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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

ARCE PAEZ, DAVID

Petitioner,

v.

BRUCE SCOTT, Warden of the Northwest ICE
Processing Center;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security

Respondents.

CIVIL ACTION NO.

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

I. INTRODUCTION

Petitioner David Arce Paez (“Petitioner”) respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his prolonged and unlawful immigration detention.

Petitioner has been detained since approximately October 21, 2025, and remains in custody despite active proceedings before the United States Court of Appeals for the Ninth Circuit, including a pending petition for review and a stay of removal that is currently in effect. Because that stay legally prohibits Respondents from executing removal, Petitioner’s detention is

1 no longer tied to its purported purpose—effectuating removal—and has instead become
2 indefinite and constitutionally excessive.

3 Petitioner’s continued detention is further unjustified where Respondents have made no
4 individualized determination that he poses a danger or flight risk, and where he is actively
5 pursuing humanitarian relief through parole in place based on his relationship to a United States
6 military service member.

7 Although Respondents may rely on the existence of a prior removal order, that fact does
8 not resolve the constitutional inquiry. Civil detention is permissible only where it remains
9 reasonably related to removal and is supported by adequate procedural safeguards. Here, neither
10 condition is met.

11 Under controlling precedent, including *Zadvydas v. Davis*, continued detention that is
12 untethered from a realistic prospect of removal and unsupported by individualized justification
13 violates due process. Petitioner therefore respectfully requests that this Court order his
14 immediate release.

15 **II. JURISDICTION AND VENUE**

16 This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in custody
17 under the authority of the United States and challenges the legality of that custody.

18 Jurisdiction is also proper under 28 U.S.C. § 1331 and the Due Process Clause of the
19 Fifth Amendment.

20 Venue lies in the Western District of Washington because Petitioner is detained at the
21 Northwest ICE Processing Center in Tacoma, Washington.

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III. PARTIES

Petitioner is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Northwest ICE Processing Center.

Respondent Bruce Scott is the Warden of NWIPC and Petitioner's immediate physical custodian. He is the proper respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security.

IV. LEGAL STANDARD

The writ of habeas corpus permits individuals to challenge unlawful executive detention. 28 U.S.C. § 2241(c)(3).

Immigration detention, although civil, is subject to constitutional limitations. Such detention must bear a reasonable relationship to its statutory purpose and may not become arbitrary. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Additionally, the Fifth Amendment requires that deprivations of liberty be accompanied by adequate procedural safeguards. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

V. FACTUAL BACKGROUND

A. Immigration and Detention History

Petitioner is a native and citizen of Mexico born on [REDACTED]. Petitioner was previously ordered removed from the United States in 2009. Petitioner was detained by ICE on or around October 21, 2025 after being pulled over by an unmarked vehicle while driving.

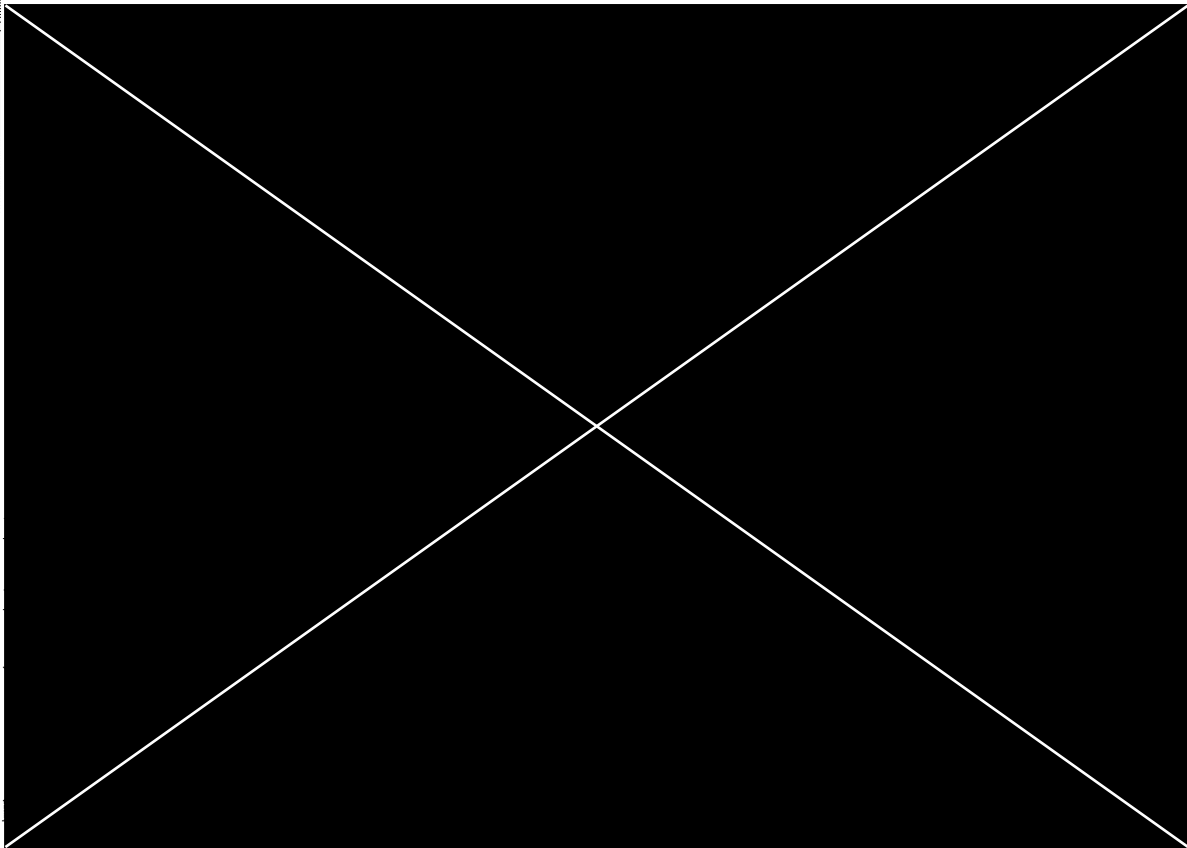
Upon being detained, he expressed fear of being returned to his home country of Mexico, because he has been [REDACTED]

[REDACTED]

1 [REDACTED] He had a reasonable fear interview, but DHS did not find his fear to be credible,
2 and the Immigration Judge affirmed their decision.

3 **B. Summary of Harm and Fear of Return**

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5 Petitioner fears returning to Mexico because he has been targeted by [REDACTED]



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20 Based on this history, Petitioner fears he will be killed or seriously harmed upon return,
21 with no meaningful protection available from the Mexican government.

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23 **C. Pending Proceedings Before the Ninth Circuit and Stay of Removal**

24 Petitioner currently has a petition for review pending before the United States Court of
25 Appeals for the Ninth Circuit. In connection with those proceedings, a stay of removal has been
26 granted and remains in effect. As a result, Respondents are legally prohibited from executing
27 Petitioner's removal unless and until that stay is lifted.

1 Because removal cannot be executed while the stay is in place, Petitioner's detention is
2 not presently tied to effectuating removal. Removal under these circumstances would also risk
3 mooting Petitioner's appellate claims and impairing the Ninth Circuit's jurisdiction.
4

5 **D. Lack of Evidence of Imminent Removal**

6 Respondents may assert that removal is imminent, however, no confirmed removal date
7 exists, removal cannot be executed due to the stay of removal, and removal remains contingent
8 on the outcome of pending appellate proceedings. Even where administrative steps may have
9 been taken, removal is not practically executable at this time.
10

11 **E. Family and Humanitarian Considerations**

12 Petitioner is the father of United States citizen children, including an 18-year-old son who
13 is an active duty member of United States Marine Corps.

14 Petitioner has been an active caregiver and source of support for his children. His
15 continued detention imposes substantial hardship on his family and further underscores the
16 severity of the deprivation of liberty at issue.
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18 **F. Parole in Place**

19 Petitioner is seeking adjudication of his Form I-131 application for parole in place with
20 USCIS, based on his relationship as the father of a United States military service member.

21 He remains detained during the pendency of his parole-in-place application, despite
22 actively pursuing this lawful humanitarian relief.
23

24 **VI. ARGUMENT**

25 **A. Continued Detention Without Individualized Justification Violates Due Process**

26 Petitioner was taken into ICE custody on or about October 21, 2025. Since that time,
27 Respondents have continued to detain him without any individualized determination that his
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1 detention is necessary to serve a legitimate governmental purpose, such as preventing flight or
2 protecting the community.

3 There has been no finding that Petitioner poses a danger or a flight risk, nor has he been
4 afforded a meaningful opportunity to challenge his continued detention before a neutral
5 decisionmaker. Instead, his detention has been maintained as a matter of administrative course.
6

7 Under *Mathews v. Eldridge*, due process requires adequate procedural safeguards before
8 the government may deprive an individual of liberty. Those safeguards are particularly critical
9 where, as here, detention becomes prolonged and untethered from its underlying purpose.
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11 Because Respondents have failed to provide any individualized justification for
12 Petitioner's continued confinement, his detention violates due process and cannot be sustained.

13 **B. The Balance of Interests Under *Mathews v. Eldridge* Favors Release**

14 "Procedural due process imposes constraints on governmental decisions which deprive
15 individuals of liberty." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). At its core, due process
16 requires "the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at
17 333.
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19 In determining what process is constitutionally required, courts apply the three-factor
20 balancing test set forth in *Mathews*: (1) the private interest affected, (2) the risk of erroneous
21 deprivation through the procedures used and the value of additional safeguards, and (3) the
22 government's interest. *Id.* at 335. The Ninth Circuit has recognized that this framework applies
23 in the immigration detention context. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th
24 Cir. 2022).
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26 First, Petitioner's private interest is fundamental. Freedom from physical restraint lies at
27 the core of the liberty protected by the Due Process Clause. Petitioner has been subjected to
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1 prolonged civil detention, a severe deprivation of liberty that demands heightened procedural
2 protections.

3 Second, the risk of erroneous deprivation is substantial. Petitioner's continued detention
4 has not been supported by any individualized determination that he poses a danger or flight risk.
5 Nor has he been afforded a meaningful opportunity to challenge the necessity of his detention
6 before a neutral decisionmaker. This lack of individualized review creates a significant risk that
7 Petitioner is being unnecessarily detained. Additional safeguards—such as a fair individualized
8 custody determination or release under appropriate conditions—would substantially reduce that
9 risk.
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11 Third, the Government's interest does not justify continued detention under these
12 circumstances. While the Government has an interest in ensuring removal and managing
13 immigration proceedings, that interest is significantly diminished here because removal cannot
14 be effectuated due to the stay issued by the Ninth Circuit. Detention that is not meaningfully tied
15 to removal serves no legitimate purpose. Moreover, the Government's interests can be fully
16 served through less restrictive alternatives, including supervised release or other reasonable
17 conditions.
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19 Balancing these factors, Petitioner's continued detention—without individualized
20 justification and while removal is legally barred—violates due process and is excessive in
21 relation to any legitimate governmental objective.
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23 **C. Removal Is Not Legally or Practically Foreseeable**

24 Because Petitioner currently has a petition for review pending before the United States
25 Court of Appeals for the Ninth Circuit and a stay of removal has been granted and remains in
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1 effect, Respondents are legally prohibited from executing Petitioner's removal unless and until
2 Petitioner's stay is lifted.

3 Civil detention is constitutionally permissible only where it bears a reasonable
4 relationship to the purpose of effectuating removal. *Zadvydas v. Davis*, 533 U.S. 678, 690
5 (2001). Where removal cannot be executed as a matter of law, detention no longer serves its
6 regulatory purpose and becomes arbitrary.

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8 Because removal cannot be carried out while the stay is in place, Petitioner's detention is
9 not presently tied to removal. Respondents may assert that removal is imminent, but no
10 confirmed removal date exists, removal is legally prohibited, and any future removal remains
11 contingent on the outcome of pending appellate proceedings. Detention based on such
12 speculative and legally barred removal cannot satisfy due process.

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14 The Supreme Court has made clear that detention must be supported by a realistic
15 prospect of removal and may not rest on speculation. *Zadvydas*, 533 U.S. at 690–91.

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17 The Ninth Circuit likewise holds that detention is permissible only where removal is
18 reasonably foreseeable and not speculative. *Prieto-Romero v. Clark*, 534 F.3d 1053, 1062–63
19 (9th Cir. 2008).

20 Even where administrative steps may have been taken, removal is not practically
21 executable at this time. Detention based on a removal that is legally prohibited and contingent on
22 uncertain future events cannot satisfy due process.

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24 **D. Detention Has Become Prolonged and Lacks a Foreseeable Endpoint**

25 Petitioner has been detained since October 21, 2025, and his confinement continues with
26 no clear or reasonably foreseeable endpoint, particularly in light of the stay of removal and
27 pending proceedings before the Ninth Circuit.

1 The Supreme Court has recognized that post-removal-order detention is presumptively
2 reasonable for six months, but detention beyond that period must be justified by a showing that
3 removal is significantly likely in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S.
4 678, 701 (2001).

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6 Here, Petitioner's detention is approaching that threshold, yet removal is not reasonably
7 foreseeable. A judicial stay currently prohibits removal, and any future removal remains
8 contingent on the resolution of appellate proceedings over which Petitioner has no control.

9 Under these circumstances, detention is no longer tied to any predictable or imminent
10 outcome, but instead continues for an uncertain and potentially indefinite period. Such open-
11 ended detention exceeds constitutional limits and cannot be sustained.

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13 **E. Continued Detention Has Become Punitive Rather Than Regulatory**

14 Civil immigration detention must remain regulatory in purpose and cannot become
15 punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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17 Here, Petitioner's detention is no longer meaningfully connected to its purported
18 regulatory purpose—effectuating removal. A judicial stay issued by the United States Court of
19 Appeals for the Ninth Circuit currently prohibits removal, rendering detention untethered to any
20 realistic prospect of execution.

21 Under these circumstances, continued detention is excessive in relation to any legitimate
22 governmental objective and has crossed the constitutional line from permissible regulatory
23 confinement into impermissible punitive detention.
24

F. Family Hardship Further Underscores the Severity of the Liberty Deprivation

Petitioner is the father of United States citizen children, including an 18-year-old son who is an active-duty member of the United States Marine Corps. He has been an active caregiver and a central source of emotional and financial support for his family.

His continued detention imposes substantial and ongoing hardship, particularly given his son's military service and the family's reliance on Petitioner's presence and support.

These humanitarian considerations underscore the profound nature of the liberty deprivation at issue and weigh heavily in the constitutional analysis under *Mathews v. Eldridge*, reinforcing that continued detention is not justified under the circumstances.

G. Petitioner Is Actively Pursuing Parole in Place

Petitioner's strong humanitarian equities are further reinforced by his active pursuit of parole in place based on his relationship as the father of a United States military service member. In January 2026, Petitioner prepared and submitted a Form I-131 application for parole in place, which was returned due to filing at an incorrect USCIS address. Petitioner is in the process of promptly re-submitting the application to the correct address.

Parole in place is a form of discretionary relief grounded in the Secretary's statutory parole authority under 8 U.S.C. § 1182(d)(5)(A), which permits release on a case-by-case basis for urgent humanitarian reasons or significant public benefit. Courts recognize that when a noncitizen is actively pursuing available relief that could materially affect their ability to remain in the United States, continued detention must be evaluated in light of that pending or imminent adjudication. See *Zadydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must bear a reasonable relation to its purpose); see also *Prieto-Romero v. Clark*, 534 F.3d 1053, 1062 (9th Cir. 2008) (detention is permissible only where removal is reasonably foreseeable).

1 Here, Petitioner's imminent re-filing of his parole-in-place application further
2 demonstrates that his detention is not meaningfully tied to effectuating removal. If granted,
3 parole in place would authorize Petitioner to remain in the United States and fundamentally alter
4 his custody posture. At a minimum, his active pursuit of humanitarian relief introduces
5 additional uncertainty that further undermines any claim that removal is significantly likely in
6 the reasonably foreseeable future.

8 Moreover, continued detention while Petitioner diligently seeks humanitarian relief—
9 particularly where he has strong equities, including a U.S. citizen child serving in the military—
10 serves no legitimate governmental purpose. The Government's interests can be fully satisfied
11 through less restrictive alternatives, including release under appropriate conditions of
12 supervision. See *Zadvydas*, 533 U.S. at 690.

14 Under these circumstances, Petitioner's continued detention while he actively pursues
15 parole in place is unreasonable, unnecessary, and constitutionally excessive, and further supports
16 his immediate release.

18 **H. Exhaustion Is Not Required**

19 Petitioner is not required to exhaust administrative remedies before seeking habeas relief.
20 This Petition raises a constitutional challenge to the legality of Petitioner's continued detention
21 under *Zadvydas v. Davis*.

23 Even if the Court were to conclude that some form of administrative custody review is
24 available, Petitioner should not be required to exhaust administrative remedies by going before
25 an Immigration Judge. Exhaustion of administrative remedies is not required where it would be
26 futile or incapable of providing meaningful relief. See *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th
27 Cir. 2004), which is the case here.

1 Historically, Tacoma Immigration Judges have always denied bond under *Zadvydas* with
2 a finding of flight risk to anyone who has filed a petition for review in the Ninth Circuit Court of
3 Appeals and has a stay motion in effect. They simply will not grant bond in these types of cases.
4

5 In the current political climate under the present administration, Tacoma Immigration
6 Judges are arbitrarily making individualized findings of “flight risk” across the board without
7 genuine independent review, therefore deeming them ineligible for release. As a result, findings
8 of flight risk are frequently reduced to untested, one-sided determinations rather than
9 meaningful, evidence-based adjudications. This undermines the purpose of habeas review by
10 stripping it of any practical effect and leaving Petitioner exactly where he started—detained
11 without meaningful review.
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13 Under these circumstances, exhaustion is excused, and the Court must order Petitioner’s
14 immediate release.
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16 **VII. REQUEST FOR RELIEF**

17 Petitioner respectfully requests that this Court:

- 18 1. GRANT this Petition for Writ of Habeas Corpus;
- 19 2. ORDER Respondents to release Petitioner from custody within 24 hours of the Court’s
20 order;
- 21 3. In the Alternative, ORDER Petitioner’s release upon payment of a monetary bond in an
22 amount deemed reasonable by the Honorable Judge, and/or under appropriate conditions
23 of supervision;
- 24 4. Order that Respondents are PROHIBITED from re-detaining Petitioner after release; and
25 5. Any other relief the Court deems just and proper.
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VIII. CONCLUSION

This Petition should be granted and Petitioner should be released because his detention is no longer reasonably related to the purpose of removal, has become indefinite, untethered from removal, and constitutionally excessive due to the stay of removal, and lacks constitutionally sufficient procedural safeguards.

Respondents continue to detain Petitioner without any individualized determination that his confinement is necessary, despite the absence of a realistic prospect of removal and while he actively pursues humanitarian relief. Under *Zadvydas v. Davis* and *Mathews v. Eldridge*, such detention is excessive in relation to any legitimate governmental purpose and violates due process.

Accordingly, Petitioner respectfully requests that this Court grant the Petition and order his immediate release.

IX. SIGNATURE AND CERTIFICATION

The undersigned counsel certifies that she represents the Petitioner and that this Petition is filed on his behalf pursuant to 28 U.S.C. § 2241.

Respectfully submitted this 3rd day of April 2026.

/s/Vicky J Currie

Vicky J Currie, WSBA #24192
Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Vicky J Currie, certify that on this 3rd day of April 2026, I served true and correct copy of the **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241** upon the following Respondents by electronic service as permitted:

BRUCE SCOTT

Warden, Northwest ICE Processing Center
1623 East J Street
Tacoma, WA 98421

KRISTI NOEM

Secretary, U.S. Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528

Required Service on the United States

UNITED STATES ATTORNEY'S OFFICE

USAWAW.ImmigrationHabeasService@usdoj.gov
(Via email)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 3rd day of April 2026.

/s/Vicky J Currie

Vicky J Currie, WSBA #24192
Attorney for Petitioner