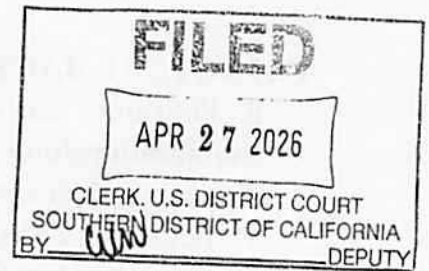


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Crecencio Hernandez



'26CV2676 JES DDL

V.

Pamela Bondi, U.S. Attorney General
Markwayne Mullin, Secretary of DHS
Todd Lyons, Director of ICE
Christopher Larose, Warden of,
Otay Mesa Detention Center.

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

I. INTRODUCTION

1. Petitioner Crecencio Hernandez native and citizen of Mexico, currently detained by U.S. Immigration and Customs Enforcement ICE at Otay Mesa Detention Center San Diego C.A. 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 06-26-2025 approximately more than a year pursuant to 8 U.S.C. 1231 (a)
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)

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 28 U.S.C. 1391 (e) because Petitioner is detained within the Jurisdiction of this court at Otay Mesa Detention Center San Diego C.A. 92143.

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 removal.

IV. FACTUAL BACKGROUND

8. Petitioner was ordered removed to Mexico on 12-15-2025 by an Immigration Judge and is currently on Appeal with the board of Immigration Appeals (BIA) where Petitioner has a high probability to succeed.
9. Petitioner has remained in ICE custody continuously since 06-26-2025
10. Petitioner has fully cooperated with ICE
11. More than a year has passed since the apprehension of Petitioner by ICE.
12. There is no significant likelihood of removal in the foreseeable future.

V. LEGAL FRAME WORK

Prolonged Immigration Detention Violates Due Process (Fifth Amendment)

13. My detention for the last 40 months 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.
14. 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.
15. Continued detention Violates the Due process Clause the fifth Amendment.
16. ICE bears the burden to show a significant likelihood of removal; it has not met that burden.
17. **Conditions and length of detention Render Custody Excessive Relative to its purpose.**
18. Immigration detention is meant to ensure appearance at proceedings and protect the community. Detention lasting more than 3 months is not 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, court successfully petitioned for a writ of habeas corpus challenging his detention, and court granted immediate release from custody. F.supp.3d (2025) see *Pacheco v. Larose* No. 3:25-cv-2421-JO-AHG, 2026 WL 24 2300, *3*5 S.D. CAL Jan, 29, 2026) See *Hernandez v. Sessions*, 872 F.3d 976, 100 CATH CIR. 2017. See 26-CV-1310-JO-VET.

VI. CLAIM FOR RELIEF

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

21. Petitioner continued detention violated the constitution and *Zadvydas* because;

- * There is no significant likelihood of removal in the reasonable foreseeable future.
- * Petitioner have fully cooperated with everything.
- * ICE prolonged detention is punitive and lacks justification.

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 futher relief as the court deems just and proper.

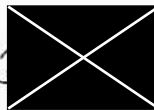
Respectfully Submitted,

Date: 04-20-26

Crecencio Hernandez



Sincerely



Otay Mesa Detention Center.
P.O. Box 439049
San Diego C.A. 92143