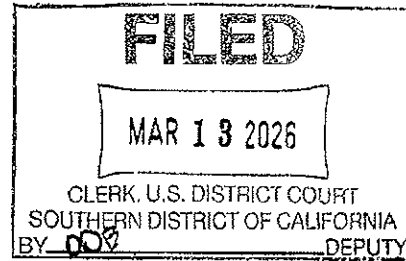


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
Efrain Barrios-Perez  
Petitioner,



V.

Pamela Bondi, U.S. Attorney General  
Kristi Noem, Secretary of DHS,  
Todd Lyons, Director of ICE,  
Christopher LaRose, Warden of, Otay Mesa Detention Center  
Respondent(s).

'26CV1622 BJC VET

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO U.S.C 2241 UNDER  
IMMIGRATION DETAINEE PROLONGED DETENTION AND A TEMPORARY  
RESTRAINING ORDER, INJUNCTIVE RELIEF**

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**I. INTRODUCTION**

1. Petitioner Efrain Barrios-Perez, native and citizen of Mexico, currently detained by U.S. Immigration and Customs Enforcement ICE at Otay Mesa Detention Center San Diego, CA 92143, respectfully petitions this Court for a Writ Of Habeas Corpus under U.S.C. 2241 and request for a Temporary Restraining Order, Injunctive Relief.
2. Petitioner has been in Immigration proceedings since 2-26-2026 approximately six months pursuant to 8 U.S.C. 1231 (a), despite ICE inability to execute the removal order due to the lack of diplomatic cooperation or practical ability to carry out removals to Mexico for Petitioner.
3. Petitioner seeks immediate release from detention on the grounds that continued detention violates the Due Process Clause of the Fifth Amendment and the Supreme Court ruling in *Zadvydas v. Davis* 533 U.S. 678 (2001).

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**II. JURISDICTION AND VENUE**

4. This court has Jurisdiction under 28 U.S.C. 2241 and Article I, Section 9, Clause 2 of the U.S. Constitution.
5. Venue is proper in this District under in this District under 28 U.S.C. 1391 (c) because Petitioner is detained within the Jurisdiction of this Court at Otay Mesa Detention Center San Diego, CA 92143,

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**III. PARTIES**

6. Petitioner is a native and citizen of Mexico who is currently detained by ICE.
7. Respondent's are U.S. Government officials with custody over Petitioner or authority over Immigration detention and removal.

#### IV. FACTUAL BACKGROUND

8. Petitioner has an ongoing case were Petitioner will highly succeed on.
9. Petitioner has remained in ICE custody continuously since 2-26-2026.
10. ICE has been unable to secure travel documents or deport Petitioner to Mexico due to the lack of diplomatic cooperation or practical ability to carry out removals to Mexico.
11. Petitioner has fully cooperated with ICE efforts to secure travel documents.
12. More than six months have passed since the apprehension of Petitioner by ICE.
13. There is no significant likelihood of removal in the foreseeable future.

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#### V. LEGAL FRAMEWORK

##### **Prolonged Immigration Detention Violates Due Process (Fifth Amendment)**

14. My detention for the past weeks without release violates the Due Process Clause of the Fifth Amendment. Immigration detention is civil, not punitive. Detention of this length is excessive and unconstitutional.
15. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), post-final order detention beyond six months is presumptively unreasonable if there is no significant likelihood of removal in the reasonably foreseeable future.
16. Continued detention Violates the Due Process Clause of the Fifth Amendment.
17. ICE bears the burden to show a significant likelihood of removal; it has not met that burden.

##### **Conditions and length of detention Render Custody Excessive Relative ti Its Purpose.**

18. Immigration detention is meant to ensure appearance at proceedings and protect the community. Detention lasting more than few weeks is not reasonable related to those purposes and has become punitive. Lesser restrictions can achieve those goals.

##### **Existence of Pending Proceedings Before Immigration Court Does Not Divest District Courts of Habeas Corpus Jurisdiction**

19. In *Fofana v. Albence*, petitioner filed a Habeas petition requesting their immediate release from detention while they await decisions in pending removal or asylum proceedings before the Immigration courts ( *Fofana v. Albence*, 454 F.Supp.3d 651 (2020). The court exercised jurisdiction over the detention challenge despite the ongoing immigration proceedings.
20. Similarly, in *Valdez v. Joyce*, a petitioner with removal proceedings and an asylum application pending before immigration court successfully petitioned for a writ of habeas corpus challenging his detention, and court granted immediate release from custody (*Valdez v. Joyce*, --- F.Supp.3d---(2025))

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#### VI. CLAIM FOR RELIEF

##### **Violation of the Fifth Amendment Due Process Clause and 8 U.S.C. 1231 (a) (6)**

21. Petitioner's continued detention violate the Constitution' and *Zadvydas* because:
    - \* There is no significant likelihood of removal in the reasonably foreseeable future.
    - \* Petitioner ha fully cooperated with removal efforts.
    - \* Ice's prolonged detention is punitive and lacks justification.
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**VII. PRAYER FOR RELIEF**

A. Issues a writ of Habeas Corpus directing Respondent's to immediately release Petitioner from custody and request for Injunctive Relief, Temporary Restraining Order.

B. Grant such further relief as the Court deems just and proper.

x

Respectfully Submitted,

Date: \_\_\_\_\_

Efrain Barrios-Perez

  
Otay Mesa Detention Center

P.O. Box 439049

San Diego, CA 92143