

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

## UNITED STATES DISTRICT COURT

for the  
Central District of California



Marco Antonio Ortiz-Vargas

*Petitioner*

v.

Todd Lyons, Acting Director, Immigration Customs and  
Enforcement; and Ernesto Santacruz, Jr., Field Office  
Acting Director for Enforcement and Removal Operation

*Respondent*

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

Case No. 2:25-cv-7802  
(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: Marco Antonio Ortiz-Vargas  
(b) Other names you have used: \_\_\_\_\_
2. Place of confinement:  
(a) Name of institution: B18  
(b) Address: 300 N. Los Angeles Street, Los Angeles, CA 90012  
(c) Your identification number: \_\_\_\_\_
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): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### 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)

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☐ 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:

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

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

Petitioner has been in ICE custody since August 9, 2025. No custody determination has been made regarding Petitioner which is a violation of 8 CFR 287.3(d) which requires a custody determination within 48 hours. Further, Petitioner was unlawfully detained in violation of the 4th and 5th amendments.

(d) Date of the decision or action:

#### 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:

(b) If you answered "No," explain why you did not appeal: 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

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(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: \_\_\_\_\_

(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

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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: \_\_\_\_\_

- (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: 08/09/2025

(b) Date of the removal or reinstatement order: \_\_\_\_\_

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No

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**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: \_\_\_\_\_

(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: \_\_\_\_\_



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**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. Any legal arguments must be submitted in a separate memorandum.

**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 arrest..." Mr. Ortiz-Vargas has been in ICE Custody since 08/09/25 without a Notice to Appear or any custody determination in violation of 8 CFR 287.3(d).

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

On August 9, 2025, Mr Ortiz-Vargas was arrested in front of The Home Depot at 12975 W Jefferson Blvd., Los Angeles, CA. Mr. Ortiz-Vargas was sent to B18 Facility in downtown Los Angeles, CA and was the ICE detention center in Santa Ana, CA on or about August 10, 2025 where he was denied access to his attorney. Mr. Ortiz-Vargas was then moved again to B18 on or about August 11, 2025. As of the date of this petition, ICE has not set a bond for release or issued a Notice to Appear. He is being held 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. Ortiz-Vargas was arrested and detained without probable cause.

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

Mr. Ortiz-Vargas was arrested and detained on August 9, 2025. The individuals who arrested Mr. Ortiz-Vargas did not have a warrant for his arrest and they did not provide any identification that they were law enforcement or ICE officer. They did not ask him any questions about his immigration status in the United States. Mr. Ortiz-Vargas' 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. Ortiz-Vargas was arrested and detained without due process.

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

Mr. Ortiz-Vargas was arrested and detained on August 9, 2025 and has yet to receive a custody determination effectively placing him outside the immigration system. This administrative failure violated Mr. Ortiz-Vargas' fundamental due process right. Further, as of the date of this petition, 5 days after he was taken into custody, Mr. Ortiz-Vargas has yet to receive an "A" number which is assigned during the processing of a detainee.

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

☐ Yes

☐ No

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**GROUND FOUR:**

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

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(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 set bond hearing and notice to appear; direct Respondents to release Petitioner from custody after proper processing and payment of bond; prohibit removal until proper immigration proceeding; prohibit the transfer of Petitioner to any facility outside of this district; 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:

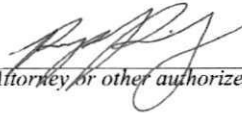
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I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 08/20/2025



*Signature of Petitioner*



*Signature of Attorney or other authorized person, if any*