

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

FILED

UNITED STATES DISTRICT COURT PM 12:50

for the
Western District of Texas

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY

Angel Alfredo Leiva Garcia

Petitioner

v.

Todd Lyons, Acting Director Immigration Customs and
Enforcement, Mary De Anda-Ybarra, Field Office
Director for Enforcement and Removal Operations

Respondent

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

EP 25 CV 0242

Case No.

(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: Angel Alfredo Leiva Garcia
(b) Other names you have used: None
2. Place of confinement:
(a) Name of institution: El Paso Enhanced Hardened Facility
(b) Address: 12501 Gateway South Blvd.
El Paso, TX 79934
(c) Your identification number: Subject ID  (no A number assigned as the date of petition)
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:

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): _____

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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: El Paso Enhanced Hardened Facility

(b) Docket number, case number, or opinion number: _____

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

Mr. Garcia has been in ICE custody since June 23, 2025. He has not been issued an A-number and no custody determination has been made which is in violation of 8 CFR 287.3(d) which requires a custody determination within 48 hours. In addition, Mr. Garcia was unlawfully detained in violation of the 4th and 5th amendments.

(d) Date of the decision or action: 06/23/2025

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: _____

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(b) If you answered "No," explain why you did not appeal: See above, the present petition relates to the failure to make a custody determination so there is no decision to 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: _____

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(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: _____

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- (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: 06/23/2025
(b) Date of the removal or reinstatement order: _____
(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☒ No

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

- (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: _____

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- (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: 8 CFR 287.3(d) states that "Unless voluntary departure has been granted pursuant to subpart C of 8 CFR part 240, a determination will be made within 48 hours of the arrest...." Mr. Garcia has been in ICE custody since 6/23/2025 without an A number, Notice to Appear or any custody determination in violation of 8 CFR 287.3(d).

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

On June 23, 2025, Mr. Garcia was arrested in front of The Home Depot at 12975 W Jefferson Blvd, Los Angeles, CA. Mr. Garcia remained at the B18 facility in downtown Los Angeles, CA until June 27, 2025 when he was then transferred to El Paso, TX, separated from his family and his attorney. As of the date of this petition (June 30, 2025), Mr. Garcia does not yet have an A number, so no appearance can be filed in U.S. Immigration Court. And, ICE has not set a bond for Mr. Garcia's release, nor has a notice to appear issued. Holding Mr. Garcia in ICE detention without custody determination is in violation of 8 CFR 287.3(d).

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

☐ Yes

☐ No

GROUND TWO: Violation of 4th Amendment because Mr. Garcia was arrested and detained without probable cause and was not arrested by ICE officers or law enforcement

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

Mr. Garcia was arrested and detained on June 23, 2025 while he was inside his parked vehicle. Armed men surrounded his vehicle and arrested him. They asked him no questions about his legal status in the United States and they provided no identification that they were law enforcement or ICE officers. Mr. Garcia believes they were so-called "bounty hunters" because they told him they were conducting arrests for money. Mr. Garcia's rights were violated because he was arrested and detained in violation of the 4th Amendment.

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

☐ Yes

☐ No

GROUND THREE: Violation of 5th Amendment because Mr. Garcia was arrested and detained without due process.

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

Mr. Garcia was detained on 6/23/25 and has not been assigned an A-number, effectively placing him outside the immigration system. Mr. Garcia's detention without an A number prevents his access to a bond hearing immigration relief. This administrative failure violates fundamental due process rights to access legal protection.

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

☐ Yes

☐ No

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GROUND FOUR:

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

(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: Direct Respondents to immediately process and assign Petitioner
an A-number; direct Respondents to immediately set bond hearing and notice to appear; release Petitioner
from custody after proper processing and payment of bond; prohibit removal until proper immigration proceeding;
transfer Petitioner back to original facility (Los Angeles, CA); grant any other relief the Court deems just and proper.

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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: 06/30/2025



Signature of Petitioner



Signature of Attorney or other authorized person, if any

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Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**

All questions must be answered clearly and concisely in the space on the form. If needed, you may attach additional pages or file a memorandum in support of the petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. Note that some courts have page limitations. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
4. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
5. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
6. **Submitting Documents to the Court.** Mail your petition and ____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
7. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.