

Pro Se.

FILED

AUG 20 2025

Clerk, U.S. District Court
By: [Signature] Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE District of Kansas

Ivan Alejandro Ibarra Moreno

Petitioner,

v.

Pamela Bondi, ATTORNEY
GENERAL;

Kristi Noem,
SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY;

Samuel Olson,
U.S. ICE FIELD OFFICE DIRECTOR FOR
THE Chicago FIELD OFFICE,
and WARDEN OF IMMIGRATION
DETENTION FACILITY, Co. Carter
Warden FCI Leavenworth
Respondents.

Civil Action No. 25-3168-JWL

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

Petitioner, Ivan A. Ibarra M., hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the

FCI Leavenworth in
Leavenworth, Kansas 66048

Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

3. This Court has jurisdiction under 28 U.S.C. § 2241; art. I § 9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

4. Petitioner has exhausted any and all administrative remedies to the extent required by law.

VENUE

5. Pursuant to Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 493 - 500 (1973), venue lies in the United States District Court for the

District of Kansas, the judicial district in which Petitioner resides.

PARTIES

6. Petitioner is a native and citizen of Mexico. Petitioner was first taken into ICE custody on October 15, 2024, and has remained in ICE custody continuously since that date. Petitioner was ordered removed on January 27, 2025. The Immigration Judge granted the Petitioner "Deferral of Removal under CAT" on 01/27, 2025.

7. Respondent Pamela Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Naturalization Act (INA). As such, Pamela Bondi has ultimate custodial authority over Petitioner.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. He is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Kristi Noem is the legal custodian of Petitioner.

9. Respondent Samuel Olson is the Field Office Director of the Chicago Field Office of ICE and is Petitioner's immediate custodian. See Vásquez v. Reno, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).

10. Respondent Warden of FCI Leavenworth, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

11. Petitioner, Ivan A. Ibarra M., is a native and citizen of Mexico. Petitioner has been in ICE custody since 10/15/24. An Immigration Judge ordered the Petitioner removed on 01/27/25. Immigration Judge granted "Deferral of Removal" (CAT).

12. The Petitioner entered the United States legally around 2005, then became a lawful permanent resident around June of 2010. The Petitioner received a "Final Order of Removal" after being convicted with a Felony on 01/27/25.

13. The Petitioner was accused in the District of Arizona for the Next Crimes:

a) Possession with Intent to Distribute a Controlled Substance (Class "C" Felony non-aggravated) convicted to 12 months, 1 Day in Prison with 3 years Supervised Release.

14. After Serving 9 months in Prison at FCI Thomson in Thomson Illinois, the petitioner received a "hold"/ arrest warrant with ICE on October 15, 2024 in

order to start his removal process.

15. To date, however, ICE has been unable to remove Petitioner to

Mexico or any other country. The Petitioner, Citizen of Mexico, Can't be deported to his country of Birth (Mexico) because an Immigration Judge granted the Petitioner "Deferral of Removal under Convention Against Torture" (CAT) on 01/27/2025 and the Petitioner is not a citizen of any other country.

16. Petitioner has cooperated fully with all efforts by ICE to remove him

from the United States. The Petitioner has provided any and all information about his country of Birth/ Country of Citizenship. The Petitioner has also provided ICE with his fingerprints and other identification documents.

17. Petitioner's custody status was first reviewed on 04/25/2025.

On 05/02/2025, Petitioner was served with a written decision ordering his/her continued detention.

18. On N/A, Petitioner was served with a notice transferring authority over his/her custody status to ICE Headquarters Post-Order Detention Unit ("HQPDU"). See Attached Memorandum with Additional Specific Facts.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

19. In Zadvydas v. Davis, 533 U.S. 678 (2001), the Supreme Court held that six months is the presumptively reasonable period during which ICE may detain aliens in order to effectuate their removal. Id. at 702. In Clark v. Martinez, 543 U.S. 371 (2005), the Supreme Court held that its ruling in Zadvydas applies equally to inadmissible aliens. Department of Homeland Security administrative regulations also recognize that the HQPDU has a six-month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(b)(2)(ii).

20. Petitioner was ordered removed on 01/27/2025, and the removal order became final on 01/27/2025. Therefore, the six-month presumptively reasonable removal period for Petitioner ended on 07/27/2025.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the Supreme Court in Zadvydas. The six-month presumptively reasonable period for removal efforts has expired. Petitioner still has not been removed, and Petitioner continues to languish in detention. Petitioner's removal to Mexico or any other country is not significantly likely to occur in the reasonably foreseeable future. The Supreme Court held in Zadvydas and Martinez that ICE's continued detention of someone like Petitioner under such circumstances is unlawful.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

23. Petitioner re-alleges and incorporates by reference paragraphs 1 through 22 above.

24. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

25. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling

government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. Zadvydas recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal. The presumptively reasonable period during which ICE may detain an alien is only six months. Petitioner has already been detained in excess of six months and Petitioner's removal is not significantly likely to occur in the reasonably foreseeable future.

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

26. Petitioner re-alleges and incorporates by reference paragraphs 1 through 25 above.

27. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that s/he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process.

Further, Respondents have failed to acknowledge or act upon petitioner's administrative release in a timely manner. There is no administrative mechanism

in place for the petitioner to demand a decision
ensure that a decision will ever be made, or
appeal a custody decision that violates ZADVYDAS.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

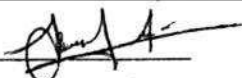
- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to
immediately release Petitioner from custody;
- 3) Enter preliminary and permanent injunctive relief enjoining Respondents
from further unlawful detention of Petitioner;
- 4) Award Petitioner attorney's fees and costs under the Equal Access to Justice
Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any
other basis justified under law; and
- 5) Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Juan A. Ibarra Moreno
Petitioner

08/17/2025
Date executed

Alien #: 

Signature: 

FCI Leavenworth

P.O. BOX 1000

Leavenworth, KS 66048