

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

)
Hector Miguel Herrera-Moreno,)
)
Petitioner,)
)
v.) Civil Action No. _____
)
Warden, North Lake Correctional Facility,)
)
Respondent.)

**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241
EMERGENCY RELIEF REQUESTED — DECISION ON THE PAPERS**

Petitioner, through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241, as he is detained without access to any neutral custody determination, in violation of the Due Process Clause of the Fifth Amendment.

I. INTRODUCTION

Petitioner has been detained by the Department of Homeland Security (“DHS”) since October 27, 2025, under 8 U.S.C. § 1226(a). However, Petitioner has been denied any forum to review his detention:

- The Immigration Judge lacked jurisdiction because DHS has not filed the Notice to Appear (NTA). The IJ denied custody review solely for that reason.
- Petitioner requested custody review from ICE/ERO Detroit, but DHS has not acted.

As a result, Petitioner is detained without access to any neutral decision-maker.

Detention without judicial review is unconstitutional. Freedom from physical restraint is at the core of the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Under 28 U.S.C. § 2243, habeas courts must act “forthwith” to remedy unlawful detention.

Petitioner respectfully requests immediate release, or, in the alternative, an order requiring DHS to file the NTA and permit custody review within 7 days.

II. JURISDICTION & VENUE

This Court has jurisdiction under 28 U.S.C. § 2241, as Petitioner is in custody in this District and challenges the legality of that custody.

Venue lies in the Western District of Michigan because Petitioner is detained at North Lake Correctional Facility in Baldwin, Michigan.

III. PARTIES

- Petitioner: Hector Miguel Herrera-Moreno, A# [REDACTED]
- Respondent: Warden, North Lake Correctional Facility, who has physical custody.

IV. FACTUAL BACKGROUND

Petitioner lawfully entered the United States at age 11 using a Border Crossing Card and has lived in the U.S. for over 22 years. He is the husband of a U.S. citizen and the primary caregiver to two U.S. citizen children, including a child with chronic asthma requiring daily and rescue medication management.

Petitioner was detained on October 27, 2025. He requested custody review. On November 7, 2025, the Immigration Judge denied the request solely because DHS failed to file the NTA.

Thus, there is no judicial or administrative avenue presently available to review his detention.

V. LEGAL STANDARD

Habeas corpus exists to prevent illegal executive detention. Boumediene v. Bush, 553 U.S. 723, 745 (2008).

“Freedom from imprisonment lies at the heart of the liberty the Clause protects.” Zadvydas, 533 U.S. at 690.

Under 8 U.S.C. § 1226(a), individuals in removal proceedings are entitled to case-by-case custody review. Jennings v. Rodriguez, 138 S. Ct. 830 (2018).

Detention without access to any adjudicator violates due process. Santos v. Warden Pike County, 965 F.3d 203 (3d Cir. 2020).

Where detention is unreviewable, § 2241 habeas corpus is the appropriate remedy. Bermudez-Figueroa v. Warden, 455 F. Supp. 3d 1008 (D. Ariz. 2020).

VI. RELIEF REQUESTED

Petitioner respectfully requests that this Court:

1. Order his immediate release from custody, subject to any reasonable conditions; OR
2. If the Court declines immediate release, order DHS to file the Notice to Appear within 48 hours and require a custody redetermination hearing within 7 days, and if that hearing does not occur, Petitioner shall be released.

Petitioner requests that this matter be decided on the papers, without oral argument.

Respectfully submitted,

/s/ **Kimberly Weiss**
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CERTIFICATE OF SERVICE

I certify that on the date shown below, I caused a true and correct copy of the foregoing Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241, together with all attached exhibits, to be served as follows:

Via CM/ECF Electronic Filing:

- United States Attorney's Office
Western District of Michigan

Via Certified Mail (with tracking):

Warden, North Lake Correctional Facility
North Lake Correctional Facility
1805 W. 32nd Street
Baldwin, MI 49304

Courtesy Electronic Copies:

Office of Chief Counsel, ICE (Detroit)
detoccattorneys@ice.dhs.gov

U.S. Immigration and Customs Enforcement – ERO Detroit Field Office
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Department of Justice – Office of Immigration Litigation
OIL-DCS@usdoj.gov

Dated: 11/11/2025

/s/ Kimberly Weiss
Attorney for Petitioner