

United States District Court
For the Eastern District of New York

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Jose Santos Arias Sorto,

Petitioner,

v.

Dkt No:

Markwayne Mullin,
And Officer Montgomery,

Initials:

Respondents.

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Verified Petition for a Writ of Habeas Corpus

Submitted by:

Bruno J Bembi
Attorney for Petitioner

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BB 8381

Verified Petition for a Writ of Habeas Corpus

1. Petitioner, Jose Santos Arias Sorto, is currently in ICE custody, upon information and belief, at the Men's Detention Center [MDC] in Brooklyn, NY. His immigration A-number is: [REDACTED]. He has been detained approximately 14 days.
2. Mr. Arias brings this petition for a writ of habeas corpus seeking his immediate relief under 28 U.S.C. 2241. His home address is: [REDACTED]
[REDACTED].

Respondents

3. Respondent, Markwayne Mullin, is Secretary of the United States Department of Homeland Security with an address at 245 Murray Lane SW, Washington DC 20528.
4. Respondent, Officer Montgomery, is an ICE Officer with an address at 201 Varick St Rm 1219 New York, NY 10014.

Facts

5. Mr. Arias is a native and citizen of Honduras who first came to the United States on or about February 26, 1999 with no valid documents. He was born in 1970 and is approximately 56 years old.

6. Mr. Arias is married and lives with his wife. They have 3 children together. His two youngest children, Yelsen Arias Calderon, and Arnins Arias Calderon were born in the United States and are United States citizens.
7. Yelsen is 26 years of age.
8. Arnins is 24 years of age and is serving in the United States Army and has filed an I-130 visa petition on behalf of his father, Jose Santos Arias Sorto.
9. Mr. Arias is eligible for an immigration benefit called "Parole in Place" as the parent of a military service member that allows him to be considered "paroled" into the United States and therefore eligible to adjust his status to that of a lawful permanent resident here in the United States based upon his son's petition under 8 U.S.C. 1255(a).
10. Petitioner, Jose Santos Arias, is diabetic.
11. Mr. Arias has 3 arrests for driving under the influence of alcohol or while inebriated. For his last arrest he received 1 year of probation. Mr. Arias was detained at his last probation check on March 27, 2026 and placed in ICE custody.
12. Mr. Arias has an appeal pending with the Board of Immigration Appeals [BIA or Board] seeking review of an adverse decision of an immigration judge in New York City dated December 9, 2019.

13. At no time did the arresting officers consider whether Mr. Arias was a flight risk before detaining him.

14. Mr. Arias now respectfully submits this petition seeking his immediate release from ICE custody.

First Claim

15. Petitioner repeats and realleges all facts in paragraphs 1 through 13.

16. Mr. Arias's arrest was unlawful because it was made without probable cause to believe he is a flight risk, as required by 8 U.S.C. 1357(a)(2) and 8 C.F.R. 287.8(c)(2)(ii). See, Refugio Ramirez Orlando v Noem, 2025 U.S. Dist LEXIS 234204 (Dist CO, J. Brook Jackson, Nov 25, 2025).

Second Claim

17. Petitioner repeats and realleges all facts in paragraphs 1 through 13.

18. Mr. Arias' detention is unlawful because he is not subject to detention under 8 U.S.C. section 1225, nor any other section of law.

Third Claim

19. Petitioner repeats and realleges all facts in paragraphs 1 through 13.

20. Mr. Arias' detention is unlawful because his detention is contrary to due process of law.

WHEREFORE, it is respectfully requested that Mr. Arias' transfer outside the Eastern District of New York be stayed; that his removal be stayed; and that he be ordered released from custody on his own recognizance.

Attorney Verification

I, Bruno J Bembi, attorney at law, affirm that the above statements are true, except for those made upon information and belief, and as to those, I have a reasonable, good faith basis to believe they are true.

Dated: April 9, 2026

Respectfully submitted,



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