

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MILTON MISAEAL PEREZ Y PEREZ,

Petitioner,

-against-

KRISTI NOEM, et al.,

Respondents.

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EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS  
AND MOTION FOR TEMPORARY RESTRAINING ORDER

Filed Electronically via CM/ECF

Respectfully submitted,

/s/ S. Michael Musa-Obregon

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Counselor for the Petitioner

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Dated: June 7, 2025

New York, NY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Milton Misael Perez y Perez,

Petitioner,

v.

DONALD J. TRUMP, President of the United States;

KRISTI NOEM , Secretary of Homeland Security;

TODD LYONS Acting Director, U.S. Immigration and Customs Enforcement;

KEN GENALO, Field Office Director, ICE New York Field Office;

U.S. DEPARTMENT OF HOMELAND SECURITY;

IMMIGRATION AND CUSTOMS ENFORCEMENT,

Respondents.

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PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

AND REQUEST FOR EMERGENCY RELIEF

1. Petitioner Milton Misael Perez y Perez , a native and citizen of Guatemala, respectfully petitions this Honorable Court for a Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging his unlawful detention by U.S. Immigration and Customs Enforcement (ICE) in violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.
2. Mr. Perez y Perez is a law-abiding resident of Queens, New York, who has lived in the United States since 2019. He has complied with dozens of ISAP check-in appointments over more than six years and poses no danger to the community nor flight risk.
3. Mr. Perez y Perez was a schoolteacher in Guatemala. He now works in the construction

field in NY, has excellent references from contractors, and is the sole breadwinner for his wife and two children, one of whom is a U.S.-born infant. His eldest child is 18 months old; his youngest is seven.

4. After fleeing Guatemala due to threats from narco-traffickers who targeted his well-known family—founders of their hometown and influential in business and politics—Mr. Perez y Perez sought asylum in the United States.

5. While subject to the Migrant Protection Protocols (MPP), he and his family were forced to remain in Tijuana, Mexico, for 10 months, during which they endured an attempted kidnapping of their two-year-old daughter and other hardships.

6. Lacking legal counsel and not speaking English, Mr. Perez y Perez represented himself pro se in Immigration Court in San Diego and lost his case despite substantial merit.

7. In January 2025, Mr. Perez y Perez filed a Motion to Reopen Removal Proceedings before the Board of Immigration Appeals based on exceptional circumstances and changed country conditions, including the recent murder of his brother in Guatemala.

8. Despite his compliance and the pending appeal, ICE detained Mr. Perez y Perez without individualized review. He is currently held at 26 Federal Plaza, New York, NY.

#### JURISDICTION AND VENUE

9. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 and Article I, Section 9, Clause 2 of the United States Constitution.

10. Venue is proper in this district because Petitioner is currently detained within the Southern District of New York and Respondents perform official duties here.

## PARTIES

11. Petitioner Milton Misael Perez y Perez is a native of Guatemala currently detained by ICE in New York.

12. Respondents are officials of the United States government responsible for the enforcement and oversight of immigration detention and removal.

## FACTUAL BACKGROUND

13. Petitioner entered the United States in 2019 and has been fully compliant with ICE check-ins under the ISAP program for over six years.

14. Petitioner's family has been persecuted in Guatemala due to their prominence and has been targeted by narco-traffickers.

15. During the MPP program, Petitioner and his family suffered severe trauma, including an attempted kidnapping in Tijuana.

16. Petitioner lost his asylum case pro se in San Diego Immigration Court due to lack of legal counsel and language barriers.

17. In January 2025, he filed a Motion to Reopen based on exceptional circumstances and asylum eligibility. His brother was recently murdered, increasing his risk upon return.

18. Despite this, ICE detained him in June 2025 without bond or review.

## LEGAL CLAIMS

Claim 1 – Due Process Violation (Fifth Amendment)

19. Petitioner's prolonged detention violates due process, particularly given his full compliance, family ties, and pending legal motions.

Claim 2 – Violation of INA and Zadvydas v. Davis

20. ICE cannot lawfully detain Petitioner where removal is not imminent due to the pending BIA motion.

Claim 3 – Right to Counsel and Access to Courts

21. Transfer or detention would obstruct Petitioner's access to legal resources and interfere with his ability to pursue relief.

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to:

1. Issue a writ of habeas corpus and order immediate release;
2. Alternatively, order a bond or custody redetermination hearing;
3. Enjoin ICE from transferring Petitioner from the Southern District of NY while this petition is pending;
4. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

Dated: June 07, 2025

New York, New York

By: /s/ S. Michael Musa-Obregon

S. Michael Musa-Obregon.

Musa-Obregon Law, PC.

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Attorney for Petitioner Milton Misael Perez y Perez

AFFIDAVIT OF MILTON MISABEL PEREZ Y PEREZ (ENGLISH)

I, Milton Misael Perez y Perez, declare under penalty of perjury that the following is true and correct:

1. I am a native and citizen of Guatemala. I entered the United States in 2019 seeking asylum after fleeing threats and persecution from narco-traffickers in my hometown.
2. I was enrolled in the MPP program and remained in Tijuana for 10 months with my family, including my then two-year-old daughter, who was nearly kidnapped.
3. I represented myself pro se in immigration court because I could not find a lawyer. I speak Spanish only.
4. I have lived in Queens, NY since 2019. I have a wife and two U.S. citizen children, ages 7 and 18 months. I am the sole provider.
5. I have consistently reported to ICE and ISAP check-ins without issue for over 6 years.
6. I am not a danger to society and pose no flight risk.
7. I respectfully request the Court to release me and restrain ICE from transferring me outside of New York.

Executed on June 7, 2025.

/s/ Milton Misael Perez y Perez  
Milton Misael Perez y Perez

DECLARACIÓN JURADA DE MILTON MISAEEL PEREZ Y PEREZ (ESPAÑOL)

Yo, Milton Misael Perez y Perez, declaro bajo pena de perjurio que lo siguiente es verdadero y correcto:

1. Soy ciudadano de Guatemala. Entré a los Estados Unidos en 2019 solicitando asilo después de huir de amenazas y persecución de narcotraficantes en mi ciudad natal.
2. Estuve en el programa MPP en Tijuana durante 10 meses con mi familia, incluyendo a mi hija de dos años, quien casi fue secuestrada.
3. Me representé solo en la corte de inmigración porque no encontré abogado. Solo hablo español.
4. Vivo en Queens, NY desde 2019. Tengo una esposa y dos hijos ciudadanos estadounidenses, de 7 años y 18 meses. Soy el único proveedor.
5. Siempre me he presentado puntualmente a todas mis citas con ICE e ISAP durante más de 6 años.
6. No represento peligro para la sociedad ni riesgo de fuga.
7. Solicito respetuosamente al tribunal que me libere y que prohíba a ICE transferirme fuera de Nueva York.

Firmado el 7 de junio de 2025.

/s/ Milton Misael Perez y Perez  
Milton Misael Perez y Perez

Certification of Translation.

I, S. Michael Musa Obregon, certify that I have accurately translated Mr. Milton Misael Perez Y Perez's attached declaration from Spanish into English and that I am bilingual in the English and Spanish languages, being a native speaker of both.

/S/ S. Michael Musa-Obregon

## MEMORANDUM OF LAW IN SUPPORT OF WRIT OF HABEAS CORPUS

### I. INTRODUCTION

Petitioner MILTON MISAEEL PEREZ Y PEREZ respectfully submits this Memorandum of Law in support of his Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner seeks immediate release from Immigration and Customs Enforcement (ICE) custody due to his unlawful detention during a routine ISAP check-in, despite his compliance with all conditions of supervision and a pending motion to reopen removal proceedings before the Board of Immigration Appeals.

### II. JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241 to review the legality of federal immigration detention. Venue is proper in the Southern District of New York because Petitioner was detained in this District and the New York Field Office of ICE exercises authority over his custody. See *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484 (1973).

### III. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner, a native and citizen of Guatemala, arrived in the United States in 2019 and sought asylum following traumatic experiences in Mexico under the Migrant Protection Protocols (MPP). He represented himself pro se in removal proceedings in San Diego due to lack of legal representation and later filed a motion to reopen with the Board of Immigration Appeals (BIA) based on exceptional circumstances and changed country

conditions. On June 7, 2025, despite years of compliance with ICE and ISAP, Petitioner was arrested during a Saturday check-in in Queens, NY.

#### IV. LEGAL STANDARDS AND ARGUMENT

Petitioner's detention violates the Fifth Amendment's guarantee of due process. ICE's abrupt detention of compliant, law-abiding immigrants with pending cases has been widely criticized. See *Zadvydas v. Davis*, 533 U.S. 678 (2001) (holding that indefinite detention absent removal likelihood violates due process).

ICE's use of ISAP check-ins as an opportunity to detain immigrants awaiting judicial relief constitutes an abuse of discretion. This practice undermines the integrity of supervision programs and deters lawful compliance. Courts have recognized that the government may not act in a manner that chills access to the courts. See *State of New York v. U.S. Immigration and Customs Enforcement*, 431 F. Supp. 3d 377 (S.D.N.Y. 2020).

Recent media coverage has documented widespread fear and reluctance to attend court or check-ins due to these arrests. These enforcement tactics directly undermine lawful compliance and risk pushing individuals underground.

Petitioner is at imminent risk of being transferred to a remote ICE detention facility in Louisiana or Texas, which would interfere with his right to counsel and judicial review. Courts have recognized jurisdiction even over detainees transferred outside the district when ICE officials in the district maintain authority. See *Ahrens v. Clark*, 335 U.S. 188 (1948), modified by *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484 (1973).

## V. CONCLUSION

For the foregoing reasons, this Court should grant the Petition for Writ of Habeas Corpus, issue a Temporary Restraining Order, and order the immediate release of Petitioner from ICE custody.

Dated: June 7, 2025

Respectfully submitted,

/s/ Michael Musa-Obregon

Attorney for Petitioner

## MOTION FOR EXPEDITED CONSIDERATION

Petitioner moves this Court for expedited consideration of the attached Emergency Petition for Writ of Habeas Corpus given the unlawful nature of his detention, his family's reliance on him as the sole breadwinner, and the significant risk of removal and transfer outside of New York.

Petitioner further notes the ongoing pattern of random enforcement actions under the current administration—see, e.g., New York Times articles published in May and June 2025 documenting courthouse and ICE check-in arrests—which threatens the rights of individuals pursuing legitimate immigration relief.

Accordingly, Petitioner respectfully requests an expedited hearing and decision on the matter.

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioner respectfully moves this Court to issue an emergency Temporary Restraining Order preventing his immediate transfer outside of the jurisdiction of this Court.

Petitioner is currently detained following an ICE-ISAP check-in despite full compliance with prior reporting obligations and an active motion to reopen his removal order filed with the Board of Immigration Appeals in January 2025.

Given Respondents' recent pattern of transferring detained immigrants across the country (e.g., to Louisiana or Texas) to impede legal representation and isolate them from their families, this relief is urgently necessary to ensure due process.

WHEREFORE, Petitioner requests a TRO restraining Respondents from transferring him from the Southern District of New York.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MILTON MISAEAL PEREZ Y PEREZ,  
Petitioner,

v.

Civil Action No. \_\_\_\_\_

KRISTI NOEM, Director of Immigration and Customs  
Enforcement; DEPARTMENT OF HOMELAND SECURITY;  
FIELD OFFICE DIRECTOR, ICE NEW YORK FIELD OFFICE, et al

Respondents.  
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EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS  
AND TEMPORARY RESTRAINING ORDER

Petitioner, MILTON MISAEAL PEREZ Y PEREZ (A# 201744511), by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus to secure his release from the unlawful custody of the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE). Mr. Perez is being held at 26 Federal Plaza, NY, NY following an arbitrary arrest during an ICE-ISAP check-in on Saturday, June 7, 2025, at Jamaica, Queens, New York.

ORDER

Upon consideration of the emergency petition for writ of habeas corpus filed by Milton Misael Perez y Perez, it is hereby ORDERED that:

1. Respondents shall SHOW CAUSE by \_\_\_\_\_ why the writ should not be granted.
2. Petitioner shall not be removed from the jurisdiction of this Court, nor transferred to any facility outside of the Southern District of New York, pending resolution of this Petition.
3. The Respondents shall immediately provide the Court with a return detailing the basis and location of Mr. Perez's detention.

SO ORDERED.

Dated: June 7, 2025

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UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2025, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and all accompanying documents were served via ECF on the United States Attorney's Office for the Southern District of New York.

/s/ S. Michael Musa-Obregon

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Counsel for Petitioner

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