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

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.

2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).

3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**

All questions must be answered clearly and concisely in the space on the form. If needed, you may attach additional pages or file a memorandum in support of the petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. Note that some courts have page limitations. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**

4. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.

5. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.

6. **Submitting Documents to the Court.** Mail your petition and ___ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.

7. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the

Petitioner
v.
William JOYCE, in his official capacity as District Director of New York, Immigration and Customs Enforcement
Respondent
Case No. (Supplied by Clerk of Court)

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Personal Information

- 1. (a) Your full name: Andres Valerio
(b) Other names you have used:
2. Place of confinement:
(a) Name of institution: Immigration and Customs Enforcement - Enforcement and Removal Operations
(b) Address: 26 Federal Plaza
New York, NY 10278
(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):

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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)
- 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: Immigration and Customs Enforcement
26 Federal Plaza, NY NY 10278
- (b) Docket number, case number, or opinion number: _____
- (c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):
ICE's decision to arrest and detain me; ICE's decision to allege I am detained under 8 USC 1225
rather than 1226(a) and hold me without access to a bond hearing.
- (d) Date of the decision or action: 10/20/2025

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: _____

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

8. Second appeal

After the first appeal, did you file a second 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 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: _____

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(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

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: _____

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(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: 10/20/2025

(b) Date of the removal or reinstatement order: _____

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

Yes No

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: _____

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- (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: _____

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.

GROUND ONE: Violation of the laws of the United States, to wit, the Immigration and Nationality Act

The interpretation that I am detained pursuant to 8 USC 1225 violates the plain language of the INA and also is not supported by the record.

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

I entered the United States in or around 1985. I have not left the country since that time.

I was apprehended outside my longtime residence in Elmhurst, Queens.

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

Yes

No

GROUND TWO: Violation of the 5th Amendment of the United States Procedural Due Process

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

ICE provided me with no notice or opportunity to be heard regarding my arrest and detention and have barred any opportunity to seek release based on their erroneous interpretation of the law.

In addition, to the extent they are attempting to use the expedited removal process against me in 8 USC 1225 (b)(1)(A), they are also violating my procedural due process rights without giving me an opportunity to provide I have been here for decades, far longer than the two years permitted by the statute.

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

Yes

No

GROUND THREE: US Constitution's 5th Amendment Substantive Due Process

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

The goals of immigration detention are to ensure my appearance at future immigration proceedings and to prevent danger to the community. Neither goal is served by my detention. Holding me in immigration detention without an opportunity to prove to an impartial judge that I am not a danger or flight risk serves no purpose.

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

Yes

No

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GROUND FOUR: VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT

8 USC 1225(b)(1)(A); ADMINISTRATIVE PROCEDURE ACT, 5 USC 706(2)

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

I am not an arriving alien as I have been physically present in the United States for more than 2 years. To the extent that the government is attempting to use the expedited removal procedures, this is a violation of law because I have been here for decades, well more than the two years permitted by statute.

(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: Order my immediate release. In the alternative, order EOIR to conduct a bond hearing but prevent them from using the "auto-stay" in the event bond is granted. Prevent my removal from the United States and prevent my transfer to another district. Appoint counsel for my case. Enjoin Respondent from ordering my removal pursuant to 8 USC 1225 or, in the alternative, order a full and fair process to prove I've been here more than two years. If I obtain representation, I retain the right to add additional prayers for relief.

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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:

10/20/2025

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: 10/21/2025

/s/ Andres Valerio

Signature of Petitioner

Armando Valerio, on behalf of father Andres Valerio

Signature of Attorney or other authorized person, if any