

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION**


FILED - USDC - NDTX - SA
FEB 11 '26 PM 2:45

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

6:26-cv-00045

PETITIONER:

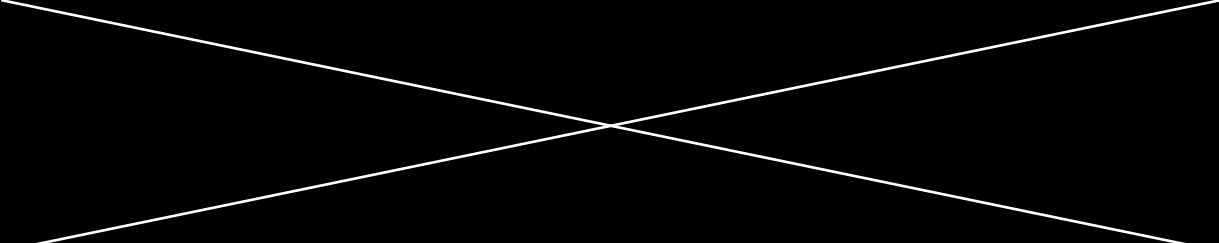
Cristian Javier Atehortua Ortiz

A-Number: 

Currently detained at Eden Detention Center
Eden, Texas

Emergency Contact (Spouse):

Diana Patricia Caro Murillo


Irving, TX 75038

RESPONDENTS:

Director of U.S. Immigration and Customs Enforcement (ICE)
Warden / Director, Eden Detention Center

I. JURISDICTION

This Honorable Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in federal immigration custody in violation of the Constitution and laws of the United States. Petitioner is physically detained within the territorial jurisdiction of this Court.

II. STATEMENT OF FACTS

1. Petitioner, Cristian Javier Atehortua Ortiz, is an asylum applicant with a pending Form I-589.
2. Petitioner does not have a final order of removal.
3. Petitioner was lawfully admitted to the United States on October 14, 2022, under humanitarian parole pursuant to INA § 212(d)(5).
4. On November 7, 2025, Petitioner's wife attended a scheduled ICE appointment acting as a family representative. During that appointment, ICE

officers induced her to tell Petitioner that he needed to enter the building because they did not appear under the same case.

5. Relying on that information, Petitioner voluntarily entered the ICE office. At no time prior to entering was Petitioner informed that he would be detained, that there was any problem with his case, or that an arrest warrant existed.
6. Once inside the building, ICE officers provided no explanation regarding Petitioner's situation. Instead, they contacted his wife and informed her that she could leave the building and directed her to go to another address.
7. When Petitioner's wife arrived at that address, she was informed that an electronic monitoring device (ankle monitor) would be placed on her.
8. When Petitioner and his wife attempted to leave the building together, an ICE officer emerged from an internal door and ordered Petitioner to re-enter the building. From that moment on, Petitioner was prevented from leaving and informed that he would be placed in detention.
9. At the time of Petitioner's detention on November 7, 2025, no valid arrest warrant existed.
10. The alleged arrest warrant was issued on November 8, 2025, one day after Petitioner had already been deprived of his liberty.
11. Petitioner was subsequently transferred to Eden Detention Center, where he remains detained to this date.
12. Petitioner appeared before an Immigration Judge at a preliminary hearing.
13. Petitioner requested a bond hearing; however, bond was denied solely due to an alleged lack of jurisdiction, not because Petitioner was considered a danger or flight risk.
14. **As of February 3, 2026, Petitioner had been detained for more than eighty-eight (88) days without a meaningful and constitutional custody review.**

III. ADDITIONAL FAMILY AND HUMANITARIAN FACTORS

15. Petitioner is the father of three minor children, ages eight (8), five (5), and two (2).
16. Petitioner's youngest child was born in the United States and is a U.S. citizen.
17. Petitioner's youngest child was born with only one functioning kidney; the other failed to properly develop and contains two cysts. Although the condition is not currently considered severe, it requires ongoing medical monitoring.
18. Since Petitioner's detention, his family has not had consistent medical insurance, placing the health and well-being of his youngest child at risk.
19. Petitioner's prolonged detention has caused severe emotional, financial, and medical hardship to his children and spouse.
20. Petitioner has no criminal history.

21. Prior to detention, Petitioner had valid employment authorization, a Social Security number, and a driver's license, and was actively employed.
22. Petitioner filed and paid taxes and complied with U.S. laws and immigration requirements.
23. These factors demonstrate that Petitioner poses no danger to the community and no risk of flight, and that continued detention is excessive and punitive.
24. While detained, Petitioner has suffered physically and emotionally due to the poor quality of food provided and the precarious conditions of confinement.
25. The food provided is of poor quality, nutritionally deficient, and has caused physical discomfort and deterioration of Petitioner's health.
26. Conditions within the detention facility are inadequate, causing physical suffering, emotional distress, and anxiety.
27. During detention, Petitioner developed a skin rash of unknown origin and has been unable to determine whether it was caused by the food or water.
28. Petitioner formally requested from ICE and Eden Detention Center records and documentation related to the legal basis for his arrest and detention.
29. Despite those requests, ICE and the detention center did not provide the requested documentation until almost two months after Petitioner was already detained.
30. This delay prevented Petitioner from timely understanding the basis of his detention and hindered his ability to challenge it, constituting an additional violation of due process.

IV. LEGAL ARGUMENTS

A. Fifth Amendment Due Process Violation

The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Petitioner was detained through inducement and deception, without prior notice and without a valid arrest warrant.

B. Unlawful Detention Without a Valid Warrant

Petitioner was detained on November 7, 2025, while the alleged arrest warrant was not issued until November 8, 2025. A warrant issued after the fact cannot retroactively legalize an unlawful detention.

C. Detention Under INA § 236(a), 8 U.S.C. § 1226(a)

Petitioner is detained under INA § 236(a) because he has a pending asylum application and no final order of removal. Prolonged detention without an individualized custody determination violates the Constitution.

D. Prolonged Detention in Violation of Supreme Court Precedent

Petitioner's prolonged detention violates Supreme Court precedent, including *Zadvydas v. Davis*, *Jennings v. Rodriguez*, and *Demore v. Kim*, which establish that immigration detention cannot be indefinite.

E. Availability of Habeas Relief Under 28 U.S.C. § 2241

Because the Immigration Judge denied bond based on alleged lack of jurisdiction, Petitioner lacks an adequate alternative remedy. Habeas relief under § 2241 is therefore appropriate.

F. Fourth Amendment Violation – Unreasonable Arrest and Detention

Petitioner was deprived of liberty on November 7, 2025, without a valid warrant. Issuance of a warrant on November 8, 2025, cannot retroactively validate the detention.

G. Inducement and Vitiating Consent

Petitioner entered the ICE office only because he was told it was required to resolve an administrative issue. Once inside, no such issue was addressed and Petitioner was prevented from leaving.

H. Violation of ICE and DHS Regulations – 8 C.F.R. §§ 236.1 and 287.3

ICE failed to comply with its own regulations by not timely providing the legal basis and documentation for Petitioner's arrest and detention.

V. REQUEST FOR RELIEF

Petitioner respectfully requests that this Honorable Court:

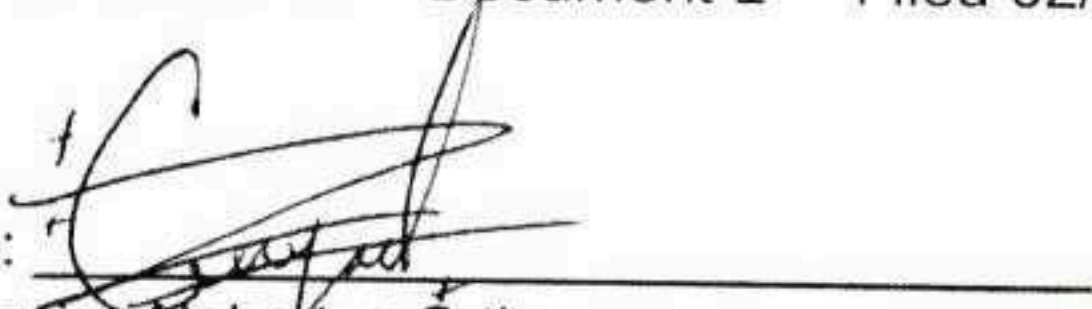
1. Declare that Petitioner's detention violates the Constitution and laws of the United States;
2. Order Petitioner's immediate release from ICE custody; or, in the alternative,
3. Order a prompt, meaningful, and constitutionally adequate bond hearing; and
4. Grant any other relief the Court deems just and proper.

VI. DECLARATION

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

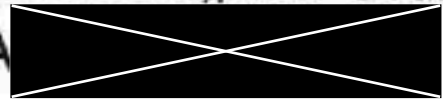
Date: 02/03/2026

Signature:

A handwritten signature in black ink, appearing to read 'Cristian Javier Atehortua Ortiz', written over a horizontal line.

Cristian Javier Atehortua Ortiz

A-Number: A



CERTIFICATE OF SERVICE

I hereby certify that on this 03 day of February, 2026, the original Petition for Writ of Habeas Corpus was filed with the United States District Court, and that a true and correct copy of the same was served by U.S. Mail on the following:

United States District Court
Northern District of Texas
San Angelo Division
33 E. Twohig Ave, Suite 202
San Angelo, TX 76903

Warden / Director
Eden Detention Center
702 E Broadway St
Eden, TX 76837

Office of the United States Attorney
Northern District of Texas
1100 Commerce Street, Third Floor
Dallas, TX 75242

U.S. Immigration and Customs Enforcement (ICE)
Dallas Field Office
8101 North Stemmons Freeway
Dallas, TX 75247

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Cristian Javier Atehortua Ortiz
Petitioner