

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

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

SERGIO MONTELIER CHAVIANO)
MARIO RODRIGUEZ IZQUIERDO)

Petitioner

v.

MIAMI ICE FIELD OFFICE DIRECTOR)

Case No. _____

(Supplied by Clerk of Court)

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: SERGIO MONTELIER CHAVIANO ; MARIO RODRIGUEZ IZQUIERDO

(b) Other names you have used: _____

2. Place of confinement:

(a) Name of institution: Broward Transitional Center

(b) Address: 3900 N Powerline Road Pompano Beach, FL 33073

(c) Your identification 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)*: _____

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: Miami ICE Field Office (see above)
- (b) Docket number, case number, or opinion number: [REDACTED]
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Petitioners were both arrested approximately eight months ago after their removal proceedings were dismissed at the Miami Immigration Court. Both were erroneously subjected to expedited removal, which has by no means been expedited. Both have ultimately passed credible fear screening and been placed again in immigration court.
- (d) Date of the decision or action: presently detained

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: _____
- _____
- _____
- _____
- (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: _____

(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: _____

(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: _____
- (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. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: VIOLATION OF DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

(PROLONGED DETENTION WITHOUT A BOND HEARING)

Abdul-Samed v. Warden of Golden State Annex Det. Facility, No. 1:25-CV-00098-SABHC, 2025 U.S. Dist. LEXIS 142973, at *6 (E.D. Cal. July 25, 2025) (prolonged mandatory detention without bond violates due process)

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 Do not cite cases or law.):*

Petitioners both were arbitrarily detained at the Miami Immigration Court approximately eight months ago. They were illegally placed in expedited removal more than three years after having entered the United States. Both were absurdly subjected to months of detention without justification, that has only resulted in the initiation of removal proceedings once again. They were already in removal proceedings when they were detained 8 months ago. Both sought habeas relief previously, which was denied on jurisdiction. Their detention is prolonged.

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

Yes No

GROUND TWO: VIOLATION OF THE INA

See N.A. v. Larose, No.: 25-cv-2384-RSH-BLM, 2025 U.S. Dist. LEXIS 198688, at *10 (S.D. Cal. Oct. 7, 2025) (no jurisdictional bar to judicial review once a habeas petitioner is no longer in expedited removal). Petitioners' claim that they are subject to discretionary detention is now ripe for review.

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

Respondents attempts to apply expedited removal process have been completed. Both petitioners have passed credible fear screenings and been placed in plenary removal proceedings anew, after months of needless detention. This Court has jurisdiction now to review their eligibility for bond and which statutory category applies to their detention. Numerous courts have already held that persons who entered without inspection like Petitioners are subject to 8 USC 1226(a). See Ocampo Fernandez v. Ripa 25-cv-24981 (S.D.Fla. 2025).

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

Yes No

GROUND THREE:

(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

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 Petitioners immediate release or a bond hearing within seven (7) days.

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I, Felix Montanez, am submitting this verification on behalf of the Petitioners, because I am the attorney for Petitioners. I have discussed with them the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 10, 2026

Respectfully submitted,

/s/ Felix A. Montanez

Felix A. Montanez

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