

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the District of Maryland

Luis Fernando Herrera-Andy

Petitioner

v.

Matt Elliston

U.S. Immigration and Customs Enforcement Field Office Director, Baltimore Field Office

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. MJM 26cv 11234

(Supplied by Clerk of Court)

FILED LOGGED APR 24 2026 ENTERED RECEIVED CLERK AT BALTIMORE, MD BY DISTRICT OF MARYLAND DEPUTY

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

Personal Information

- 1. (a) Your full name: Luis Fernando Herrera-Andy (b) Other names you have used: Fernando Herrera-Andy
2. Place of confinement: (a) Name of institution: BALTIMORE HOLD ROOM (b) Address: 31 HOPKINS PLAZA 6th Floor BALTIMORE, MD 21201 (c) Your identification number: A [redacted]
3. Are you currently being held on orders by: [x] Federal authorities [] State authorities [] Other - explain:
4. Are you currently: [] A pretrial detainee (waiting for trial on criminal charges) [] Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime If you are currently serving a sentence, provide: (a) Name and location of court that sentenced you: (b) Docket number of criminal case: (c) Date of sentencing: [] Being held on an immigration charge [x] Other (explain): Awaiting a hearing for an Asylum application in 3311 Toledo Road, Suite 105, Hyattsville Maryland 20782 to occur on 6/1/2026 at 8:00 AM

Decision or Action You Are Challenging

- 5. What are you challenging in this petition: [] How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): I was picked up by ICE for committing crimes, but I was released from Bosley Detention Center because all charges against me were dismissed after a jury trial in which the jury found me not guilty of all counts. I have attended all other immigration hearings and been lawful throughout my time in the US.

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: 31 HOPKINS PLAZA 6th Floor BALTIMORE, MD 21201

(b) Docket number, case number, or opinion number: N/A

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

My attorney provided all exculpatory paperwork showing the presence of family, the certified court records from the Baltimore County Circuit Court in Towson, MD, showing that all charges had been dismissed, and notice of the hearing. They still refuse to release me and plan to ship me to another facility in the morning.

(d) Date of the decision or action: 04/24/2026

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: My attorney is drafting an appeal, but ICE refused to provide anything in writing. A transfer is imminent in the morning, and my attorney may not be able to locate me in time to prevent my illegal deportation.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: Attorney is still working on the first appeal. I was only picked up at 8 PM last evening (4/23/26) and my Attorney was only able to make contact with me at the ICE detention center today, 4/24/26, at approximately 11:30 AM.

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes

No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: Attorney is planning to draft the first appeal.

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes

No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes

No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: It is adequate, but my attorney needs time to prepare. No notice of this illegal d
entention was provided, and I was incarcerated illegally without evidence in Baltimore Detention
Center for more than 10 months before being acquitted, only to immediately be detained illegally by ICE.

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 04/23/2026
- (b) Date of the removal or reinstatement order: 04/26/2026
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: I have committed no crimes in the US.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

See attached certified court documents showing acquittal of all charges from the Baltimore Circuit Court in Towson, MD

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: I have attended all asylum hearings to date.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

See hearing scheduled for 6/1/2026 at 8:00 AM in Hyattsville

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: I have close family ties here. I live with my fiancé, Keith MacPherson, and my Cousins, Gaby, Byron, and Amy, who I have lived with previously and lived with and support financially, live nearby in Washington DC.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

See my listed address, [REDACTED] Glencoe, MD 21152, which is also [REDACTED]'s local home address (See the attached check image for [REDACTED]'s address, my address can be found in the MD Judiciary Case Search here: [https://casesearch.courts.state.md.us/casesearch/case-detail-page?caselid=\[REDACTED\]](https://casesearch.courts.state.md.us/casesearch/case-detail-page?caselid=[REDACTED]) with case number [REDACTED])

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

GROUND FOUR: The original detention in Baltimore was unlawful as the police did not take my exculpatory statements into account, I was offered no bond, the alleged victim gave no statement to the police, and the police did not find the alleged weapon, fully follow chain of custody of evidence, or do DNA testing. My subsequent arrest following this is unlawful.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*


The transcripts of the court proceedings are pending.

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: No

Request for Relief

15. State exactly what you want the court to do: Release me on my own recognizance so I can prepare for my Asylum hearing. Barring this, set a reasonable bond to be paid by my Fiance, 

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner. I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 04/24/2026

Luis Fernando Herrera Andy

Signature of Petitioner

Keith Cullen MacPherson

Signature of Attorney or other authorized person, if any

Luis Fernando Herrera Andy

FILED
LOGGED
APR 24 2026
ENTERED
RECEIVED
CLERK AT BALTIMORE
DISTRICT COURT
BY DISTRICT OF MARYLAND
DEPUTY

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

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

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and _____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.