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

Carlos Antonio Moran-Orellana,

Petitioner,

-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,

Respondents.

25 CV 3185-JWL

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge his ongoing unlawful detention by Immigration and Customs Enforcement (“ICE”).

2. Petitioner has been granted withholding of removal under the Convention Against Torture (“CAT”) by an Immigration Judge, based on credible findings that he was tortured by Salvadoran police officers and faces a likelihood of torture if returned.

3. Despite this final protection order, Petitioner was taken into custody at a routine ICE check-in on February 7, 2025, and remains detained.

JURISDICTION

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

5. 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 only the legality of his detention, not the underlying removal order. See 8 U.S.C. § 1252(b)(9).

6. This Court may grant relief under the habeas corpus statutes, 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.

VENUE

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

8. Venue is also proper because Respondents are officers, employees, or agencies of the United States, and 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).

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a

return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

11. Petitioner Carlos Antonio Moran-Orellana is a native and citizen of El Salvador who is currently detained at the FCI Leavenworth. He is in the custody and under the direct control of Respondents and their agents.

12. Respondent C. Carter is the Warden of the FCI Leavenworth, where Petitioner is currently detained. Respondent Carter has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

13. Respondent Ricardo Wong is sued in his official capacity as the Field Office Director of the ICE Enforcement and Removal Operations (ERO) Chicago Field Office. Respondent Wong is a legal custodian of Petitioner and has authority to release him from ICE custody.

14. Respondent Pete R. Flores is sued in his official capacity as the Commissioner of U.S. Customs and Border Protection (CBP). In this capacity, Respondent Flores is responsible for the administration and enforcement of the nation’s immigration laws at and between ports of entry. Respondent Flores is a legal custodian of Petitioner.

15. Respondent Kristi Noem is sued in her official capacity as the Acting Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Noem is a legal custodian of Petitioner.

STATEMENT OF FACTS

16. Petitioner, Carlos Antonio Moran-Orellana, is a husband and father from El Salvador. In November 2014, Petitioner's brother, Jose Alonso Moran, was found dead after witnessing Salvadoran police commit a murder. In January 2015, four police officers dragged Petitioner from his home, beat him, interrogated him, and branded his calf with a hot metal object, leaving a permanent scar. The officers told him they had killed his brother and threatened to kill him as well. Petitioner fled with his family but was later tracked down by police in a different town. Fearing for his life, he left for the United States.

17. Petitioner passed a credible fear interview on July 22, 2016, with a finding that he would likely be tortured if returned. After full hearings, on October 4, 2018, Immigration Judge Justin Howard found Petitioner credible, denied asylum and statutory withholding, but granted withholding of removal under the CAT. The IJ expressly found that it is more likely than not that Petitioner would be tortured by Salvadoran police officers acting in their official capacity if removed, and therefore ordered withholding of removal under CAT. Petitioner remains legally protected from removal.

18. Petitioner has abided by DHS requirements, including attending ICE check-ins for years without incident. On February 7, 2025, ICE detained Petitioner at a routine check-in, despite the CAT order, and has since held him without any opportunity for release on bond or parole.

LEGAL FRAMEWORK

19. Federal law authorizes the government to detain certain noncitizens during removal proceedings or after the entry of a final order of removal. See 8 U.S.C. §§ 1226, 1231. Such detention, however, is subject to constitutional limits.

20. The Supreme Court has held that immigration detention is civil in nature and must be reasonably related to its purpose—ensuring the noncitizen’s appearance at removal proceedings and protecting the community. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention that is prolonged, indefinite, or no longer reasonably related to its purpose violates the Due Process Clause of the Fifth Amendment. *Zadvydas*, 533 U.S. at 699–701.

21. Under *Zadvydas*, when removal is not reasonably foreseeable, detention beyond six months is presumptively unreasonable and unconstitutional absent a showing by the government that removal is significantly likely in the reasonably foreseeable future. *Id.* at 701.

22. The writ of habeas corpus under 28 U.S.C. § 2241 provides a vehicle for noncitizens to challenge the legality of their detention and to secure release where detention is unlawful or unconstitutional. The Suspension Clause of Article I, § 9, cl. 2 of the U.S. Constitution preserves the writ as a check against unlawful executive detention.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

23. The allegations in the above paragraphs are realleged and incorporated herein by reference.

24. Petitioner’s ongoing detention is arbitrary, excessive, and no longer reasonably related to its lawful purpose of securing removal. Petitioner’s removal to El Salvador is not

reasonably foreseeable given the substantial risk of torture or death he faces there, his pending protection claims, and the absence of any concrete removal timeline.

25. Prolonged immigration detention without a bond hearing or other meaningful process to determine whether continued confinement is justified violates the Due Process Clause of the Fifth Amendment to the United States Constitution. See *Zadvydas v. Davis*, 533 U.S. 678 (2001).

26. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1231(a)(6)

27. The allegations in the above paragraphs are realleged and incorporated herein by reference.

28. Under 8 U.S.C. § 1231(a)(6) and its implementing regulations, the government may detain a noncitizen after a final order of removal only for a period reasonably necessary to effectuate removal. The Supreme Court has construed this statute to prohibit detention beyond six months where removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S. 678, 699–701 (2001).

29. Petitioner has been detained well beyond the six-month presumptively reasonable period, and there is no significant likelihood of removal in the reasonably foreseeable future. ICE has taken no concrete steps to effectuate his removal, and substantial, well-documented barriers—including credible threats to Petitioner's life and the likelihood of torture in El Salvador—make such removal impracticable.

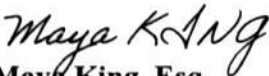
30. By continuing to detain Petitioner without demonstrating that his removal is significantly likely in the reasonably foreseeable future, Respondents are violating 8 U.S.C. § 1231(a)(6) and the implementing regulations governing post-order custody reviews.

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,


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Dated: September 5, 2025

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

I represent Petitioner, Carlos Antonio Moran-Orellana, 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 5th day of September, 2025.


Maya King, Esq.
Attorney for Petitioner