

JUDGE KATHLEEN CARDONE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

EP 25CV0752

FILED
NOV 30 2025
U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO, TEXAS

Jose Soto Medina,

Petitioner,

v.

Pamela Bondi,

Attorney General of the United States;

Kristi Noem,

Secretary of the Department of Homeland Security;

Todd M. Lyons,

Acting Director of U.S. Immigration and Customs Enforcement;

Russell Hott,

ICE Field Office Director, Chicago;

Respondents.

Case No.: _____

PETITION FOR WRIT OF HABEAS CORPUS

(28 U.S.C. § 2241)

INTRODUCTION

Petitioner Jose Soto Medina (Mr. Soto) respectfully petitions this Court for a Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging his unlawful and prolonged immigration detention by U.S. Immigration and Customs Enforcement (“ICE”). Mr. Soto has resided in the United States for more than (29) twenty-nine years, has no criminal history, and is the husband of a U.S. Permanent Resident and father of three (3) U.S. citizen children. He also has an Approved I-130, Petition for Alien Relative, and a pending I-601A case with USCIS, making him *prima facie* eligible for Cancellation of Removal under INA § 240A(b).

Despite his longstanding residence, clean record, and deep ties with Illinois, ICE conducted a raid in the Chicago area and detained Mr. Soto without a judicial warrant and without any individualized determination of danger or flight risk. He has now been detained for over a month.

Immigration Judges in this jurisdiction have increasingly issued blanket denials of bond to noncitizens who entered without inspection, relying on the decision in *Matter of Yajure Hurtado*, which many courts—including those within the Seventh Circuit—have recognized as contrary to the statutory text and constitutionally problematic.

Habeas corpus is appropriate and necessary to remedy his unlawful custody.

JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and 5 U.S.C. § 702. Venue is proper under 28 U.S.C. § 1391(e) because the events giving rise to this petition occurred in the Western District of Texas, and Petitioner is detained within this District. It should be noted however that petitioner’s residence is in the Chicago area, within the northern district of Illinois.

PARTIES

Petitioner: Jose Soto Medina, a native and citizen of Mexico who has resided in the United States for more than twenty-nine years.

Respondents: The federal agencies and officials responsible for Petitioner’s arrest, detention, and potential transfer in both their official and individual capacities.

FACTUAL BACKGROUND

1. Mr. Soto has been continuously present in the United States for more than twenty-nine (29) years.
2. He is married to a U.S. Permanent Resident, and they share U.S. citizen children, making him eligible for Cancellation of Removal.

3. He has an Approved I-130, Petition for Alien Relative.
4. He also has a pending I-601A, Application for Provisional Unlawful Presence Waiver with USCIS.
5. He has no criminal history.
6. ICE arrested Mr. Soto during an immigration raid conducted in the Chicago area, without a warrant and without individualized suspicion.
7. He has now been detained for more than a month.
8. He was denied bond due to the widespread and improper reliance on Matter of Yajure Hurtado by Immigration Judges in this jurisdiction, who have treated it as creating categorical ineligibility for bond for individuals who entered without inspection.
9. Mr. Soto poses no flight risk or danger and has deep ties to the community.

CLAIMS FOR RELIEF

LEGAL CLAIMS

COUNT I – UNLAWFUL ARREST AND DETENTION

(Violation of the Fourth and Fifth Amendments)

1. Petitioner's **warrantless arrest on private property** violated the Fourth Amendment, as no judicial authorization or probable cause existed.
2. His **continued detention without the filing of an NTA** and without opportunity for bond violates the Fifth Amendment's guarantee of due process.
3. The Northern District has repeatedly condemned such detention practices as unconstitutional. See **H.G.V.U. v. Smith**, No. 25 C 10931, 2025 WL 2962610, at 4 (N.D. Ill. Oct. 20, 2025) (Coleman, J.)* ("ICE cannot detain an individual absent a lawful charging document or bond determination. Detention without process offends the Fifth Amendment.").

COUNT II – DETENTION WITHOUT STATUTORY AUTHORITY

18. Under 8 U.S.C. § 1226(a), the government may detain only individuals **pending a decision on removal proceedings**—which presupposes service of an NTA.
19. Because Petitioner has not been served an NTA, **no statutory authority exists** for his detention.
20. In **Mariano Miguel**, No. 25 C 11137 (N.D. Ill. Oct. 21, 2025) (Alonso, J.), the Court ordered release under similar facts, finding that "ICE custody absent a properly filed NTA exceeds its delegated powers under the INA."

21. Likewise, *Ochoa Ochoa*, 2025 WL 2938779, at 5, held that “pre-NTA detention is ultra vires and cannot be justified as a form of administrative convenience.”

COUNT III – VIOLATION OF THE RIGHT TO APPLY FOR RELIEF

22. By detaining and threatening to transfer or remove him without a pending proceeding, Respondents are **blocking his access to statutory relief and foreclosing lawful avenues to remain with his family.**
23. The Petitioner lives in the Northern District which has recently reiterated that “ICE cannot short-circuit congressionally authorized relief by detaining and transferring applicants without process.” *G.Z.T. v. Smith*, No. 25 C 12802 (N.D. Ill. Oct. 21, 2025) (Ellis, J.).

REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. Issue a Writ of Habeas Corpus directing Respondents to release Mr. Jose Soto Medina immediately from ICE custody;
2. Enjoin Respondents from transferring him outside the Northern District of Illinois pending judicial review;
3. Declare that his arrest and detention were unlawful;
4. Grant any further relief the Court deems just and proper.

Respectfully Submitted,



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