

FILED KB

UNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO

JAN 22 2026

MITCHELL R. ELFERS
CLERK OF COURT

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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HYWORTH RUTANHIRA,
Petitioner,

v. Case No. _____

PAMELA BONDI, Attorney General of the United States;
KRISTI NOEM, Secretary, Department of Homeland Security;
TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement;
MARY DE ANDA-YBARRA, Field Office Director, ICE Enforcement and Removal Operations, El Paso Field Office; and
WARDEN, OTERO COUNTY PROCESSING CENTER,
Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

(28 U.S.C. § 2241)

Petitioner, **Hyworth Rutanhira**, proceeding **pro se**, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to **28 U.S.C. § 2241**, and alleges as follows:

I. CUSTODY AND JURISDICTION

1. Petitioner is currently detained by **U.S. Immigration and Customs Enforcement (ICE)** at **Otero County Processing Center**, located in **Chaparral, New Mexico**.
2. Petitioner is in the physical custody of the Warden of Otero County Processing Center and the legal custody of ICE, an agency of the Department of Homeland Security, overseen by the Secretary of Homeland Security and the Attorney General of the United States.
3. Petitioner is subject to a **final order of removal issued nearly twenty (20) years ago**, on 10/30/2006.
4. This Court has jurisdiction pursuant to **28 U.S.C. § 2241** because Petitioner is in custody in violation of the **Constitution and laws of the United States**.
5. Venue is proper in the **District of New Mexico** because Petitioner is detained within this judicial district.

II. FACTUAL BACKGROUND

1. Petitioner has resided in the United States for many years and has established significant family and community ties.
2. The final order of removal against Petitioner was issued nearly **two decades ago**, yet ICE took **no action to execute the order for approximately twenty years**.
3. During this prolonged period of government inaction, Petitioner lived openly in the community and was not in ICE custody.
4. On or about 9/12/2025, Petitioner was suddenly taken into ICE custody **without a judicial warrant**.
5. ICE officers did not present Petitioner with a warrant signed by a neutral magistrate.
6. Petitioner did not consent to the arrest and was seized solely on the basis of an **administrative immigration warrant**, which is civil in nature.
7. Petitioner's arrest was therefore **warrantless and unconstitutional** under the Fourth Amendment.
8. Petitioner has now been detained for more than 120 days, with no meaningful likelihood that removal will occur in the reasonably foreseeable future.
9. ICE has failed to secure travel documents or otherwise demonstrate that Petitioner's removal is imminent.
10. Petitioner is **not a danger to the community and not a flight risk**, as evidenced by longstanding residence, family ties, and lack of violent criminal history.
11. ICE has continued Petitioner's detention without providing a constitutionally adequate bond hearing or meaningful custody review.

III. CLAIMS FOR RELIEF

CLAIM ONE: UNLAWFUL PROLONGED POST-ORDER DETENTION

1. Petitioner incorporates paragraphs 1–16.
2. Under **Zadvydas v. Davis, 533 U.S. 678 (2001)**, post-order immigration detention is presumptively reasonable for six months.
3. After six months, the government bears the burden of showing a **significant likelihood of removal in the reasonably foreseeable future**.
4. ICE cannot meet that burden in this case.
5. Petitioner's continued detention therefore violates the **Due Process Clause of the Fifth Amendment**.

CLAIM TWO: ENFORCEMENT OF A STALE REMOVAL ORDER VIOLATES DUE PROCESS

1. Petitioner incorporates paragraphs 1–21.
2. ICE's attempt to enforce a **nearly 20-year-old removal order**, following decades of inaction, is arbitrary and fundamentally unfair.
3. The extraordinary delay creates reliance interests and undermines any claim of urgency or necessity.
4. Continued detention based on such a stale order violates substantive and procedural due process.

CLAIM THREE: UNLAWFUL WARRANTLESS ARREST AND SEIZURE

1. Petitioner incorporates paragraphs 1–25.
2. The Fourth Amendment requires arrests to be supported by a **judicial warrant or a recognized exception**.
3. Administrative ICE warrants do **not** satisfy Fourth Amendment requirements.
4. Petitioner's warrantless arrest was unconstitutional.
5. Detention flowing from an unlawful seizure is itself unlawful and subject to habeas relief.

IV. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Grant this Petition for Writ of Habeas Corpus; B. Order **Petitioner's immediate release from ICE custody under an Order of Supervision**; C. Alternatively, order a **constitutionally adequate bond or custody hearing** before an impartial adjudicator, with the government bearing the burden of proof; D. Enjoin ICE from transferring or removing Petitioner while this habeas action is pending; E. Grant any other relief the Court deems just and proper.

V. VERIFICATION

I, Hyworth Rutanhira, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

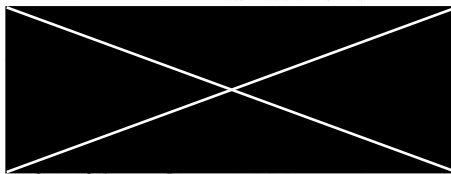
Executed on this 13th day of January, 2026.

Hyworth Rutanhira

Petitioner, Pro Se

ICE A-

Otero County Processing Center
Chaparral, New Mexico



MEMORANDUM OF LAW

IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS
(28 U.S.C. § 2241)

I. INTRODUCTION

Petitioner, Hyworth Rutanhira, respectfully submits this Memorandum of Law in support of his Petition for Writ of Habeas Corpus pursuant to **28 U.S.C. § 2241**. Petitioner is currently detained by ICE at Otero County Processing Center in Chaparral, New Mexico. This detention violates Petitioner's rights under the **United States Constitution**, federal law, and applicable due process protections. The government seeks to justify continued detention based on a **nearly twenty-year-old order of removal**, revived through a **warrantless arrest** unsupported by judicial authorization. This extraordinary delay, combined with unconstitutional seizure, renders Petitioner's detention unlawful.

Petitioner seeks immediate release from custody, or in the alternative, a constitutionally adequate bond hearing.

II. JURISDICTION AND VENUE

This Court has jurisdiction pursuant to **28 U.S.C. § 2241**, which authorizes federal courts to grant writs of habeas corpus to persons held in custody in violation of the Constitution or laws of the United States.

Venue is proper in this Court because Petitioner is detained within the **District of New Mexico**, and the immediate custodian is subject to this Court's jurisdiction.

III. FACTUAL BACKGROUND

1. Petitioner is a non-citizen who has resided in the United States since 1999.
2. Petitioner is married, has 4 children and has family who are all citizens.
3. On September 12, 2025, Petitioner was taken into custody by ICE.
4. Petitioner has been detained for over 120 days without a meaningful opportunity to challenge the legality of continued detention.
5. Petitioner does not pose a danger to the community nor a flight risk, as evidenced by **family ties, employment history, lack of violent criminal record, and community support**. (See attached letters)

6. Despite these facts, Petitioner remains detained without adequate procedural safeguards.

IV. LEGAL STANDARD

Habeas corpus relief is available where detention violates the **Due Process Clause of the Fifth Amendment** or exceeds statutory authority.

See *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Civil detention must be **reasonably related to its purpose** and cannot be punitive or indefinite. When detention becomes prolonged, due process requires **individualized review** and meaningful procedural protections.

V. ARGUMENT

A. Petitioner's Prolonged Detention Violates Due Process

Petitioner's detention has become unreasonably prolonged. Courts have consistently held that prolonged detention without individualized justification violates due process.

See *Jennings v. Rodriguez*, 583 U.S. ____ (2018); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Here, Petitioner has been detained for 4 months, far exceeding what is constitutionally permissible without a bond hearing or custody review.

B. The Government Has Failed to Provide a Meaningful Bond Hearing

Due process requires that the government bear the burden of proving that continued detention is justified. Petitioner has not been afforded a hearing where the government must prove danger or flight risk by clear and convincing evidence.

This failure renders Petitioner's detention unlawful.

C. Continued Detention Is Not Reasonably Related to Any Legitimate Government Purpose

Petitioner's detention is no longer reasonably related to ensuring appearance or public safety. Less restrictive alternatives, such as supervised release or bond, are available and appropriate.

D. Enforcement of a 20-Year-Old Removal Order Violates Due Process

The government's failure to execute a removal order for nearly two decades weighs heavily against continued detention. Prolonged inaction by ICE creates a reliance interest and undermines any assertion of urgency or foreseeability of removal.

Courts have recognized that **extraordinary delay** may violate due process where the government resurrects stale enforcement actions without justification.

Here, ICE's sudden detention after twenty years of inaction is arbitrary and constitutionally suspect.

E. Petitioner's Warrantless Arrest Violates the Fourth Amendment

ICE arrested Petitioner without a judicial warrant. Administrative immigration warrants do not satisfy Fourth Amendment standards.

See *Almeida-Sanchez v. United States*, 413 U.S. 266 (1973).

A warrantless civil arrest without consent or exigent circumstances is unconstitutional. Detention flowing from an unlawful seizure violates due process and is properly challenged via habeas corpus.

VI. RELIEF REQUESTED

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. **Grant the Petition for Writ of Habeas Corpus;**
2. **Order Petitioner's immediate release from custody;**
OR, in the alternative,
3. Order the Government to provide a **constitutionally adequate bond hearing** before an impartial adjudicator within a specified time;
4. Grant any other relief the Court deems just and proper.

VII. CONCLUSION

Petitioner's continued detention violates the Constitution and laws of the United States. Habeas relief is warranted to restore Petitioner's liberty interests and protect fundamental due process rights. When prolonged post-order detention is combined with a warrantless arrest and enforcement of a decades-old removal order, continued custody is unconstitutional as a matter of law.

Respectfully submitted,

Hyworth Rutanhira

Petitioner

