

JUDGE DAVID BRIONES

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241
(FILED BY NEXT FRIEND)**

FILED
FEB 06 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *Em*
DEPUTY CLERK

Filed pro se by:

Jesús Ramón de la Cruz Perez

Father and Next Friend of Petitioner

Phone: 

Email: delacruzpaco33@gmail.com

EP 26CV0339

Petitioner Jose Leandro de la Cruz Perez, by and through his father and Next Friend, Jesús Ramón de la Cruz Perez, respectfully petitions this Court for an Emergency Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, seeking immediate release from unlawful detention, or, in the alternative, release on reasonable bond or conditions of supervision, or immediate disclosure of Petitioner's place of detention and his production before this Court, and any further relief the Court deems just and proper.

I. INTRODUCTION

This Petition challenges the unlawful, warrantless, and prolonged detention of Petitioner by U.S. Customs and Border Protection ("CBP") and the U.S. Border Patrol.

Petitioner was detained on January 31, 2026, at approximately 3:00–4:00 a.m., at an interior immigration checkpoint in Sierra Blanca, Texas, while traveling solely as a passenger. Since that time, Petitioner has remained continuously in CBP custody at an undisclosed location within the El Paso Sector.

CBP has refused to disclose Petitioner's place of detention to family members despite repeated inquiries. Petitioner himself has not been informed of where he is being held. Although Petitioner has been permitted to make limited phone calls, those calls have occurred without disclosure of his location, resulting in effective incommunicado detention.

Petitioner has now been detained for more than forty-eight (48) hours and continuing, without transfer to ICE, without access to counsel, without meaningful family contact, and without effective consular notification. Providing a non-functioning consular phone number does not satisfy the government's constitutional obligations or its duties under applicable international treaties.

This secret and prolonged detention violates the Fifth Amendment Due Process Clause, CBP's own detention standards, and fundamental principles of liberty, and requires immediate judicial intervention.

II. JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is presently restrained by federal authorities within the Western District of Texas, El Paso Division, and challenges the legality and constitutionality of his detention.

Jurisdiction is determined at the time this Petition is executed and filed. Any subsequent transfer of Petitioner to ICE custody does not defeat this Court's jurisdiction or authority to review the legality of Petitioner's detention by CBP.

JUDGE DAVID BRIONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED
FEB 06 2024
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY am
DEPUTY CLERK

JOSE LEANDRO DE LA CRUZ PEREZ,

by and through his Next Friend,

JESÚS RAMÓN DE LA CRUZ PEREZ,

Petitioner,

v.

Civil Action No. _____

CHIEF PATROL AGENT,

U.S. BORDER PATROL – EL PASO SECTOR,

or any official exercising day-to-day control over Petitioner's detention,

COMMISSIONER,

U.S. CUSTOMS AND BORDER PROTECTION,

SECRETARY,

U.S. DEPARTMENT OF HOMELAND SECURITY,

UNITED STATES OF AMERICA,

Respondents.

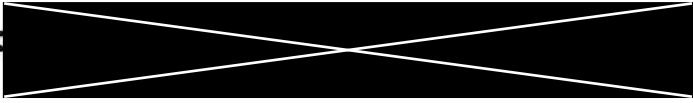
EP 26CV0339

III. PARTIES

A. Petitioner

1. Name: Jose Leandro de la Cruz Perez
2. A-Number: 
3. Place of Detention: CBP custody at an undisclosed location within the El Paso Sector
4. Date of Detention: January 31, 2026 (approximately 3:00–4:00 a.m.)

B. Next Friend

1. Name: Jesús Ramón de la Cruz Perez
2. Relationship: Biological father
3. Address: 
4. Phone: 
5. Email: delacruzpaco33@gmail.com

C. Respondents

- Chief Patrol Agent, U.S. Border Patrol – El Paso Sector (or any official exercising day-to-day control over Petitioner's detention)
 - Commissioner, U.S. Customs and Border Protection
 - Secretary, U.S. Department of Homeland Security
 - United States of America
-

IV. NEXT FRIEND STANDING

This Petition is properly filed by Jesús Ramón de la Cruz Perez as Next Friend of Petitioner because:

1. Petitioner is physically detained and lacks meaningful access to legal materials, mailing services, or the ability to prepare and file legal pleadings;
2. Petitioner has been effectively isolated from his family and the outside world due to CBP's refusal to disclose his location;
3. Petitioner suffers from serious medical conditions and is detained under conditions that impair his ability to litigate on his own behalf; and
4. The Next Friend is Petitioner's biological father, has a significant relationship with Petitioner, and is dedicated to protecting his constitutional rights.

These circumstances satisfy the requirements for Next Friend standing under federal habeas corpus law.

V. FACTUAL BACKGROUND

1. Petitioner was detained by U.S. Border Patrol at an interior immigration checkpoint in Sierra Blanca, Texas, on January 31, 2026, at approximately 3:00–4:00 a.m.
2. Petitioner was traveling solely as a passenger and was not operating any vehicle.
3. CBP officers did not present an arrest warrant or establish probable cause for detention.
4. Petitioner was taken into custody immediately and was not permitted to ask questions or seek clarification regarding the detention.
5. CBP has refused to disclose Petitioner's location to family members since the time of detention.
6. Petitioner has no criminal record and has never been arrested.
7. Petitioner holds Form I-220A (Order of Release on Recognizance) and is not subject to mandatory detention. The original document remains in the custody of CBP. A photograph of this document is attached as Exhibit A.

8. Petitioner has a pending asylum case with Immigration Court, with proceedings scheduled for 2027, demonstrating the non-finality of his removal proceedings. Documentation of the scheduled hearing is attached as Exhibit C.
 9. Petitioner suffers from chronic bronchial asthma and congenital bilateral hydronephrosis, both serious medical conditions requiring monitoring and care.
 10. Family members have not been informed whether Petitioner is receiving adequate medical treatment during his detention.
 11. Petitioner has been detained continuously since January 31, 2026, for more than forty-eight (48) hours and continuing, without transfer to ICE, without access to counsel, and without an effective custody review.
 12. Petitioner has been forced to sleep on the floor due to lack of proper bedding.
 13. Petitioner has been provided inadequate nutrition, often limited to a protein bar, an orange, or minimal snack items.
 14. These conditions have caused persistent hunger, dizziness, anxiety, and physical distress.
 15. CBP's refusal to disclose Petitioner's location has resulted in effective incommunicado detention, preventing meaningful family contact and access to legal counsel.
 16. Petitioner and his family have made repeated attempts to obtain information regarding his detention by calling CBP. A record of these calls is attached as Exhibit B.
 17. The cumulative effect of unlawful detention, secrecy, inadequate medical care, and inhumane conditions constitutes irreparable harm and violates the Fifth Amendment Due Process Clause.
-

VI. IRREPARABLE HARM AND IMPACT OF PETITIONER'S DETENTION

Impact of Detention and Personal Circumstances of Petitioner

Petitioner is a calm and respectful individual who fully cooperated with authorities at all times. He is not violent and has no criminal history or prior convictions. At the time of his detention, Petitioner was merely a passenger, did not resist in any way, and was not informed of what was occurring.

Petitioner maintains a close and supportive relationship with his family and has always provided emotional support to his parents. Prior to this detention, Petitioner had never been held incommunicado or separated from his family in this manner. He also provides essential financial assistance to his mother, who suffers from multiple sclerosis and depends on Petitioner's support.

Petitioner's continued detention at an undisclosed location has caused severe emotional distress to both Petitioner and his family. The family has experienced significant anguish due to the lack of information regarding Petitioner's whereabouts and condition, fear concerning the treatment he may be receiving, and intense emotional stress resulting from his sudden disappearance and prolonged incommunicado detention.

VII. LEGAL GROUNDS

Petitioner's continued detention violates:

1. The Fifth Amendment Due Process Clause of the United States Constitution;
2. The constitutional prohibition against detention without probable cause or judicial warrant;
3. Federal law governing the detention of individuals released under Form I-220A, who are not subject to mandatory detention;
4. CBP's own detention policies and standards, which limit the duration and conditions of custody;
5. The constitutional prohibition against deliberate indifference to serious medical needs; and
6. Fundamental constitutional limits on executive detention without judicial oversight.

CBP has made no individualized determination that Petitioner poses a danger to the community or a flight risk, nor has it provided any lawful basis for prolonged detention.

VIII. RELIEF REQUESTED

Petitioner respectfully requests that this Court:

1. Order Respondents to immediately disclose Petitioner's place of detention and produce him before this Court;
2. Order Petitioner's immediate release, or, in the alternative, release on reasonable bond or conditions of supervision as determined by the Court;
3. Alternatively, order Petitioner's immediate transfer to ICE custody with full due-process protections, including a custody or bond determination;
4. Order immediate access to counsel, family, and effective consular notification;
5. Grant emergency and injunctive relief to prevent further constitutional harm; and
6. Grant any other relief the Court deems just and proper.

Petitioner respectfully requests expedited and emergency consideration due to the ongoing constitutional violations and risk of irreparable harm.

IX. VERIFICATION

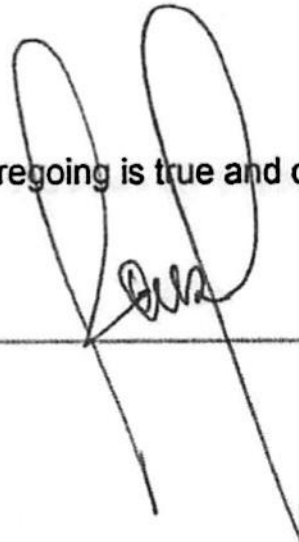
I declare under penalty of perjury that the foregoing is true and correct.

Executed this February 2, 2026.

JESÚS RAMÓN DE LA CRUZ PEREZ

Father and Next Friend of

Jose Leandro de la Cruz Perez

A handwritten signature in black ink, appearing to read 'Jesús', is written over a horizontal line. The signature is stylized with large loops and a long, sweeping tail that extends downwards and to the right.



OREC G-56

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

Name: JOSE LEANDRO DE LA CRUZ PEREZ
Home Address: [REDACTED]

Subject ID: [REDACTED]
File Number: [REDACTED]
Date: 12/18/2023

DOB: [REDACTED]

Please present this notice to your local ICE office upon request

OFFICE LOCATION	Find ICE reporting locations by visiting our website at www.ice.gov/check-in or by scanning the below provided QR Code. If you need additional assistance with finding an ICE office location, please contact us at 1-888-351-4024.
DEADLINE	Within 60 days of your release, you must schedule a date to report to your local ICE office using the ICE Appointment Scheduler. Instructions for accessing this Scheduler are listed below.
REQUEST	ICE Deportation Officer for continued processing and consideration for enrollment in ATD.
REASON FOR APPOINTMENT	You have been released into the United States at the discretion of the U.S. Customs and Border Protection and are now subject to certain reporting requirements. Once you schedule a report date with ICE, you will then be required to report in person, as indicated through the scheduler. Once you report to ICE, ICE will evaluate and advise you of future reporting requirements.
BRING WITH YOU	Identification document (birth certificate, government-issued identity documents such as a driver's license or cedula) and all immigration documents.

One Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

FAILURE TO CONTACT THE LOCAL ICE OFFICE AS INSTRUCTED MAY RESULT IN YOUR ARREST AND/OR A LOSS OF THE RIGHT TO ANY POSSIBLE RELIEF. THANK YOU FOR YOUR COOPERATION.

Navigate the ICE Check-in page



To find information about ICE office locations, scheduling appointments to appear at an ICE office, check court dates with EOIR and registering a change of address, visit: www.ice.gov/check-in



To schedule an appointment (if needed), visit: www.ice.gov/check-in and select "Schedule or Change Appointment"



Address changes must be made within 5 business days of moving. To change your address, visit: www.ice.gov/check-in and follow instructions for "Update Address"



Bring all your immigration documents to your appointment. I-94, I-862, or I-385 if you have them.



Bring a form of identification to your appointment. Driver's license, passport, or birth certificate if you have them.

Scan for
ICE ERO
Check-in Page



IX. EXHIBITS

- **Exhibit A: Photograph of Form I-220A (Order of Release on Recognizance)**

01/31/2026	08:05 AM	MIAMI ,FL	MIAMI	786-408-7192	1
01/31/2026	08:04 AM	SARASOTA ,FL	SARASOTA	941-278-6833	1
01/31/2026	07:35 AM	SIERRABLN C ,TX	SIERRABLN C	915-369-4000	13
01/31/2026	07:33 AM	TOLL-FREE ,CL	SIN CARGO	877-227-	

Exhibit B:

- Record of calls to CBP requesting information

Fecha	Horario	Destino	Dirección	Número	Minutos
01/31/2026	11:00 AM	SIERRABLN C ,TX	SIERRABLN C	915-369-4000	6
01/31/2026	09:52 AM	INCOMING ,CL	ENTRADA	941-278-6833	9
01/31/2026	09:47 AM	SARASOTA ,FL	SARASOTA	941-650-9080	3
01/31/2026	09:44 AM	INCOMING ,CL	ENTRADA	786-399-9202	2
01/31/2026	09:42 AM	PERRINE ,FL	PERRINE	786-399-9202	1
01/31/2026	09:07 AM	INCOMING ,CL	ENTRADA	786-399-9202	3
01/31/2026	08:45 AM	SIERRABLN C ,TX	SIERRABLN C	915-369-4000	4
01/31/2026	08:19 AM	INCOMING ,CL	ENTRADA	941-278-6833	7
01/31/2026	08:16 AM	MIAMI ,FL	MIAMI	786-408-5931	1
01/31/2026	08:15 AM	MIAMI ,FL	MIAMI	786-408-7192	1
01/31/2026	08:15 AM	MIAMI ,FL	MIAMI	786-408-7192	1
01/31/2026	08:14 AM	MIAMI ,FL	MIAMI	786-408-7192	1
01/31/2026	08:10 AM	INCOMING ,CL	ENTRADA	786-399-9202	4
01/31/2026	08:07 AM	INCOMING ,CL	ENTRADA	786-399-9202	3
01/31/2026	08:06 AM	MIAMI ,FL	MIAMI	786-408-7192	1
01/31/2026	08:06 AM	MIAMI ,FL	MIAMI	786-408-7192	1

01/31/2026	05:56 PM	SIERRABLN C,TX	SIERRABLN C	915-369-4000 2
01/31/2026	05:56 PM	SIERRABLN C,TX	SIERRABLN C	915-369-4000 1
01/31/2026	05:54 PM	INCOMING ,CL	ENTRADA	786-399-9202 2

Fecha	Horario	Destino	Dirección	Número	Minutos
02/01/2026	12:19 PM	SARASOTA ,FL	SARASOTA	941-278-6833	5
02/01/2026	12:17 PM	PERRINE ,FL	PERRINE	786-399-9202	2
02/01/2026	12:03 PM	INCOMING ,CL	ENTRADA	915-494-2954	2
02/01/2026	12:01 PM	PERRINE ,FL	PERRINE	786-399-9202	1
02/01/2026	11:43 AM	PERRINE ,FL	PERRINE	786-399-9202	1
02/01/2026	11:23 AM	INCOMING ,CL	ENTRADA	941-278-6833	9
02/01/2026	10:21 AM	INCOMING ,CL	ENTRADA	786-399-9202	3
02/01/2026	02:45 AM	SIERRABLN C ,TX	SIERRABLN C	915-369-4000	7
01/31/2026	11:20 PM	INCOMING ,CL	ENTRADA	941-650-9080	1
01/31/2026	09:08 PM	INCOMING ,CL	ENTRADA	941-278-6833	1
01/31/2026	08:22 PM	SIERRABLN C ,TX	SIERRABLN C	915-369-4000	2
01/31/2026	08:16 PM	INCOMING ,CL	ENTRADA	941-278-6833	1
01/31/2026	07:39 PM	TOLL-FREE ,CL	SIN CARGO	888-351-4024	1
01/31/2026	07:35 PM	SIERRABLN C ,TX	SIERRABLN C	915-369-4000	5
01/31/2026	07:09 PM	INCOMING ,CL	ENTRADA	941-278-6833	5
01/31/2026	07:07 PM	SARASOTA ,FL	SARASOTA	941-278-6833	2
01/31/2026	06:35 PM	SIERRABLN C ,TX	SIERRABLN C	915-369-4000	8

Exhibit C:

- Immigration Court hearing notice (2027)



Información automatizada de casos

Nombre :

DE LA CRUZ PÉREZ, JOSÉ LEANDRO

| Número A :  |

Fecha del expediente : 26/01/2024



Información sobre la próxima audiencia

Su próxima audiencia **MAGISTRAL SERÁ**
EL 3 de mayo de 2027 a la 1:00 p.m.

JUEZ

Reis, Christine

DIRECCIÓN DEL TRIBUNAL

333 SOUTH MIAMI AVE STE 700

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

JOSE LEANDRO DE LA CRUZ PEREZ,

Petitioner,

v.

CHIEF PATROL AGENT,

U.S. BORDER PATROL – EL PASO SECTOR, et al.,

Respondents.

EXHIBIT D

DECLARATION OF JESÚS RAMÓN DE LA CRUZ PEREZ

IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

I, Jesús Ramón de la Cruz Perez, declare as follows:

1. I am the father of Petitioner Jose Leandro de la Cruz Perez and his Next Friend in this action. I have personal knowledge of the facts stated herein.
2. Petitioner is a calm and respectful individual who has always cooperated with authorities. He is not violent and has no criminal history.
3. At the time of his detention, Petitioner was merely a passenger, did not resist in any manner, and was not informed of what was occurring.
4. Petitioner maintains a close and supportive relationship with his family and has always provided emotional support to his parents. Prior to this detention, Petitioner had never been held incommunicado.
5. Petitioner provides essential financial assistance to his mother, who suffers from multiple sclerosis and depends on Petitioner's support.
6. Since Petitioner's detention at an undisclosed location, our family has experienced severe emotional distress, anguish due to the lack of information regarding Petitioner's whereabouts, fear concerning the treatment he may be receiving, and intense emotional stress.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 2, 2026.

Jesús Ramón de la Cruz Perez

EMERGENCY – HABEAS CORPUS § 2241

Dear Clerk of Court,

Enclosed please find an EMERGENCY Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, filed pro se by Jesús Ramón de la Cruz Perez as Next Friend of detainee Jose Leandro de la Cruz Perez, who is currently being held in U.S. Customs and Border Protection (CBP) custody at an undisclosed location within the El Paso Sector.

Given the ongoing constitutional violations, prolonged detention, lack of disclosure of Petitioner's location, and serious medical risk, Petitioner respectfully requests expedited processing and emergency consideration by the Court.

Respectfully submitted,

JESÚS RAMÓN DE LA CRUZ PEREZ

Father and Next Friend of

Jose Leandro de la Cruz Perez

Phone: 

Email: delacruzpaco33@gmail.com

DATED: February 2, 2026