

Maya King, Esq.
King Law Group
1401 Iron Street, Suite 200
North Kansas City, MO 64116
KS Bar # 27499
Counsel for Petitioner
Tel: (913) 717-7112
Email: maya@myklegal.com

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

GERARDO REYNA-SALGADO,

Plaintiff,

-against-

KRISTI NOEM, in her official capacity as
Acting Secretary of Homeland Security;
PETE R. FLORES, in his official capacity as
Commissioner of the U.S. Customs and
Border Protection; and RICARDO WONG, in
his official capacity as Field Office Director
of the ICE ERO Chicago, C. CARTER in his
official capacity as WARDEN of FCI
Leavenworth,

Defendants.

25 CV 3072-JWL

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Gerardo Reyna-Salgado (A ) is a native and citizen of Mexico. He has been in the custody of U.S. Immigration and Customs Enforcement (“ICE”) since December 2, 2024. On February 21, 2025, an Immigration Judge in Chicago granted him Withholding of Removal under INA § 241(b)(3), prohibiting DHS from removing him to Mexico. Despite this grant of statutory protection, ICE has continued to detain Petitioner.

2. On August 11, 2025, this Court issued a Memorandum and Order denying Petitioner's prior habeas petition as premature, noting that detention of less than six months following a final order of removal is "presumptively reasonable" under *Zadvydas v. Davis*, 533 U.S. 678 (2001). However, the Court explicitly recognized that Petitioner "is free to file a new habeas petition" if his continued detention later becomes unreasonable.

3. As of August 21, 2025, Petitioner has been detained for more than six months since the final order of the Immigration Judge. His continued detention is unconstitutional and unlawful because removal is neither legally possible to Mexico nor practically foreseeable to any third country. Respondents have already failed to secure acceptance from three alternative countries. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), such prolonged detention is presumptively unreasonable.

4. Absent an order from this Court, Petitioner will remain in indefinite and unlawful immigration detention, deprived of his liberty without a foreseeable removal date. Petitioner asks this Court to find that his continued detention is unlawful because it has become unreasonably prolonged, and to order his immediate release.

JURISDICTION

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Jurisdiction is proper because Petitioner challenges the legality of his ongoing immigration detention, which has become unreasonably prolonged in violation of the Constitution, federal statutes, and regulations.

7. This Court may grant relief under the habeas corpus statutes or issue an order to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651. Courts have long recognized the writ’s fundamental role in protecting individuals from unlawful detention.

VENUE

8. Venue is proper because Petitioner is detained at the Leavenworth Detention Center in Leavenworth, Kansas, which is within the jurisdiction of this District.

9. Venue is also proper because Respondents are officers, employees, or agencies of the United States, and the Warden of FCI Leavenworth resides in this District. In addition, a substantial part of the events or omissions giving rise to this action occurred in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

PARTIES

10. Petitioner, Gerardo Reyna-Salgado, is a native and citizen of Mexico, currently detained at FCI Leavenworth in Kansas. He is under the custody and control of Respondents and their agents.

11. Respondent C. Carter is the Warden of FCI Leavenworth, where Petitioner is currently detained.

12. Respondent Ricardo Wong is sued in his official capacity as Field Office Director of the ICE Enforcement and Removal Operations (ERO) Chicago Field Office.

13. Respondent Pete R. Flores is sued in his official capacity as the Commissioner of U.S. Customs and Border Protection (CBP).

14. Respondent Kristi Noem is sued in her official capacity as the Acting Secretary of the Department of Homeland Security (DHS).

FACTUAL BACKGROUND

15. Petitioner has been detained by ICE since December 2, 2024.

16. On February 21, 2025, the Immigration Court granted Petitioner Withholding of Removal to Mexico under INA § 241(b)(3). Removal to Mexico is legally barred. Respondents have attempted removal to three alternative countries, but all efforts have failed. No viable removal destination has been identified.

17. Petitioner has now been detained over six months beyond the final order of the Immigration Judge. Under *Zadvydas v. Davis*, detention beyond six months is presumptively unreasonable absent proof of imminent removal.

18. In a Memorandum and Order dated August 11, 2025, this Court denied Petitioner's first habeas petition as premature but explicitly recognized his right to re-file if detention later became unreasonable. That condition has now been satisfied.

19. Petitioner remains detained indefinitely, with no significant likelihood of removal in the reasonably foreseeable future.

CLAIMS FOR RELIEF

COUNT ONE – Violation of Fifth Amendment Right to Due Process

20. Petitioner incorporates by reference the allegations above.

21. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of liberty without due process of law. Immigration detention is civil in nature, and its purpose is limited: ensuring a noncitizen's availability for removal and protecting the community. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Once detention no longer serves

that purpose—because removal is not reasonably foreseeable—it becomes punitive and constitutionally impermissible.

22. Here, Petitioner has been detained beyond the six-month period deemed “presumptively reasonable” under *Zadvydas*. His removal to Mexico is legally prohibited due to the grant of withholding of removal under INA § 241(b)(3). DHS’s efforts to remove him to alternative countries have failed, and no viable removal destination has been identified.

23. Without a lawful removal destination, detention cannot further any legitimate governmental interest. Continued detention is arbitrary, excessive, and disproportionate to any permissible objective. Moreover, Petitioner has been afforded no meaningful process to justify his prolonged detention. The absence of an individualized custody review, combined with the indefinite nature of his incarceration, violates substantive and procedural due process.

24. Accordingly, Petitioner’s ongoing detention violates the Fifth Amendment to the U.S. Constitution.

COUNT TWO – Violation of 8 U.S.C. § 1231(a)(6)

25. Petitioner incorporates by reference the allegations above.

26. Section 1231(a)(6) authorizes detention only for a “period reasonably necessary to bring about [a noncitizen’s] removal.” *Zadvydas*, 533 U.S. at 699–701. The Supreme Court has construed the statute to prohibit indefinite detention, holding that once the presumptively reasonable six-month period expires, continued detention is lawful only if the government can establish a significant likelihood of removal in the reasonably foreseeable future. *Id.* at 701.

27. Petitioner has now been detained beyond that six-month window. Respondents cannot show a significant likelihood of removal:

- a. Removal to Mexico is legally barred.

- b. Attempts to remove Petitioner to three other countries have failed.
- c. Any prospective third-country removal would require additional statutory and regulatory steps (including notice, fear screening, and adjudication if Petitioner asserts fear), ensuring further delay.

28. The government therefore cannot meet its burden under § 1231(a)(6) as interpreted by *Zadvydas*. Petitioner's ongoing detention has lost any statutory basis and has become unlawful.

PRAYER FOR RELIEF

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

- 1. Assume jurisdiction over this matter;
- 2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- 3. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231(a)(6).
- 4. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately under appropriate conditions of supervision; and
- 5. Grant any further relief this Court deems just and proper.

Respectfully submitted,


Maya King, Esq.
King Law Group
1401 Iron Street, Suite 200
North Kansas City, MO 64116
KS Bar # 27499
Counsel for Petitioner
Tel: (913) 717-7112
Email: maya@myklegal.com
Counsel for Petitioner

Dated: August 26, 2025

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

I represent Petitioner, GERARDO REYNA-SALGADO, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 26th day of August, 2025.

/s/ Maya King

Maya King, Esq.
Attorney for Petitioner