

JOSE GUZMAN BERNAL,
Petitioner,

vs.

Case No. 3:25-CV-00092-SLG-KFR

PALM BONDI, at al.,
Respondent.

**OBJECTION TO REPORT AND RECOMMENDATION REGARDING § 2241
PETITION**

Petitioner Jose Carlos Guzmán Bernal respectfully submits his objections to the Report and Recommendation recommending dismissal of his § 2241 habeas petition, on the grounds that the United States District Court for the District of Alaska does possess jurisdiction to adjudicate the petition, so long as it is limited to procedural and constitutional issues, such as the unlawful application of the Fugitive Disentitlement Doctrine and the resulting barriers to Mr. Guzmán's right to challenge his extradition under U.S. law while abroad.

I. Procedural History

In May 2024, Guzman filed several pro se motions in his federal criminal case, including a motion to dismiss the indictment and motion to vacate the United States 'petition to Mexico for his extradition. In October 2024, the District Court denied Guzman's motion to dismiss without prejudice pursuant to the fugitive disentitlement doctrine. In a written order, the District Court determined that Guzman was a "fugitive" because his "active resistance "to extradition after

learning of the charge against him amounted to constructive flight. The District Court thus concluded that the fugitive disentitlement applied.

On April 23, 2025, Guzman filed the instant Petition in the U.S. District Court for the Central District of California.

On May 9, 2025, United States District Judge Serena R. Murillo issued an order transferring Mr. Guzmán's case to the District of Alaska. In that order, Judge Murillo explained that the proper forum for a habeas corpus petition challenging an indictment is the district court in which the indictment was issued.

On July 9, 2025, the United States District Court for the District of Alaska issued a Report and Recommendation analyzing the § 2241 habeas petition filed by Petitioner Jose Carlos Guzmán Bernal. The Court concluded that it lacked jurisdiction to grant the relief requested and therefore recommended that the petition be dismissed. The Court further stated that if Mr. Guzmán wished to continue challenging the District Court's application of the **fugitive disentitlement doctrine** in his pending federal criminal case, any relief would have to be sought from the United States Court of Appeals for the Ninth Circuit.

On April 23, 2025, Mr. Guzmán submitted the present habeas corpus petition to the United States District Court for the Central District of California. In it, he asserts that he is entitled to relief under 28 U.S.C. § 2241 on the following grounds:

1. The District Court's classification of him as a "fugitive" is factually incorrect, legally unsupported, and currently inapplicable;
2. The District Court's application of the **fugitive disentitlement doctrine** violates his constitutional rights to due process and access to the courts; and
3. His extradition from Mexico to the United States violates the terms of the 1978 Extradition Treaty between the United States and Mexico.

Accordingly, Mr. Guzmán seeks the following relief:

1. A declaration that he is constructively "in custody" under the laws of the United States and therefore entitled to challenge his indictment and extradition from within Mexico while detained abroad;
2. A formal declaration that he is **not a fugitive** under U.S. law;
3. An injunction prohibiting the United States Department of Justice from proceeding with his extradition until he has had a meaningful opportunity to challenge his indictment and the basis for his extradition in his pending federal criminal proceedings; and
4. An order directing the U.S. government to remove the INTERPOL Red Notice currently in effect against him and to update their records to reflect that he is not a fugitive.

II. The Court That Issued the Indictment Retains Jurisdiction Over Procedural and Constitutional Challenges

It is a foundational principle of habeas corpus law that challenges to *the manner in which a prosecution is being pursued*, or to *constitutional barriers to jurisdiction or extradition*, may be raised before the district court that issued the underlying indictment.

Mr. Guzmán is not contesting the substantive validity of the charges under the indictment per se. Rather, he is asserting that the **application of the Fugitive Disentitlement Doctrine**—as a procedural bar to asserting his rights—is illegal and unconstitutional under the circumstances, and that it directly impairs his ability to challenge the **legality of his extradition** from Mexico to the United States. This type of challenge falls squarely within the scope of habeas review under 28 U.S.C. § 2241, especially when raised before the district court that issued the indictment.

See:

- **Braden v. 30th Judicial Circuit Court of Kentucky**, 410 U.S. 484, 493 (1973): A habeas corpus petition is proper where a petitioner seeks “to challenge the authority of a State to execute a sentence,” even if the petitioner is not yet in custody in that jurisdiction.
- **United States v. Álvarez-Machain**, 504 U.S. 655, 669 (1992): While extradition is a matter of international comity, constitutional concerns, including due process, remain reviewable by U.S. courts when U.S. authorities initiate and control the process.

Because the District Court of Alaska is the **originating court of the indictment** and the forum requesting extradition, it is the only proper forum under U.S. law to evaluate whether the process leading to Guzmán’s extradition is **constitutionally valid and in good faith**.

III. Habeas Corpus Is the Proper Mechanism to Prevent Unjust or Unconstitutional Extradition

The writ of habeas corpus exists as a safeguard against unlawful restraint of liberty and is particularly relevant where the U.S. government seeks extradition without affording an individual a meaningful opportunity to raise defenses.

- See **Wright v. Henkel**, 190 U.S. 40, 63 (1903): The Supreme Court acknowledged that habeas corpus can be used to challenge extradition on due process grounds;
- See also **Jimenez v. United States District Court**, 84 S. Ct. 14 (1963) (Goldberg, J., in chambers): The Court recognized the potential for habeas corpus review even prior to actual extradition when rights are in jeopardy.

Mr. Guzmán argues that the application of the Fugitive Disentitlement Doctrine is being used to deny him all meaningful access to U.S. courts, thereby exposing him to a potentially unlawful extradition without judicial review. Such denial of access contradicts the protections of the Fifth Amendment's Due Process Clause and violates the foundational principle that legal process must be both fair and accessible.

IV. Mexico Is Not the Forum of Jurisdiction — It Is Merely an Administrative Intermediary

Mexico does not hold substantive jurisdiction over the criminal proceedings initiated by the United States. Under the 1978 Extradition Treaty between the United States and Mexico, the role of the Mexican government is administrative and procedural the role of Mexican courts is limited to:

1. Verifying the identity of the person sought;
2. Determining whether the offense qualifies for extradition under the principle of dual criminality;
3. Ensuring that the procedural requirements under Mexican law are satisfied.

However, once that threshold is satisfied, Mexico is not the proper forum to adjudicate whether the underlying indictment is flawed, whether procedural rights have been violated, or whether the extradition is being pursued in bad faith or in violation of the Constitution. These determinations must be made by the court that seeks extradition—in this case, the District Court of Alaska.

Allowing the U.S. government to use the Fugitive Disentitlement Doctrine to block Mr. Guzmán's pre-extradition procedural challenges would amount to a bad-faith deprivation of access to justice, stripping him of constitutional protections and exposing him to an irregular, unjust process that may result in extradition under flawed legal premises.

Permitting Guzmán to challenge these procedural defects via habeas corpus before extradition is finalized is not only legally permissible—it is constitutionally required. To hold otherwise would amount to depriving him of access to judicial review, and would expose him to extradition under procedurally defective or unconstitutional conditions, contrary to the Due Process Clause and the Suspension Clause of the U.S. Constitution.

See also:

- **Johnson v. Eisentrager**, 339 U.S. 763, 778 (1950): Habeas corpus ensures that U.S. courts retain power to prevent constitutional violations carried out under the color of government authority.
- **Boumediene v. Bush**, 553 U.S. 723, 779 (2008): Even non-citizens held outside the territorial U.S. may be entitled to assert constitutional habeas rights where U.S. authority is exercised over them.

Because the District Court of Alaska is the court that issued the indictment, and because Mr. Guzmán is constructively in U.S. custody pursuant to that indictment and request for extradition, it is the only court with authority to adjudicate whether the process by which extradition is sought is constitutionally valid and in good faith.

No other forum—not the courts of México nor any other district court in the United States—has jurisdiction to decide these matters. Allowing otherwise would effectively strip Mr. Guzmán of all constitutional protections during the extradition process and undermine the integrity of U.S. legal proceedings.

Accordingly, the District Court of Alaska retains jurisdiction to hear and rule on Mr. Guzmán's § 2241 habeas petition to the extent it challenges the constitutionality of the procedures leading to his extradition.

For the reasons stated above, this Court—as the original indicting court and proper judicial authority under § 2241—retains jurisdiction to review procedural and constitutional challenges to the government's actions in this case. Mr. Guzmán does not seek to relitigate his criminal charges, but instead seeks judicial protection against the unconstitutional use of legal

doctrines to silence his claims and to ensure that any extradition is conducted lawfully, fairly, and with full respect for the Constitution of the United States.

Accordingly, the objection to the dismissal recommendation should be sustained, and this Court should retain jurisdiction to adjudicate Mr. Guzmán's petition.

V. Guzmán Is Not a Fugitive Because He Is in Custody Solely Pursuant to U.S. Authority

Mr. Guzmán was arrested in Mexico pursuant to a Red Notice issued by INTERPOL at the request of the United States government. He is not facing any criminal charges in Mexico, nor has he been detained under Mexican legal authority. His current detention is based entirely on U.S. judicial process and extradition proceedings initiated by the U.S. Department of Justice.

Under well-established U.S. law, individuals who are detained abroad solely pursuant to a U.S. arrest warrant or extradition request are considered to be constructively in custody under U.S. authority. See:

- **Braden v. 30th Judicial Circuit Court of Kentucky**, 410 U.S. 484, 489-90 (1973) (a prisoner need not be physically present within the jurisdiction if he is in custody under the authority of the United States);
- **Maleng v. Cook**, 490 U.S. 488, 491 (1989) (explaining the concept of "constructive custody" in habeas proceedings).

Because Guzmán is in custody under a mandate of the United States, he retains the right to challenge the legality of his detention and pending indictment under 28 U.S.C. § 2241 and the Due Process Clause of the Fifth Amendment.

VI. The Fugitive Disentitlement Doctrine Does Not Apply

The Fugitive Disentitlement Doctrine is an equitable rule, not a jurisdictional bar, and applies only in narrow circumstances when a defendant has voluntarily absented himself or willfully

refused to appear before the court. It is not applicable to individuals who are unable to appear because they are in custody abroad due to U.S. government action.

See:

- **Degen v. United States**, 517 U.S. 820, 823–24 (1996): The Supreme Court held that courts should not apply the fugitive disentitlement doctrine when doing so would infringe on constitutional protections or deprive a person of property or liberty without due process.
- **United States v. Morgan**, 254 F.3d 424, 427 (2d Cir. 2001): The court declined to apply the doctrine where the defendant's failure to appear was not willful.
- **United States v. González**, 300 F.3d 1048, 1052–53 (9th Cir. 2002): The Ninth Circuit emphasized that the doctrine should not be mechanically applied and must consider the specific facts of each case.
- **United States v. Eng**, 951 F.2d 461, 464–65 (2d Cir. 1991): The doctrine should not apply when a defendant is making good-faith efforts to resolve his legal status.

Mr. Guzmán has not fled the jurisdiction; he has been detained by Mexican authorities at the request of the U.S. government. He has not evaded justice—rather, he is attempting to assert his legal rights through proper judicial channels. Thus, application of the Fugitive Disentitlement Doctrine in this context violates due process and constitutes an abuse of discretion.

V. Constitutional and Treaty-Based Implications

By asserting that Mr. Guzmán cannot challenge his indictment or extradition because he is a “fugitive,” the government is effectively **blocking access to the courts**, in violation of the **Fifth Amendment Due Process Clause** and the **Suspension Clause** (U.S. Const. art. I, § 9, cl. 2), which guarantees the right to habeas corpus unless lawfully suspended.

Moreover, Mr. Guzmán's extradition is governed by the **1978 Extradition Treaty between the United States and Mexico**, which requires that extradition be conducted in accordance with principles of **due process, dual criminality, and fair procedures**. Denying him the opportunity

to challenge the legality of his extradition while in custody violates those treaty obligations and international law norms.

VII. Extradition Proceedings Must Comply With Due Process and Treaty Protections

Mr. Guzmán is entitled to a fair and just extradition process under the 1978 Extradition Treaty between the United States and Mexico, as well as the Fifth Amendment of the U.S. Constitution. Preventing him from raising defenses before extradition violates:

- the right to habeas corpus under the Suspension Clause (U.S. Const. art. I, § 9, cl. 2);
- the right to due process under the Fifth Amendment;
- and the procedural safeguards inherent in the extradition treaty between Mexico and the United States under international law.

That responsibility rests solely with the District Court of Alaska, as the originating court of jurisdiction. To deny Mr. Guzmán the right to litigate these claims in the Alaska court is to deprive him of all effective judicial remedies, opening the door to extradition under potentially unconstitutional and unlawful conditions.

VIII. Conclusion

For the reasons stated above, Petitioner respectfully urges the Court to reject the Report and Recommendation and retain jurisdiction to hear Mr. Guzmán's § 2241 petition. A fair and lawful extradition must permit a detainee to assert constitutional defenses and procedural claims prior to transfer—particularly when he is in foreign custody based solely on U.S. authority.

To hold otherwise would deny Mr. Guzmán access to justice, violate due process, and undermine both domestic law and international treaty obligations.

Respectfully submitted

July 10, 2025

Jose Carlos Guzman Benoit

CERTIFICATE OF SERVICE

I, Jose Guzman Bernal, hereby certify that on this 10th day of July, 2025, I caused a true and correct copy of the foregoing **Objection to Report and Recommendation Regarding § 2241 Petition** to be mailed via First-Class U.S. Mail, postage prepaid, to the following party:

Assistant United States Attorney
Office of the United States Attorney
District of Alaska
222 West 7th Avenue, Room 253
Anchorage, AK 99513-7567

Additionally, a copy was sent to:

Clerk of Court
United States District Court
District of Alaska
222 West 7th Avenue, Room 229
Anchorage, AK 99513-7587

Because the undersigned is currently detained abroad and proceeding pro se, this filing is being submitted from the following mailing address:

Jose Guzman Bernal
P.O. Box 5346
El Paso, TX 79954)

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

Executed on this 10th day of July, 2025.

Respectfully submitted,

