

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BYRON BARRIOS CABRERA

Petitioner-Plaintiff,

JL JAMISON, in his official capacity as warden
of The Philadelphia Federal Detention Center;

BRIAN MCSHANE, is the Acting Philadelphia
Field Office Director for Immigration and
Customs Enforcement's ("ICE") Enforcement
and Removal Operations

TODD LYONS, in his Official Capacity as
Acting Director of Immigration and Customs
Enforcement;

KRISTI NOEM, in her official capacity as:
Secretary of the Department of Homeland
Security;

DHS, THE U.S. DEPARTMENT OF
HOMELAND SECURITY;

PAMELA BONDI,; Attorney General of the
United States

ResPondents-Defendants.

Verified Petition for Writ of Habeas
Corpus

Docket No. 26-cv-01441

Administrative Number: A 

PETITIONER'S REPLY TO THE GOVERNMENT'S ANSWER IN OPPOSITION TO
HIS PETITION FOR A WRITE OF HABEAS CORPUS

A. INTRODUCTION

Petitioner, Byron Barrios Cabrera, filed his petition for habeas corpus on or about March 5, 2026, after he had been detained earlier that day. Petitioner relies on the procedural history presented in that petition, and will not restate the facts in this reply. Petitioner wishes to address the arguments presented by the government in its response dated March 11, 2026.

B. PETITIONER'S DETENTION IS UNLAWFUL UNDER 8 USC SECTION 1231 AND IS VIOLATIVE OF 8 CFR SECTION 241.4, HAS VIOLATED HIS DUE PROCESS RIGHTS UNDER THE FIFTH AMENDMENT AND HAS VIOLATED THE ADMINISTRATIVE PROCEDURES ACT

Respondent government (hereinafter referred to as "government") argues that the Petitioner's detention is lawful under the above-cited statutory provision, stating that "the detention and removal of non citizens, like petitioner, who are subject to a reinstated removal order is governed by 8 USC Section 1231." Government's Answer at page 3. The government acknowledges that the Petitioner has a 5th Amendment claim under *Zadyvas v. Davis*, 533 US 678 (2001) and correctly argues that it is the Petitioner's burden to show why he is detention is unlawful. *Id.* Numerous courts in this jurisdiction have held under circumstances similar although not identical to the Petitioner that prolonged detention violates the due process clause of the 5th Amendment, and that detention with lack of notice and a hearing is equally violative of constitutional principles. See generally *Martinez v. Jamison, et. al* (Docket No. 26-cv-00718 EDPA March 12, 2026)

The government states that the Petitioner has filed no relief from removal during his time in the United States, noting that "Further, as Petitioner has not attempted to claim a fear of returning to Guatemala and therefore, not further proceedings are available to prevent his (second) removal." Answer at page 2. That is factually incorrect. The Petitioner has had a credible fear interview this past week, and is awaiting a response from the government concerning his application for relief. If a credible finding is made, he will be entitled to a hearing before an immigration judge, and even if a credible finding is not made, he has an opportunity to appeal that decision to the court. For those reasons alone, any suggestion that he has not sought relief is incorrect, as the Petitioner has articulated a fear of returning to Guatemala, based upon an incident that almost cost him his life in his native country.

It is respectfully submitted that the government, while authorized to detain an individual for a certain limited period of time until it can effectuate removal, has violated the Petitioner's due process rights to notice and a hearing in that he has lived in this country for well over a decade and has established significant ties to the United States, including the fact that his son is a lawful permanent resident. He has not been convicted of any crimes, has worked steadily and has paid his taxes. His detention was effectuated with no notice, and no reason given as to the basis for the detention, other than the fact that the government became aware of the prior removal order. The government simply notes in its answer that "Petitioner's successful evasion of United States immigration law ended in early March." Answer at page 2 There is no indication how the government came to have that information, and why it took over twelve years for them to re-detain him.

The government also points to the prior removal order which was issued in 2017, but there is very little information concerning the circumstances surrounding the process afforded the Petitioner at that last contact with the immigration service. For all of these reasons, the government cannot simply allege that the due process protections which would normally attach in these circumstances were followed.

The detention and removal of noncitizens like this Petitioner, subject to a reinstated removal order, is government by 8 USC Section 1231. *Johnson v. Guzman Chavez*, 141 S.Ct. 2271, 2280 (2021) which essentially holds that an individual in such a posture is not entitled to a bond hearing. That being the case, a habeas petition is the only vehicle through which this Petitioner can seek to effectuate his full due process rights under the 5th Amendment.

C. CONCLUSION

For the foregoing, reasons, Petitioner argues that the appropriate remedy here is his immediate release from custody, in order to rectify the violation of the rights described, supra. The government has failed to establish that those rights were not violated. Wherefore, and for the reasons stated above, Petitioner respectfully requests that his Petitioner for Habeas Corpus be granted.

Respectfully submitted

A handwritten signature in blue ink, appearing to read "Christine M. Flowers", is written over the typed name.

CHRISTINE M. FLOWERS, ESQUIRE

JOSEPH M ROLLO AND ASSOCIATES PC

ATTORNEYS FOR PETITIONER

Dated: March 18, 2026

CERTIFICATE OF SERVICE

I certify that on this date I filed the foregoing Reply to the Government's Answer In Opposition to the Petition for Habeas Corpus via the court CM/ECF System, thereby making it available for viewing and download for all parties in this case.

Dated: March 19, 2026

Christine M. Flowers, Esquire


Joseph M Rollo and Associates PC

Attorneys for Petitioner