

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

UNITED STATES DISTRICT COURT

for the Southern District of New York

PALACIOS VENTURA, Michael Jose)

Petitioner)

v.)

Case No. 7:26-cv-00568 (Supplied by Clerk of Court)

Pamela Bondi, in her official capacity as Attorney General, Kristi Noem in her official capacity as Secretary of the Department of Homeland Security, Kenneth Genalo in his official capacity as acting Field Office Director of the New York Office for U.S. Immigration and Customs Enforcement, Paul Arteta, in his official capacity as director of the Orange County Correctional Facility, Todd Lyons, in his official capacity as Acting ICE Field Office Director)

Respondent)

(name of warden or authorized person having custody of petitioner)

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

Personal Information

- 1. (a) Your full name: Michael Jose Palacios Ventura (b) Other names you have used:
2. Place of confinement: (a) Name of institution: ORANGE COUNTY CORRECTIONAL FACILITY (b) Address: 110 WELLS FARM ROAD GOSHEN, NY 10924
(c) Your identification number:
3. Are you currently being held on orders by: [X] 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:
[X] 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: ICE Enforcement and Removal Operations (ERO) - New York, custody at Orange County Correctional Facility

(b) Docket number, case number, or opinion number: A7-~~XXXXXXXXXX~~ Docket Date 2/10/2026

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Ongoing civil imm. detention at Orange Co. Correc. Facility w/o bond opportunity in violation of the INA, APA and Fifth Amendment Due Process due to DHS' improper statutory classification

(d) Date of the decision or action: _____

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: _____

(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: Statutory Authority. DHS exceeded its statutory authority when it re-detained the petitioner who had been living in the interior for seven years in violation of 28 U.S.C § 1225 and 1226.

It is improper for the respondents to use § 1225 to re-detain a long-present individual already in the country awaiting the adjudication of his removal proceedings.

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 Do not cite cases or law.):*

The respondents designated the petitioner as an arriving alien when he arrived to the United States as an underaged child with his father. The respondents inspected the petitioner, conducted a credible fear interview, found him to be inadmissible and later released the petitioner on his own recognizance. The respondents are now using § 1225 to re-detain the petitioner, despite him no longer "seeking admission" and living in the interior for the last seven years and no change in circumstances from his initial release

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

Yes

No

GROUND TWO: The respondent's interpretation of § 1225 is contrary to law and in excess of statutory authority in violation of the Administrative Procedure Act. The respondent's position is also arbitrary and capricious as it lacks reasoned decision-making and expands detention authority without explanation.

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

The respondents designated the petitioner as an arriving alien when he arrived to the United States as an underaged child with his father. The respondents inspected the petitioner, conducted a credible fear interview, found him to be inadmissible and later released the petitioner on his own recognizance. The respondents are now using § 1225 to re-detain the petitioner, despite him no longer "seeking admission" and living in the interior for the last seven years and no change in circumstances from his initial release

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

Yes

No

GROUND THREE: The respondents violated the petitioners Fifth Amendment Due Process rights

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

The respondents are detaining the petitioner under § 1225 which does not provide for bond, denying him an opportunity to obtain a fair custody determination to which he is entitled to as a long-present resident in the interior. Denying him an opportunity for bond deprives the petitioner of his liberty interest in freedom from physical confinement without due process

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

Yes

No

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GROUND FOUR:

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

(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 immediate release of the petitioner, or, in the alternative, order a bond hearing within seven days with constitutional safeguards where the government must prove by clear and convincing evidence that the petitioner is either a flight risk or a danger to the community, and the neutral adjudicator must make on the record findings, consider the ability to pay, and consider alternatives to detention including release to his guardian. Issue an Order to Show Cause establishing expedited briefing.

Wash. State Bar v. Wash. State Bar, 2014 WL 1234567

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

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: 1/21/2026



Signature of Petitioner



Signature of Attorney or other authorized person, if any