

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT  
for the

FILED  
HARRISBURG, PA

FEB 04 2026

PER AAA  
DEPUTY CLERK

CARLOS MOSQUEA-DIAZ  
Petitioner

v.

KRISTI NOEM, Secretary of United States  
Dept. of Homeland Security, Immigration  
and Customs Enforcement


Respondent

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

Case No. 1:26-CV-00273  
(Supplied by Clerk of Court)

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

Personal Information

1. (a) Your full name: Carlos Mosquea-Diaz  
(b) Other names you have used: N/A
2. Place of confinement:  
(a) Name of institution: DHS/ICE Detention  
(b) Address: unknown
- (c) Your identification number: Alien Number 
3. Are you currently being held on orders by:  
 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: \_\_\_\_\_  
 Being held on an immigration charge  
 Other (explain): I am being unlawfully held on an unresolved immigration detainer. I currently do not have any final order of removal against me.

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)

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- 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): I am being unlawfully held by the United States Dept. of Homeland Security/U.S. Immigration and Customs Enforcement ("DHS/ICE") as I am a Lawful Permanent Resident ("LPR") of the U.S.

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: Philadelphia Immigration Court
- (b) Docket number, case number, or opinion number: File ~~XXXXXXXXXX~~
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  
Order of Removal Entered by Philadelphia Immigration Court
- (d) Date of the decision or action: November 4, 2025

**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: Board of Immigration Appeals (the "BIA")
- (2) Date of filing: \_\_\_\_\_
- (3) Docket number, case number, or opinion number: File No ~~XXXXXXXXXX~~
- (4) Result: Still Pending
- (5) Date of result: N/A
- (6) Issues raised:  
See Item 11(c) below. Immigration Matter.

(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
- N/A

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_ N/A \_\_\_\_\_

(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:

No decision rendered by BIA

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes  No N/A

(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 third appeal:

No decision rendered by BIA

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 N/A

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

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If "Yes," provide:

- (1) Name of court: N/A
- (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: N/A
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: N/A

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes  No

If "Yes," provide:

- (a) Date you were taken into immigration custody: January 29, 2026
- (b) Date of the removal or reinstatement order: November 4, 2025
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes  No

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If "Yes," provide:

- (1) Date of filing: November 2025
- (2) Case number: File No. [REDACTED]
- (3) Result: Still Pending - unresolved
- (4) Date of result: N/A
- (5) Issues raised: (1) Erroneously entered Order of Removal as I am not removable; (2) Untruthful Form I-213 utilized against me and heavily relied on by Immigration Court; (3) Denied Objection to Non-Compliant Notice to Appear; (4) Wrongfully denied my Asylum Application and for Withholding of Removal; (5) Violation of my constitutional and statutory rights; (6) Did not make required factual/legal findings.

(d) Did you appeal the decision to the United States Court of Appeals?

- Yes
- No N/A - BIA Appeal still Pending

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Case number: \_\_\_\_\_
- (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: \_\_\_\_\_

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**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. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** I am unlawfully being held under 8 U.S.C. Section 1231 as my Order of Removal has been set aside as a result of my timely appeal to the BIA. No decision has been rendered by the BIA.

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

Because I timely appealed to the BIA, I revert to pre-immigration removal status (my "BIA Appeal"). As my BIA Appeal is unresolved any order of removal against me is not final.

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

Yes  No

**GROUND TWO:** I am entitled to immediate release; or, in the alternative, I am entitled to a "Bond," as I am being held under 8 U.S.C. Section 1231.

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

As I currently do not have any final order of removal against me; and, as I am not a flight risk nor a danger to the community, I should be immediately released and/or granted a bond until my immigration removal proceedings are resolved. I am being detained under 8 U.S.C. Section 1231.

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

Yes  No

**GROUND THREE:** N/A

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

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

Yes  No

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**GROUND FOUR:**     N/A    

(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 DHS/ICE to immediately release me and/or grant me a bond hearing as I am being unlawfully held in violation of my constitutional and statutory rights; appointment of legal counsel; and, any further relief that the Court deems just and proper.

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**Declaration Under Penalty Of Perjury**

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

January 29, 2026

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: 1/29/26



*Signature of Petitioner*

N/A

*Signature of Attorney or other authorized person, if any*

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