

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

RENE AVILA MURILLO,

A#



Petitioner,

CIV-26-112-PRW

FILED

JAN 23 2026

JOAN KANE, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY  DEPUTY

§

§

v.

§

§

ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;
FIELD OFFICE DIRECTOR, ICE ENFORCEMENT AND REMOVAL OPERATIONS;

WARDEN / FACILITY ADMINISTRATOR,
CIMARRON CORRECTIONAL FACILITY,

Respondents.

§

§

§

PETITION FOR A WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. §§ 2241 & 2243

1. INTRODUCTION

1. Petitioner Rene Avila Murillo respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his ongoing civil immigration detention as unlawful, unconstitutional, and unsupported by any valid statutory authority.
2. Petitioner is a long-term resident of the United States who has lived continuously in this country for more than two decades. He is a husband and the father of two United States citizen children, all of whom reside in the United States and await his return home.
3. Despite these entrenched constitutional and community ties, the Department of Homeland Security has classified Petitioner as an “arriving alien” and subjected him to mandatory detention under section 235(b) of the Immigration and Nationality Act.
4. That classification is legally erroneous. Section 235(b) governs inspection and detention at the threshold of entry and does not lawfully apply to a long-term resident arrested inside the United States decades after entry.
5. Because DHS lacks lawful statutory authority to detain Petitioner under section 235(b), his detention is unlawful from its inception and must terminate immediately.

2. JURISDICTION AND STATUTORY AUTHORITY

6. This Court has jurisdiction under 28 U.S.C. § 2241 to review the legality of Petitioner’s civil immigration detention.
7. Petitioner is detained within the territorial jurisdiction of this Court, and Respondents exercise physical and legal custody over him.
8. This petition is governed by 28 U.S.C. § 2243, which requires prompt judicial action and summary disposition when custody is unlawful.

3. PARTIES

9. Petitioner Rene Avila Murillo is a citizen of Honduras who entered the United States in or about 2003 and has resided continuously in the United States for more than twenty years.
10. Petitioner is married and is the father of two United States citizen children. His wife and children reside in the United States and depend on him for family unity and stability.
11. Respondents include the Acting Director of U.S. Immigration and Customs Enforcement, the Field Office Director of ICE Enforcement and Removal Operations, and the Warden or Facility Administrator of the Cimarron Correctional Facility, all of whom exercise custody over Petitioner.

4. CUSTODY STATUS

12. Petitioner was arrested by immigration authorities inside the United States, not at the border, at a port of entry, or while seeking admission.
13. Following his arrest, DHS classified Petitioner as an “arriving alien” and asserted detention authority under INA § 235(b).
14. Based on that classification, DHS has treated Petitioner as subject to mandatory detention without bond and has foreclosed any individualized custody determination.

5. STATEMENT OF FACTS

15. Petitioner entered the United States in approximately 2003 and thereafter lived continuously in the United States for more than two decades. Petitioner was initially arrested by local authorities in Dallas, Texas on August 13, 2025. He was transferred to the custody of U.S. Immigration and Customs Enforcement shortly thereafter and briefly detained in Dallas. On or about August 17, 2025, ICE transferred Petitioner out of Texas, and on August 18, 2025, he arrived at the Cimarron Correctional Facility in Cushing, Oklahoma, where he has remained continuously detained ever since.
16. During that time, Petitioner lived openly in the community, established family roots, married, and became the father of two United States citizen children.
17. Prior to his arrest, Petitioner was not subject to border inspection, was not seeking admission, and was not attempting to enter the United States.
18. Petitioner was arrested inside the United States and placed into immigration detention.
19. Since his arrest, Petitioner has remained detained at the Cimarron Correctional Facility in Oklahoma.
20. DHS has made no individualized findings that Petitioner poses a danger to the community or a risk of flight.
21. Petitioner's detention has continued for a prolonged period without lawful justification, meaningful custody review, or progress toward resolution.

6. MATTERS PRESENTED

22. Whether DHS may lawfully classify a long-term United States resident arrested inside the country as an "arriving alien" under INA § 235(b).
23. Whether continued detention based on custody misclassification exceeds statutory authority.
24. Whether detention without lawful authority violates the Due Process Clause of the Fifth Amendment.
25. Whether this Court must order immediate release when detention lacks statutory authorization.

7. LEGAL STANDARD GOVERNING IMMIGRATION DETENTION

26. Immigration detention is civil in nature and must remain reasonably related to a legitimate governmental purpose.
27. Civil detention must be expressly authorized by statute. When statutory authority is absent or misapplied, detention is unlawful.
28. Courts reviewing habeas petitions must determine the legality of custody, not defer to agency labels or manage detention conditions.

8. DHS'S ASSERTED AUTHORITY UNDER INA § 235(b)

- 29. Section 235(b) governs inspection and detention of individuals who are seeking admission to the United States at or near the time of entry.
- 30. DHS has asserted section 235(b) to classify Petitioner as an arriving alien and to impose mandatory detention without bond.
- 31. DHS's assertion of section 235(b) is unsupported by the facts of Petitioner's case.

9. CUSTODY MISCLASSIFICATION

- 32. Petitioner is not an arriving alien. He entered the United States decades ago, lived continuously in the interior of the country, and was arrested well after entry.
- 33. Application of section 235(b) to Petitioner exceeds the statutory scope of that provision and contradicts congressional intent.
- 34. Custody misclassification eliminates bond eligibility, strips procedural safeguards, and imposes detention without individualized justification.
- 35. Because section 235(b) does not lawfully apply, DHS lacks authority to detain Petitioner under that statute.
- 36. Petitioner's detention is therefore unlawful ab initio.

10. DUE PROCESS VIOLATIONS

- 37. The Fifth Amendment requires that civil detention comport with due process and statutory limits.
- 38. Detention imposed without lawful authority and without individualized justification violates due process.
- 39. Custody misclassification arbitrarily deprives Petitioner of liberty and frustrates meaningful judicial review.

11. PROLONGED DETENTION AS CONFIRMING UNLAWFULNESS

- 40. Petitioner's detention has extended for a significant period without lawful authority or progress toward resolution.
- 41. Prolonged detention under an inapplicable statute confirms that custody has become punitive and unconstitutional.

12. PROCEDURAL CONTROL UNDER 28 U.S.C. § 2243

- 42. Section 2243 requires this Court to act forthwith in habeas cases.
- 43. The statute mandates issuance of the writ or an order to show cause within three days and a return within seven days.
- 44. Default thirty-day or sixty-day response periods are inconsistent with section 2243 and unlawfully prolong detention.
- 45. Strict enforcement of statutory timelines is required to prevent continued unlawful custody.

13. RELIEF REQUESTED

46. Petitioner respectfully requests a declaration that Respondents lack lawful statutory authority to detain him under INA § 235(b).
47. Petitioner requests an order directing his immediate release from immigration custody.
48. Petitioner requests an order prohibiting Respondents from re-detaining him under the same asserted authority absent a new, lawful, and individualized determination.
49. Petitioner requests strict enforcement of the timelines mandated by 28 U.S.C. § 2243.
50. Petitioner requests that this Court retain jurisdiction to ensure compliance.
51. Petitioner requests such other and further relief as law and justice require.

VERIFICATION

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

Executed on: January 15, 2026.

/s/ Rene Avila Murillo

Rene Avila Murillo

Pro Se Petitioner

Cimarron Correctional Facility

3200 S Kings Hwy

Cushing, OK 74023