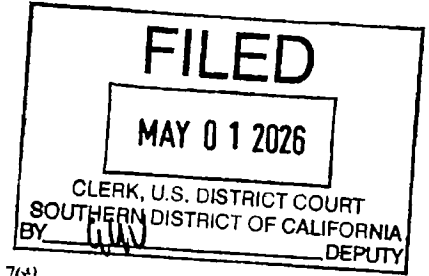


UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF CALIFORNIA



GARCIA-CASTRO, ELMER LEONEL)
Petitioner)
V.)
Warden, Otay ICE Detention Center)
Attorney General)
PAMELA BONDI)
Respondent)

File No.: A 220-486-769

26CV2787 JES DEB

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

I. JURISDICTION & VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is currently in the custody of U.S. Immigration and Customs Enforcement (ICE).
2. Venue is proper because Petitioner is detained within the territorial jurisdiction of this Court.

II. PARTIES

3. Petitioner: Elmer Leonel Garcia Castro, a citizen of Honduras, detained at Detention Center located at 7488 Calzada de la Fuente, Otay Mesa, CA 92154.
4. Respondents: Federal officials responsible for Petitioner's detention.

III. FACTUAL BACKGROUND

5. Petitioner is a native of Honduras.
6. Petitioner entered to United States on September 28, 2022 through the border of McAllen Tx without inspection.
7. Petitioner was detained by ICE on or about July 01, 2025, without evidence of danger or flight risk
8. Petitioner has now been detained for more than nine months.
9. ICE has not demonstrated that removal to Honduras is reasonably foreseeable.
10. Travel documents have not been issued.

IV. LEGAL CLAIMS

- A. Prolonged Detention Violates Zadvydas v. Davis.
- B. Detention Violates Procedural and Substantive Due Process.
- C. Detention Is Contrary to INA § 241(a)(6).
- D. No foreseeable removal (pending Supreme Court appeal)

V. RELIEF REQUESTED

- Petitioner respectfully requests:
1. Immediate release from ICE custody under supervision.
 2. A declaration that the detention is unlawful.
 3. Any further relief deemed just and proper.

VI. DECLARATION

I declare under penalty of perjury that the foregoing is true and correct.

Date: April 27, 2026
Elmer Leonel Garcia Castro
Elmer Garcia

**MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241**

INTRODUCTION

This Memorandum of Law is submitted in support of Petitioner Elmer Leonel Garcia Castro, a Honduran national who has been detained by U.S. Immigration and Customs Enforcement (ICE) since July 01, 2025. Petitioner has now remained in ICE custody beyond the statutory removal period, and his continued detention violates the U.S. Constitution and controlling Supreme Court precedent.

STATEMENT OF FACTS

Petitioner is a native and citizen of Honduras. On July 01, 2025, while he was in a car wash, ICE detained him without evidence of danger or flight risk.

Petitioner has now been detained for more than 180 days (nine months), and ICE has not produced evidence demonstrating that his removal to Honduras is significantly likely in the reasonably foreseeable future. Travel documents have not been issued, and ICE has not shown meaningful progress toward effectuating removal.

LEGAL STANDARD

Under 28 U.S.C. § 2241, a federal district court has jurisdiction to review the legality of immigration detention. The writ of habeas corpus is available when a detainee is held in violation of the Constitution, laws, or treaties of the United States.

ARGUMENT

I. PETITIONER'S CONTINUED DETENTION VIOLATES ZADVYDAS v. DAVIS, 533 U.S. 678 (2001)

In *Zadvydas*, the Supreme Court held that ICE may not detain a noncitizen indefinitely when removal is not reasonably foreseeable. The Court established a presumptively reasonable detention period of six months. After that period, once the detainee shows evidence that removal is unlikely, the burden shifts to the Government to demonstrate that removal is significantly likely in the reasonably foreseeable future.

Here, Petitioner has been detained beyond the 90-day removal period and exceeding six months. ICE has not obtained travel documents from Honduras, nor demonstrated that repatriation is foreseeable. Accordingly, continued detention violates *Zadvydas*.

II. ICE'S DETENTION OF PETITIONER IS ARBITRARY AND VIOLATES DUE PROCESS UNDER THE FIFTH AMENDMENT

The Fifth Amendment prohibits deprivation of liberty without due process of law. Immigration detention must serve a legitimate government purpose—either preventing flights or protecting the community.

Petitioner applied for Asylum and Withholding of Removal and the case was denied by the immigration judge in the detention center, and it was ordered the removal to Guatemala. The petitioner has a pending appeal with the Board of Immigration Appeals (BIA) since December 12, 2025. Under 8 CFR § 1003.6(a) filing an appeal with the BIA suspends the execution of the removal order until the appeal is resolved. ICE lacks the authority to carry out the deportation while the appeal is pending, and the stay is in effect.

Petitioner previously filed a petition for habeas corpus, and it was granted on January 8, 2026. Subsequently, the petitioner was taken to a bond hearing before an immigration judge, and the release was denied because the petitioner was deemed an extreme flight risk. Petitioner does not pose a risk of flight. The record demonstrates that Petitioner has strong and longstanding ties to the United States, including close family members, a fixed residence, and significant community connections. These factors weigh heavily against any likelihood that Petitioner would abscond if released. Additionally, Petitioner does not have a criminal history that would suggest disregard for the law or an inclination to evade legal processes. The absence of any significant criminal record further supports the conclusion that Petitioner is neither a danger to the community nor a flight risk.

Finally, even if the Court were to have any concern regarding Petitioner's appearance at future proceedings, less restrictive alternatives to detention are available and sufficient to mitigate any such concern. Conditions such as supervised release, periodic reporting requirements, or electronic monitoring would adequately ensure Petitioner's compliance.

Accordingly, Petitioner's continued detention is not justified by any legitimate concern of flight risk and violates the Due Process Clause of the Fifth Amendment.

Where detention no longer serves its stated purpose, because removal is not possible, continued confinement becomes arbitrary and unconstitutional.

III. DETENTION IS NOT AUTHORIZED UNDER INA § 241(a)(6)

The Immigration and Nationality Act does not authorize indefinite detention. Where the government cannot effectuate removal within a reasonable period, detention becomes unlawful.

Because Guatemala or Honduras has not accepted Petitioner and ICE has not indicated any likelihood of imminent removal, detention under INA § 241(a)(6) exceeds statutory authority.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus, order his immediate release under appropriate supervision, and provide any further relief the Court deems just and proper.

Date: April 27, 2026

Name:

Elmer Leonel Garcia Castro

Elmer Garcia

CERTIFICATE OF SERVICE

I, Elmer Leonel Garcia Castro, hereby certify that on April 27, 2026, I served a true and correct copy of the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, along with all supporting documents, by U.S. Mail, postage prepaid, addressed to:

1. U.S. Attorney's Office Southern

District of California 880 Front
Street, Room 6293 San Diego, CA
92101

2. Office of the Attorney General

U.S. Department of Justice
950 Pennsylvania Avenue, NW Washington, DC
20530-0001

3. Field Office Director

ICE – Enforcement and Removal Operations San
Diego Field Office
1624 Lemon Grove Avenue Lemon
Grove, CA 91945

4. Warden

Otay Mesa ICE Processing Center
7488 Calzada de la Fuente
Otay Mesa, CA 92154

Executed on: April 27, 2026

Signature: Elmer Garcia

Elmer Leonel Garcia Castro