

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

UNITED STATES DISTRICT COURT

for the
District of New Jersey

RECEIVED

MAY 29 2025

AT 8:30 10:16 M am
CLERK, U.S. DISTRICT COURT - DNJ

LEONARDO SUAREZ HIDALGO

Petitioner

v.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
U.S. DEPARTMENT OF HOMELAND SECURITY
NEWARK FIELD OFFICE

Respondent

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

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: LEONARDO JOSE SUAREZ HIDALGO
(b) Other names you have used: None
2. Place of confinement:
(a) Name of institution: PORT ISABEL SERVICE CENTER
(b) Address: 27991 Buena Vista Blvd
Los Fresnos, TX 78566
(c) Your identification number: A [REDACTED]
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE), U.S. DEPARTMENT OF HOMELAND SECURITY
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: U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)
Newark Field Office, 970 Broad Street, 11th Floor, Newark, NJ 07102
- (b) Docket number, case number, or opinion number: A [REDACTED]
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Detained during a routine check-in at ICE Newark Field Office on April 30, 2025, despite valid Interim Notice
Authorizing Parole (issued March 28, 2024), and pending asylum application with U.S. Citizenship & Immigration
Services (USCIS). See addendum attached
- (d) Date of the decision or action: 04/30/2025

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: IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)
Newark Field Office (Deportation Officer)
 - (2) Date of filing: 05/01/2025
 - (3) Docket number, case number, or opinion number: A [REDACTED]
 - (4) Result: Request for discretionary release DENIED
 - (5) Date of result: _____
 - (6) Issues raised: ICE stated that Petitioner was erroneously granted parole instead of being placed
under supervision. Requested release based on valid parole document and pending application to the
Deportation Officer assigned.

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(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: U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT

(2) Date of filing: 05/09/2025

(3) Docket number, case number, or opinion number: 25-1924

(4) Result: DENIED

(5) Date of result: 05/13/2025

(6) Issues raised: Challenged detention and removal proceedings despite valid parole document and pending asylum application. The Petition for Review was dismissed for lack of jurisdiction.

(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: No further administrative remedies available. U.S. Court of Appeals dismissed for lack of jurisdiction, requiring filing in District Court.

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: 04/30/2025
(b) Date of the removal or reinstatement order: 11/30/2023
(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:

Petitioner was issued an expedited removal order which is not appealable to the BIA. After expressing fear of return, his case was referred to USCIS for asylum adjudication, which is currently pending.

- (d) Did you appeal the decision to the United States Court of Appeals?

☒ Yes ☐ No

If "Yes," provide:

- (1) Name of court: U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT
(2) Date of filing: 05/09/2025
(3) Case number: 25-1924

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(4) Result: DENIED (dismissed for lack of jurisdiction).

(5) Date of result: 05/13/2025

(6) Issues raised: Due process violations, agency action contrary to law, interference with statutory asylum process

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: Form I-246, Application for Stay of Removal/Deportation

(b) Name of the authority, agency, or court: U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) - Newark Field Office

(c) Date of filing: 05/21/2025

(d) Docket number, case number, or opinion number: N/A

(e) Result: N/A

(f) Date of result:

(g) Issues raised:

Pending asylum application before USCIS, notice authorizing parole, due process concerns

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: VIOLATION OF DUE PROCESS RIGHTS

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

Petitioner was detained despite possessing valid documentation issued by ICE (Interim Notice Authorizing Parole dated March 28, 2024, that explicitly authorized his lawful presence in the US for one year. This parole document superseded the prior November 30, 2023, expedited removal order. ICE would later schedule the Petitioner for a future check-in on May 6, 2026, indicating the agency expected him to remain in the US. Petitioner fully complied with all conditions of release, completed biometrics for his pending asylum application, and was detained without notice during a routine check-in. (See addendum).

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

☒ Yes

☐ No

GROUND TWO: VIOLATION OF ADMINISTRATIVE PROCEDURE ACT

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

Agency action in violation of Administrative Procedure Act (1) issuing an expedited removal order on November 30, 2023, (2) then deliberately issuing parole on March 28, 2024, valid for one year, (3) scheduling future check ins with ICE through 2026, (4) detaining Petitioner despite valid parole document. A Deportation Officer admitted ICE made an "error" in providing parole, but the government cannot rely on its own administrative error to justify detention where Petitioner reasonably relied on official documentation.

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

☒ Yes

☐ No

GROUND THREE: VIOLATION OF STATUTORY RIGHT TO SEEK ASYLUM

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

Petitioner has a pending asylum application with USCIS as evidenced by the I-589 Application Receipt notice dated December 28, 2024 (See addendum). Despite having an expedited removal order from November 30, 2023, Petitioner's case was properly referred to USCIS for full asylum adjudication. ICE's decision to issue parole on March 28, 2024, constitutes a recognition of Petitioner's right to remain in the U.S. to pursue this claim. Detention and removal while his asylum application remains pending violates his statutory right to apply for asylum for asylum under 8 U.S.C. § 1158(a)(1) and contravenes non-refoulement obligations.

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

☒ Yes

☐ No

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GROUND FOUR: UNLAWFUL DETENTION BASED ON AGENCY ERROR AND ESTOPPEL

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

ICE's detention of Petitioner was based on the agency's admitted error in issuing parole rather than an Order of Supervision. However, by issuing parole, ICE exercised its discretion under 8 U.S.C. § 1182(d)(5)(A) to allow Petitioner to remain in U.S. for one year. ICE cannot now claim its own deliberate discretionary action was an "error" to justify detention before the expiration of the parole period it established. (See addendum).

(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: Not applicable. All grounds were presented in previous appeals.

Request for Relief

15. State exactly what you want the court to do: (1) Issue a writ of habeas corpus directing Respondents to show cause why the writ should not be granted; (2) Order Petitioner's immediate release from detention under appropriate conditions of supervision pending the outcome of these proceedings; (3) Declare that Petitioner's detention despite hold valid parole documentation constitutes a violation of procedural due process under Fifth Amendment, (4) Order Respondents to refrain from removing Petitioner from the U.S. pending adjudication of asylum application by USCIS. See Addendum.

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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.

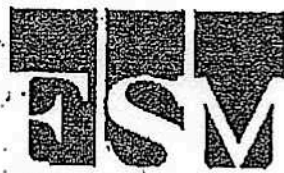
Date: 05/22/2025

Leopoldo Carmona Michale

Signature of Petitioner

[Signature]

Signature of Attorney or other authorized person, if any



The Law Offices Of

FRANKLIN S. MONTERO, LLC.

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RECEIVED

MAY 29 2025

AT 8:30 10:16 M
CLERK, U.S. DISTRICT COURT - DNJ *am*

May 27, 2025

VIA FEDEX:

U.S. District Court for the District of New Jersey
50 Walnut Street, Suite #4015
Newark, NJ 07102
United States
(973) 645-3730

Attn. Clerk of the District Court

Re: LEONARDO SUAREZ-HIDALGO File No.: A 

PETITION FOR WRIT FOR HABEAS CORPUS

Dear Clerk of the District Court:

This office represents that above-referenced Respondent in his immigration matter.

Enclosed please find the following documents for filing in the above-referenced matter:

1. Petitioner's Petition for Writ of Habeas Corpus Form;
2. Petitioner's Memorandum of Law in Support of Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 and Supporting Documents;
3. Proposed Order to Show Cause and Temporary Stay of Removal;
4. A check in the amount of \$5.00 made payable to "Clerk, United States District Court"; and
5. A self-addressed, prepaid envelope for return of a file-stamped copy of the Petition.

We are including an additional copy of the above-referenced documents for you to kindly stamp received and return to our office using the prepaid envelope enclosed.

Thank you in advance for your assistance. Please do not hesitate to contact my office should you require any additional information.