

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LEANDRO AVILA, SAEL,
Petitioner,

v.

WARDEN, NORTH LAKE
CORRECTIONAL FACILITY;
SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY;
DIRECTOR, U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; ICE DETROIT
FIELD OFFICE DIRECTOR; ICE CHICAGO
FIELD OFFICE DIRECTOR; UNITED
STATES ATTORNEY GENERAL; AND
DIRECTOR, EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW,
Respondents.

Case No. _____

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

Petitioner, LEANDRO AVILA, SAEL, by undersigned counsel, respectfully files this Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. Petitioner is detained in violation of the Constitution, the Immigration and Nationality Act, and the Administrative Procedure Act. He seeks immediate release, or in the alternative, a constitutionally adequate custody hearing within 48 hours.

I. JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is “in custody in violation of the Constitution or laws or treaties of the United States.” Additional jurisdiction exists under 28 U.S.C. §§ 1331, 1361, 1651, and 5 U.S.C. § 702.

Venue is proper in the Western District of Michigan because Petitioner is detained at North Lake Correctional Facility in Baldwin, Michigan (Lake County), which lies within this District.

II. PARTIES

Petitioner:

LEANDRO AVILA, SAEL, A# [REDACTED], detained at North Lake Correctional Facility, Baldwin, Michigan.

Respondents:

- Warden, North Lake Correctional Facility
- Secretary of the Department of Homeland Security
- Director, U.S. Immigration and Customs Enforcement
- ICE Detroit Field Office Director
- ICE Chicago Field Office Director
- United States Attorney General
- Director, Executive Office for Immigration Review

Each Respondent has legal authority over the initiation, continuation, and legality of Petitioner's detention.

III. STATEMENT OF FACTS

A. Background and Residence

Petitioner entered the United States as a minor in 2000 and has resided here continuously for 25 years. He has a U.S. citizen daughter, a long-term partner who holds DACA, stable employment history, church and community support, and no disqualifying criminal record.

B. ICE Arrest — November 3, 2025

Petitioner was arrested in Illinois during ICE's "Midway Blitz" operation. The Form I-213 states that:

- ICE had no arrest warrant,
- contact was triggered by a license plate check,
- Petitioner's only history involves minor traffic citations.

ICE transported him to North Lake Correctional Facility for civil immigration detention.

C. Bond Hearing Denied — November 14 & 19, 2025

The Immigration Judge refused to hold a bond hearing and issued a written order stating:

"The Court lacks jurisdiction to conduct a bond hearing under Matter of Hurtado."

As a result:

- No evidence was taken,
- No danger determination was made,
- No flight-risk analysis was conducted,
- No alternatives to detention were considered.

D. Parole Denied — November 21, 2025

Petitioner submitted a comprehensive request for humanitarian parole. ICE denied the request in a single conclusory sentence that provided:

- no factual findings,
- no reasoning,
- no reference to the regulatory factors,
- no individualized assessment required by 8 C.F.R. § 212.5.

E. No Custody Process Exists

Because of Hurtado, EOIR cannot review custody, and because ICE refuses to conduct individualized review, DHS likewise provides no custody process. Petitioner is detained indefinitely without any legal mechanism to seek release.

F. Pending EOIR Proceedings

Petitioner's immigration case remains pending with a hearing set for December 10, 2025, but he has no access to any custody hearing in those proceedings.

G. Hardship

Petitioner supports his U.S. citizen daughter and contributes to household stability. His detention has caused extreme stress, emotional harm, and financial strain on his family.

H. Exhaustion

No administrative mechanism exists to challenge detention; therefore, Petitioner has fully exhausted all available remedies. Habeas corpus is the only vehicle available and required by the Suspension Clause.

IV. LEGAL CLAIMS

Count I — Unconstitutional Detention (Fifth Amendment)

Petitioner has received no meaningful individualized custody determination, violating procedural due process. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Count II — Detention Not Authorized by INA § 1226(a)

Section 1226(a) permits detention only with discretionary review. Here, Hurtado bars IJ review and ICE refused to exercise discretion. Detention has become ultra vires.

Count III — APA Violation (5 U.S.C. §§ 555, 706)

ICE's one-sentence parole denial is arbitrary and capricious, lacks reasoning, and fails to consider mandatory factors.

Count IV — Accardi Doctrine Violation

ICE violated 8 C.F.R. § 212.5 by failing to provide individualized parole consideration. Failure to follow binding regulations invalidates agency action.

Count V — Procedural Due Process Violation

Petitioner has never been afforded:

- Government burden by clear and convincing evidence,
- Danger/flight-risk analysis,
- Ability-to-pay considerations,
- Alternatives to detention,
- Written findings.

Count VI — Substantive Due Process Violation

Detention is not reasonably related to any legitimate governmental purpose and is excessive under *Demore v. Kim*.

Count VII — Suspension Clause Violation

Where neither EOIR nor ICE provides a mechanism for custody review, habeas relief is constitutionally required. *Boumediene v. Bush*, 553 U.S. 723 (2008).

Count VIII — Ultra Vires / Warrantless Arrest

The Form I-213 admits ICE lacked a warrant and acted on generalized suspicion, violating statutory and constitutional constraints.

Count IX — EAJA Fees

The Government's position is not substantially justified. Petitioner seeks fees under 28 U.S.C. § 2412.

V. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. Order Petitioner's immediate release from civil immigration detention; OR
2. In the alternative, order a constitutionally adequate custody hearing within 48 hours, requiring:
 - a. Government burden of proof by clear and convincing evidence;
 - b. Consideration of ability to pay;
 - c. Consideration of alternatives to detention;
 - d. Consideration of Petitioner's extensive equities;
 - e. Written findings.
3. Enjoin Respondents from transferring Petitioner outside WDMI pending litigation.
4. Order production of Petitioner's complete custody record.
5. Award EAJA fees and costs.
6. Grant any further relief the Court deems just and proper.

Respectfully submitted,
/s/ Kimberly Sabrina Weiss
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Counsel for Petitioner

CERTIFICATE OF SERVICE

I certify that on the date of filing, I served a true and correct copy of this Petition for Writ of Habeas Corpus on all Respondents via CM/ECF and by mail upon any Respondent not registered with the ECF system, in accordance with Federal Rule of Civil Procedure 5.

/s/ Kimberly Sabrina Weiss

Kimberly Sabrina Weiss

Date: 11/21/2025