

**UNITED STATES DISTRICT COURT MIDDLE
DISTRICT OF FLORIDA**

CHRISTIAN MONTUFAR,

Petitioner/Plaintiff, v.

MARKWAYNE MULLIN, in their official
capacity as Secretary of the United States
Department of Homeland Security;

WARDEN, Florida Baker
Correctional Institute,

Respondents/Defendants.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS (28
U.S.C. § 2241)

INTRODUCTION

Petitioner, CHRISTIAN MONTUFAR ("Petitioner"), by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

Petitioner is civilly detained by U.S. Immigration and Customs Enforcement ("ICE") pursuant to INA § 236(a), 8 U.S.C. § 1226(a). His continued detention without a constitutionally adequate bond hearing violates the Due Process Clause of the Fifth Amendment. Petitioner seeks an order requiring a prompt bond hearing with the burden on the Government, or, in the alternative, immediate release.

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody and is detained in violation of the Constitution and laws of the United States.
2. Venue is proper in the MIDDLE District of Florida because Petitioner is detained at the Florida Baker Correctional Institute, 20706 US 90 W SANDERSON, FL 32087, which lies within this District.

PARTIES

3. Petitioner CHRISTIAN MONTUFAR is a citizen and national of GUATEMALA A# [REDACTED] and is currently detained at Florida Baker Correctional Institute.
4. Respondent MARKWAYNE MULLIN is sued in his official capacity as Secretary of the Department of Homeland Security and is responsible for the administration and enforcement of the Immigration and Nationality Act.
5. Respondent, WAREDEN, in his official capacity as Florida Baker Correctional Institute, is the immediate physical custodian of Petitioner.

FACTUAL BACKGROUND

8. Petitioner entered the United States approximately four years ago.
9. Petitioner was taken into ICE custody on or about April 13, 2026.
10. Petitioner has remained continuously detained since that time.
11. Petitioner has no criminal convictions and no pending criminal charges.
12. Petitioner was not the driver in the underlying incident that led to his arrest and had no independent criminal conduct.

13. Petitioner has no prior removals and no history of immigration fraud.
14. Petitioner has strong family ties in the United States, including a lawful permanent resident mother and a United States citizen sister.
15. Petitioner is in a long-term relationship and is planning to marry a United States citizen.
16. Petitioner has stable employment history in the United States.
17. A bond sponsor is available.
18. Petitioner has not received a bond hearing.
19. ICE has made no individualized determination that Petitioner is a danger or flight risk.
20. Petitioner remains detained without any meaningful procedural safeguards.

IV. EXHAUSTION IS NOT REQUIRED

17. Petitioner was not required to exhaust administrative remedies prior to seeking habeas relief.
18. Exhaustion is not required where administrative remedies are inadequate, futile, or incapable of providing timely relief.
19. Courts have consistently recognized that exhaustion is excused where the agency has predetermined the issue or lacks authority to provide the requested relief.
20. Here, Petitioner has not received a bond hearing and has no meaningful mechanism to obtain prompt review of his detention.
21. Any delay in obtaining relief through the immigration court system would prolong unconstitutional detention.
22. Accordingly, exhaustion is excused.

V. LEGAL FRAMEWORK

23. Civil immigration detention is governed by two primary statutory provisions:

- a. U.S.C. § 1225(b), which applies to applicants for admission and mandates detention; and
- b. 8 U.S.C. § 1226(a), which applies to individuals already present in the United States and permits release on bond.

24. Section 1226(a) applies to individuals who have entered and lived in the United States and are later taken into custody within the interior.

25. The Supreme Court has recognized that § 1226 governs detention of noncitizens already present in the United States.

26. The Fifth Amendment requires that civil detention include adequate procedural safeguards.

27. At minimum, due process requires:

- a. An individualized hearing;
- b. A neutral decisionmaker.
- c. The Government bearing the burden of proof; and
- d. Proof by clear and convincing evidence.

VI. CLAIMS FOR RELIEF

COUNT I – UNLAWFUL DETENTION UNDER IMPROPER STATUTORY AUTHORITY

28. Petitioner realleges and incorporates paragraphs 1–27.

29. Petitioner is not an arriving alien and was taken into custody within the United States after residing here.

30. Petitioner therefore does not fall within the mandatory detention framework of § 1225(b).

31. Instead, Petitioner is properly subject to § 1226(a), which permits release on bond.

32. The Government's failure to recognize Petitioner's eligibility for bond results in unlawful detention.

33. Numerous courts, including courts within this District, have rejected attempts to apply § 1225(b) to individuals residing in the United States.

34. Accordingly, Petitioner's continued detention under an improper statutory framework is unlawful.

COUNT II – VIOLATION OF THE DUE PROCESS CLAUSE (NO MEANINGFUL HEARING)

35. Petitioner realleges and incorporates paragraphs 1–34.

36. The Fifth Amendment prohibits civil detention without adequate procedural safeguards.

37. Petitioner has not received a constitutionally adequate bond hearing.

38. Petitioner has not been afforded any meaningful opportunity to demonstrate that he is not a flight risk or a danger to the community.

39. The Government has not been required to justify Petitioner's detention before a neutral decisionmaker.

40. Detention without these safeguards is arbitrary and unconstitutional.

41. Accordingly, Petitioner's continued detention violates the Due Process Clause.

COUNT IV – JURISDICTION IS PROPER

46. Petitioner realleges and incorporates paragraphs 1–45.

47. This Petition challenges the legality of Petitioner's detention—not his removal.

48. Accordingly, 8 U.S.C. § 1252(g) does not apply.

49. Section 1252(g) applies only to decisions to commence proceedings, adjudicate cases, or execute removal orders.

50. Petitioner challenges none of those actions.

51. Similarly, 8 U.S.C. § 1252(b)(9) does not apply because Petitioner does not seek review of a removal order.

52. Federal courts, including courts within this District, routinely exercise jurisdiction over detention challenges under 28 U.S.C. § 2241.

VII. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Grant the Petition for Writ of Habeas Corpus;
- B. Issue an Order to Show Cause within three (3) days;
- C. Order that Petitioner not be transferred outside this District during the pendency of this action;
- D. Order an individualized bond hearing within 7 days before a neutral decisionmaker;
- E. Require the Government to bear the burden of proof by clear and convincing evidence;
- F. In the alternative, order Petitioner's immediate release;
- G. Grant such other relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on all Respondents and counsel for Respondents by U.S. Mail and/or electronic service on this day of May 01, 2026

Respectfully submitted,

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