

Amended Petition for a Writ of Habeas Corpus 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the
District of Massachusetts

Herminio Guzman-Valdez)
)
Petitioner,) Case No. 1:25-cv-12308
v.)
)
Joseph D. McDonald, Plymouth County Sheriff)
Todd M. Lyons, Acting Director Immigration and)
Customs Enforcement, Boston Field Office)
Michael Krol, New England Field Office Director)
U.S. Immigration and Customs Enforcement)
Patricia Hyde, Director of the Boston Field)
Office, U.S. Immigration and Customs Enforcement)
Enforcement and Removal Operations)
Kristi Noem, U.S. Secretary of Homeland Security)
Pamela Bondi, Attorney General of the U.S.)
Donald J. Trump, President of the U.S.)
)
Respondents.)
)

AMENDED PETITION FOR WRIT OF HABEAS CORPUS UNDER
28 U.S.C. § 2241

INTRODUCTION

1. Herminio Guzman-Valdez (hereinafter “the Petitioner” or “Mr. Guzman-Valdez”) is a resident of Massachusetts currently detained by the Department of Homeland Security (hereinafter “the Department”). The Department currently holds the Petitioner at the Plymouth County Correctional Facility in Plymouth, Massachusetts.

2. The Petitioner alleges that his detention is a violation of the Due Process Clause of the Fifth Amendment, 8 C.F.R. § 241.4, and 8 U.S.C. § 1231(a)(6). He asks this Court to assume jurisdiction over the matter of his detention, order the Respondents to desist from moving him outside of Massachusetts, and order his immediate release or, in the alternative, a bond hearing before this Court.

JURISDICTION

3. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause); and 28 U.S.C. § 2201 (declaratory judgment).

4. Venue is proper because Petitioner is detained in the District of Massachusetts by U.S. Immigration and Customs Enforcement in Massachusetts and under the custody and control of U.S. Immigration and Customs Enforcement officials in Massachusetts at the time of the filing of this petition. Respondent Patricia Hyde is the Director of the Boston Field Office of ICE Enforcement and Removal Operations (ICE ERO), with authority over ICE ERO’s operations and detainees in New England. The Petitioner has not yet left the jurisdiction of the Boston Field Office.

PARTIES

5. Petitioner Herminio Guzman-Valdez is a resident of Massachusetts. The Department currently holds him in the Plymouth County Correctional Facility in Plymouth, Massachusetts.

6. Respondent Donald J. Trump is named in his official capacity as the President of the United States. In this capacity, he is responsible for the policies and actions of the executive branch, including the Department of State and Department of Homeland Security.

7. Respondent Patricia Hyde is named in her official capacity as the New England Field Office Director for U.S. Immigration and Customs Enforcement.

8. Respondent Todd Lyons is named in his official capacity as the Acting Director for U.S. Immigration and Customs Enforcement. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing any effort to remove the Petitioner; and therefore, is a custodian of the Petitioner.

9. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); is legally responsible for pursuing any effort to detain and remove the Petitioner; and therefore, is a custodian of the Petitioner.

10. Respondent Michael Krol is the New England Special Agent in Charge for Homeland Security Investigations for U.S. Immigration and Customs Enforcement. He is sued in his official capacity.

11. Respondent Joseph D. McDonald is named in his official capacity as sheriff of Plymouth County. In this capacity, he is responsible for the detention of noncitizens held at the Plymouth County Correctional Facility, and therefore, is a custodian of the Petitioner.

FACTS

12. Petitioner is a Guatemalan national.

13. Mr. Guzman-Valdez lives with his twenty-one-year-old daughter Norma Belinda Guzman-Valdez and her four-year-old U.S. citizen daughter,  Norma suffers from multiple sclerosis and depends on him for childcare, transportation, and financial stability. Mr. Guzman-Valdez is  primary caregiver and she relies on him for daily care and emotional support. Norma has a pending Special Immigration Juvenile (Form I-360). Mr. Guzman-Valdez was named Norma's sole guardian after her mother was removed from custody.

14. Mr. Guzman-Valdez has no criminal record and has consistently demonstrated good moral character throughout his years in the United States and is not a member of a class of deportable aliens whose removal has been given high enforcement priority.

15. His sudden detention and potential removal pose an immediate and irreparable threat of harm to his U.S.-based family and community, who rely on him for emotional, financial, and physical support.

16. On March 6, 2013, Mr. Guzman-Valdez was ordered removed from the United States and subsequently removed.

17. Mr. Guzman-Valdez entered the United States on June 26, 2019, was detained, and, after his prior removal order was reinstated, was released by immigration authorities on his own recognizance and has been repeatedly checking in with his U.S. Customs and Immigration Enforcement (ICE) Duty Deportation Officer since 2019.

18. According to information and belief, the Petitioner was unlawfully re-detained by federal immigration agents on July 25, 2025, when he appeared for a routine check-in with ICE.

19. Prior to the filing of his original habeas petition, Mr. Guzman-Valdez's counsel had no information regarding what happened, as his paperwork has been confiscated by ICE. The Petitioner did not understand what transpired and left the appointment believing that he was free to go.

20. The Petitioner was subsequently taken into custody, and all his documents were confiscated.

21. ICE has re-detained Petitioner and asserted that it can subject him to removal based on his reinstated removal order. His assigned ICE agent has been pressuring him to sign a document which he cannot understand. Upon advisement of counsel, Petitioner was told not to sign any documents.

22. An order of supervision may only be revoked by the Executive Associate Director of ICE or a Field Office Director. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 159-62 (W.D.N.Y. May 2, 2025). The Executive Associate Director of ICE may only revoke an order of supervision when: “(i) The purposes of release have been served; (ii) The alien violates any condition of release; (iii) It is appropriate to enforce a removal order . . . ; or (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2). A Field Office Director may revoke an order of supervision, 8 C.F.R. § 1.2., but only upon findings that “revocation is in the public interest and circumstances do not reasonably permit referral of the case to the [Executive Associate Director of ICE].” 8 C.F.R. § 241.4(l)(2).

23. On July 25, 2025, ICE issued a Notice of Revocation of Release claiming it holds authority to re-detain and keep Mr. Herminio-Guzman in custody pursuant to 8 C.F.R. § 241.4.

24. ICE has not shown or even claimed that Mr. Herminio-Guzman is a danger to the community or flight risk.

25. On August 15, 2025, his immigration counsel visited detained Mr. Guzman-Valdez, who informed counsel that an ICE agent assigned to his case had stated he was eligible for bond and required a signature from him in order to “process bond.” However, following this, counsel went to the DHS ICE Boston Field Office in search of answers, as his counsel had been unable to get hold of anyone.

26. Mr. Guzman-Valdez is currently awaiting review of his credible fear determination by an immigration judge.

27. The Petitioner is currently in custody of Plymouth County Correctional Facility in MA and one or more of the Respondents is his immediate custodian.

28. The Petitioner asks this Court to find that he was unlawfully detained and order his immediate release.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

29. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth therein.

30. The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

31. The Respondents’ detention of the Petitioner is unjustified. The government has

not demonstrated that the Petitioner must be detained. See *Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). The government must provide argument that the Petitioner cannot be safely released back to his community.

32. According to information and belief, the Petitioner was arrested and detained by federal agents without cause and in violation of his constitutional rights to due process of law.

COUNT TWO
Violation of Federal Regulations – 8 C.F.R. § 241.4

33. On information and belief, Petitioner is currently being arrested and detained by federal agents without cause, violating his constitutional rights to due process of law, and violating the Federal Regulations controlling revocation of Supervised Orders of Release.

34. Respondent followed all the requirements of his release notification and Order of Supervision. Yet, he was taken into custody and detained on July 25, 2025, despite reporting to ICE in accordance with the release requirements and having been held by ICE in the past with no deportation following.

35. His notice of Revocation of Release did not address the necessary revocation elements under 8 C.F.R. § 241.4, thereby making the means of revocation insufficient under the regulations, warranting his release.

COUNT THREE
Release on Bail Pending Adjudication

36. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

37. Federal courts sitting in habeas possess the “inherent power to release the petitioner pending determination of the merits.” *Savino v. Souza*, 453 F. Supp. 3d 441, 454 (D. Mass. 2020)

(quoting *Woodcock v. Donnelly*, 470 F.2d 93, 94 (1st Cir. 1972) (per curiam)); *see also Da Graca v. Souza*, 991 F.3d 60 (1st Cir. 2021). Federal courts “have the same inherent authority to admit habeas petitioners to bail in the immigration context as they do in the criminal habeas case.” *Id.* (quoting *Mapp v. Reno*, 241 F.3d 221, 223 (2d Cir. 2001)). “A court considering bail for a habeas petitioner must inquire into whether the habeas petition raise[s] substantial claims and [whether] extraordinary circumstances exist[] that make the grant of bail necessary to make the habeas remedy effective.” *Id.* (quoting *Mapp*, 241 F.3d at 230) (cleaned up).

38. This petition raises constitutional and statutory claims challenging the Petitioner’s detention. Upon reason and belief, the Petitioner fears his transfer to a detention facility outside of Massachusetts, where his remote location would limit his access to counsel and evidence located within the District of Massachusetts.

COUNT FOUR
Violation of Federal Statute – 8 U.S.C. § 1231

39. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

40. A noncitizen’s continued detention beyond the removal period is distinguishable from re-detention following their release from ICE custody.

41. Because the government released Petitioner on his own recognizance in 2019, upon his arrest in July 25, 2025, ICE did not continue his detention but rather initiated a new detention (*i.e.*, re-detained the Petitioner).

42. ICE was not authorized to re-detain Petitioner pursuant to 8 U.S.C. § 1231(a)(6).

43. Section 1231(a)(6) provides that:

An alien ordered removed who is inadmissible under section 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the Attorney General to be a risk to the community or

unlikely to comply with the order of removal, *may* be detained *beyond* the removal period and, if released, shall be subject to the terms of supervision in [8 U.S.C. § 1231(a)(3)].

8 U.S.C. § 1231(a)(6) (emphasis added).

44. Section 241.4 of Title 8 of the Code of Federal Regulations provides that:

(a) Scope. The authority *to continue an alien in custody* or grant release or parole under sections 241(a)(6) and 212(d)(5)(A) of the Act shall be exercised by the Commissioner or Deputy Commissioner, as follows: Except as otherwise directed by the Commissioner or his or her designee, the Executive Associate Commissioner for Field Operations (Executive Associate Commissioner), the Deputy Executive Associate Commissioner for Detention and Removal, the Director of the Detention and Removal Field Office or the district director may *continue an alien in custody beyond the removal period* described in section 241(a)(1) of the Act pursuant to the procedures described in this section. Except as provided for in paragraph (b)(2) of this section, the provisions of this section apply to the custody determinations for the following group of aliens:

- (1) An alien ordered removed who is *inadmissible under section 212* of the Act, including an excludable alien convicted of one or more aggravated felony offenses and subject to the provisions of section 501(b) of the Immigration Act of 1990, Public Law 101–649, 104 Stat. 4978, 5048 (codified at 8 U.S.C. 1226(e)(1) through (e)(3)(1994));
- (2) An alien ordered removed who is removable under *section 237(a)(1)(C)* of the Act;
- (3) An alien ordered removed who is removable under *sections 237(a)(2)* or *237(a)(4)* of the Act, including deportable criminal aliens whose cases are governed by former section 242 of the Act prior to amendment by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Div. C of Public Law 104–208, 110 Stat. 3009–546; and
- (4) An alien ordered removed who the decision-maker determines is *unlikely to comply with the removal order or is a risk to the community*.

8 C.F.R. 241.4 (emphasis added).

45. Section 1231(a)(6) and its concomitant regulation, 8 C.F.R. § 241.4, only authorize the *continuation* of the detention of noncitizen beyond the removal period where the noncitizen had been in custody at the time of the entry of his removal order or was detained during the removal period pursuant to 8 U.S.C. § 1231(a)(2) and 8 C.F.R. § 241.3.

46. Section 1231(a)(6) and 8 C.F.R. § 241.4 do not authorize the re-detention of a noncitizen, like Petitioner, who was previously released from custody unless the government

shows by clear and convincing evidence that the noncitizen has become a danger to the community or flight risk. *See Arzate v. Andrews*, No. 1:25-CV-00942-KES-SKO (HC), 2025 WL 2411010, at *8 (E.D. Cal. Aug. 20, 2025) (holding that the government “[could] not *re-detain* petitioner unless [it] proves by clear and convincing evidence at a bond hearing before a neutral arbiter that petitioner is a flight risk or danger to the community” where the noncitizen, despite having a reinstated removal order, was previously released from custody (emphasis added)); *see also Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025) (“Petitioner’s *re-detention* without any change in circumstances or procedure establishes a high risk of erroneous deprivation of his protected liberty interest.” (emphasis added)).

47. Because ICE has not demonstrated that a change in circumstances renders Petitioner a danger to the community or a flight risk, it lacked authority to re-detain him. Accordingly, this Court should order his immediate release from custody or, in the alternative, a bond hearing before this Court. *Lopez v. Sessions*, No. 18 CIV. 4189 (RWS), 2018 WL 2932726, at *11 (S.D.N.Y. June 12, 2018) (finding a risk of erroneous deprivation in the context of re-detention absent a change in circumstances, procedure, or evidentiary findings); *see also Kelly v. Almodovar*, No. 25 CIV. 6448 (AT), 2025 WL 2381591, at *4 (S.D.N.Y. Aug. 15, 2025) (ordering immediate release of the petitioner after holding that, even if ICE has discretionary authority to detain a noncitizen under 8 U.S.C. § 1231(a)(6), it was “required to adhere to basic principles of due process,” and failed to do so by detaining him “with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond,” which constituted a due process violation”).

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of Massachusetts;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, in the alternative, order a bond hearing before this Court;
- (6) An award of reasonable attorney's fees and costs incurred in this action pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Herminio Guzman-Valdez

By and through his counsel,

Dated: 09/27/2025

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Herminio Guzman-Valdez, and submit this verification on his behalf.

I hereby verify that the factual statements made in the foregoing Petition are true and correct to the best of my knowledge.

Dated: 09/27/2025

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