

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

UNITED STATES DISTRICT COURT
for the

FILED MAY 18 2026
MDGR-COL

ARELLANO APOLINAR, NAHU
PRO SE (A# [REDACTED])

Petitioner

v.

WARDEN, Folkston ICE Processing Center;
ICE / DHS Office Counsel;
U.S. Attorney General

Respondent

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

Case No. _____
(Supplied by Clerk of Court)

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

Personal Information

1. (a) Your full name: ARELLANO APOLINAR NAHU
- (b) Other names you have used: _____
2. Place of confinement:
 - (a) Name of institution: STEWART DETENTION CENTER
 - (b) Address: 146 CCA ROAD LUMPKIN GA 31815
- (c) Your identification number: [REDACTED]
3. Are you currently being held on orders by:

☒ 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
 ☐ Other (explain): _____

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)

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- ☐ 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): _____

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

(a) Name and location of the agency or court: STEWART DETENTION CENTER; ICE / DHS

(b) Docket number, case number, or opinion number: (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
voluntary departure.

(d) Date of the decision or action: 04/23/2026

Your Earlier Challenges of the Decision or Action7. **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: _____

8. **Second appeal**

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

☐ Yes ☐ No

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(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: _____

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: _____

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

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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: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes ☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 01/16/2026
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes ☐ No

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If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: In process
- (4) Date of result: _____
- (5) Issues raised: (1) The Immigration Judge erred in imposing a Voluntary Departure order against Petitioner's express will and without his consent; (2) Petitioner was denied effective assistance of counsel due to his attorney's gross negligence and abandonment; (3) Petitioner's initial arrest was unlawful and pretextual in violation of the Fourth Amendment; (4) Petitioner's prolonged detention without a valid removal order violates the Fifth Amendment; (5) The Immigration Judge failed to consider the exceptional hardship to Petitioner's family."

(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: _____

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: PROLONGED DETENTION WITH VOLUNTARY DEPARTURE ORDER:

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

THE CONTINUED DETENTION OF PETITIONER NAHU AFTER THE IMMIGRATION JUDGE ORDERED VOLUNTARY DEPARTURE IS UNLAWFUL BECAUSE THE GOVERNMENT HAS FAILED TO EXECUTE SAID ORDER AND YET CONTINUES TO DEPRIVE PETITIONER OF HIS LIBERTY WITHOUT ANY VALID LEGAL BASIS

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

☐ Yes

☒ No

GROUND TWO: DETENTION VIOLATES THE FOURTH AND FIFTH AMENDMENTS

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

THE CUMULATIVE EFFECT OF THE UNLAWFUL TRAFFIC STOP, THE FALSE JUSTIFICATION OFFERED BY THE ARRESTING OFFICER, THE ARBITRARY AND CAPRICIOUS CONDUCT THROUGHOUT THE ENCOUNTER, AND THE SUBSEQUENT TRANSFER TO IMMIGRATION CUSTODY WITHOUT LAWFUL BASIS CONSTITUTES A SEVERE AND ONGOING VIOLATION OF PETITIONER'S RIGHTS

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

☐ Yes

☒ No

GROUND THREE: HARDSHIP EXCEPCIONAL Y CRUEL / EXCEPTIONAL AND EXTREME HARDSHIP:

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

PETITIONER'S CONTINUED DETENTION WITHOUT LEGAL JUSTIFICATION CONSTITUTES A CRUEL AND UNUSUAL VIOLATION OF HIS FUNDAMENTAL RIGHTS AND CAUSES IRREPARABLE AND DEVASTATING HARM TO HIS FAMILY, INCLUDING HIS WIFE WHO IS LOSING VISION IN ONE EYE THREE MINOR CHILDREN WHO DEPEND ENTIRELY UPON PETITIONER FOR THEIR CARE AND SUPPORT

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

☐ Yes

☒ No

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GROUND FOUR:

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

(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:

Request for Relief

15. State exactly what you want the court to do: (1) declare that Petitioner's detention at the Folkston ICE Processing Center since January 16, 2026 is unlawful and violates the Fourth and Fifth Amendments to the U.S. Const. (2) order the immediate release of Petitioner from the Folkston ICE Processing Center; (3) in the alternative, order an emergency bond hearing where Petitioner may demonstrate that he does not represent a flight risk or danger to the community;

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Declaration Under Penalty Of Perjury

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

NAHU ARELLANO APOLINAR

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: 05/10/2026

Nahu.

Signature of Petitioner

Signature of Attorney or other authorized person, if any

Print

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**IN THE UNITED STATES DISTRICT COURT
FOR GEORGIA'S MIDDLE DISTRICT
COLUMBUS DIVISION**

NAHU ARELLANO APOLINAR,

Petitioner (PRO SE A



v.

**DIRECTOR of the Stewart ICE Processing Center;
U.S. Immigration and Customs Enforcement;
U.S. Department of Homeland Security;
U.S. Attorney General,
*Defendants.***

Civil Action No.: _____

HABEAS CORPUS PETITION UNDER 28 U.S.C. § 2241

Petitioner NAHU ARELLANO APOLINAR, acting pro se, respectfully petitions this Honorable Court to issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, and in support thereof states the following:

I. JURISDICTION

This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, which grants federal district courts the authority to issue writs of habeas corpus for the benefit of persons detained in violation of the Constitution, laws, or treaties of the United States. The Petitioner is currently being held at the Stewart ICE Processing Center, located at 146 CCA Road, Lumpkin, Georgia, 31815, within the jurisdiction of this Court.

II. PARTIES

A. The Petitioner, NAHU ARELLANO APOLINAR, is a citizen and national of Mexico, currently detained at the Stewart ICE Processing Center, 146 CCA Road, Lumpkin, GA 31815. The Petitioner has been in immigration custody since January 16, 2026. Its alien registration number is 

B. Respondent, DIRECTOR is the person responsible for the day-to-day operations of the Stewart ICE Processing Center and is the immediate custodian of the Petitioner.

C. The Respondent, U.S. Immigration and Customs Enforcement (ICE), is the federal agency responsible for the Petitioner's detention.

D. The Respondent, U.S. Department of Homeland Security (DHS) is the federal department with ultimate authority over the Petitioner's immigration detention.

III. STATEMENT OF FACTS

On January 16, 2026, Petitioner NAHU ARELLANO APOLINAR was stopped by a local law enforcement officer during a traffic stop. The agent alleged that the Petitioner's minor children were traveling without seat belts. This allegation was false and is directly contradicted by the eyewitness testimony of the Petitioner's wife, who was present and witnessed the entire situation.

Instead of issuing a traffic ticket—the only legally appropriate response to the alleged minor infraction—the officer proceeded to: (1) remove the entire family from the vehicle without valid legal justification; (2) calling a tow truck to impound the family vehicle; (3) arrest the

Petitioner; and (4) immediately transfer him to immigration custody, where on the same day, January 16, 2026, immigration detention was imposed.

The Petitioner has been continuously detained at the Stewart ICE Processing Center since January 16, 2026—a period exceeding three and a half months—without a valid final order of removal, without a proper bond hearing, and without any legal basis for continued detention.

Following his arrest, the Petitioner's family hired immigration attorney Jorge Alvarez of the Anderson Law Group, located at 1617 25th Ave, Gulfport, MS 39501, paying him ELEVEN THOUSAND DOLLARS (\$11,000.00) in legal fees. Despite receiving this hefty payout, the attorney engaged in a pattern of gross negligence, abandonment, and fraudulent conduct during representation.

The hired attorney never maintained meaningful communication with the Petitioner. He never contacted him directly, never called him, never visited him in the detention center. The Petitioner repeatedly attempted to contact counsel by telephone to find out the status of his case, but his calls were not answered.

Attorney told the Petitioner's family only sporadically and by telephone, representing on one occasion that a request for cancellation of removal under section 240A(b) of the INA had been filed and denied by the immigration judge. However, counsel never provided the Petitioner's wife or family with any copies of documents, court orders, receipts, or

documentation confirming that the application had been filed, despite having received \$11,000.00 in fees.

On the day of the Petitioner's last hearing, counsel contacted the family and demanded an additional payment of THREE HUNDRED DOLLARS (\$300.00) as a condition of appearing at the hearing. The family paid this additional sum. Despite having received it, the lawyer appeared at the hearing but did not make any significant effort to litigate the case. He did not present evidence, make substantive legal arguments, present witnesses, or take any effective legal action to defend the Petitioner's rights.

As a direct result of the attorney's total failure, the immigration judge issued a voluntary departure order. This order was issued without adequately considering the Petitioner's individual circumstances, the exceptional suffering of his family, the serious medical condition of his wife, who lost sight in one eye in the other is in equal condition, or the situation of his three minor children who are completely dependent on him. The Petitioner never requested, consented to, or accepted voluntary departure. The order was imposed unilaterally, against the Petitioner's will, exceeding the legal authority of the Immigration Judge.

The Petitioner's wife is currently suffering from a serious and progressive medical illness that causes her to lose vision in one eye. She is the sole caregiver of the couple's three minor children in the Petitioner's absence. The Petitioner is the sole financial provider and primary

caregiver of the household. His continued illegal detention has left his wife and three minor children in extreme and exceptional suffering.

IV. GROUNDS FOR GRANTING THE REMEDY

GROUND I

THE BINDING DECISION OF THE ELEVENTH CIRCUIT IN HERNANDEZ ALVAREZ v. DIRECTOR, No. 25-14065 (11th Cir. May 6, 2026), CALLS FOR THE IMMEDIATE GRANTING OF A BOND HEARING AND THE RELEASE OF PETITIONER

A. Eleventh Circuit Decision Directly Binding and Applicable to This Case

On May 6, 2026, the Eleventh Circuit Court of Appeals issued a FOR PUBLICATION decision in the consolidated cases Hernandez Alvarez v. Warden, Federal Detention Center Miami/Cerro Perez v. Assistant Field Office Director, Nos. 25-14065 and 25-14075 (11th Cir. May 6, 2026). This decision is directly binding on this Court and on all courts of the Eleventh Circuit, which includes the Middle District of Georgia where the Petitioner is being held.

The facts in Hernandez Alvarez are virtually identical to those of the Petitioner NAHU ARELLANO APOLINAR:

- Hernandez Alvarez and Cerro Perez are Mexican nationals who entered the United States without inspection and resided in the interior of the country.
- Both were arrested by immigration authorities after a traffic stop, exactly like the Petitioner on January 16, 2026.

- Both were held without bail under the government's theory that INA § 1225(b)(2)(A) applied as mandatory detention without bail.
- The Eleventh Circuit UPHeld the grant of habeas corpus and ordered that both be eligible for bail hearing under § 1226(a).

B. Central Holding: § 1225(b)(2)(A) Does NOT Apply to Domestic Aliens Arrested at Traffic Stops

The Eleventh Circuit held unequivocally: the detention without bail provision of § 1225(b)(2)(A) applies only to aliens at the border who are actively seeking admission, and NOT to aliens who are merely present in the interior of the country. The court explained:

"Petitioners were not applying for entry in any literal sense when they were detained following a traffic stop, nor were they taking any cognizable step to obtain the rights and privileges of lawful entry. They were only present in the country. They were not seeking or pursuing any object, let alone 'lawful entry.'" Slip op. at 20-21.

The Court also concluded:

"We hold only that Congress has not done so under the provisions found in the INA... Section 1225(b)(2)(A) does not apply to Petitioners or to other present aliens not seeking admission." Slip op. at 5, 35.

C. Direct Application to Petitioner Nahu Arellano Apolinar

Petitioner NAHU ARELLANO APOLINAR was in the interior of the country when he was arrested on January 16, 2026, during a traffic stop. I wasn't at any border, I wasn't trying to

get into the United States, I wasn't seeking admission in any sense of the term. Their situation is, in every relevant respect, identical to that of Hernández Álvarez and Cerro Pérez.

Under the binding holding of the Eleventh Circuit, § 1225(b)(2)(A) does NOT apply to the Petitioner. His detention should have been governed from the outset by § 1226(a) of the INA, which:

- It gives the Petitioner the right to a bond hearing before an immigration judge.
- It allows for your release on bail or supervised probation.
- It does not impose mandatory detention without bail.

D. Government Lacks Any Legal Basis to Continue To Detain Petitioner Without Bail Hearing

The Government's theory that § 1225(b)(2)(A) mandates mandatory detention without bail of any alien not admitted present in the country has been expressly rejected by the Eleventh Circuit. The Court was explicit: '(T)he language that Congress has chosen to use does not grant to the Executive unfettered authority to detain, without the possibility of bond, every unadmitted alien present in the country.' Slip op. at 56.

Since this Court is bound by the jurisprudence of the Eleventh Circuit, the only possible legal conclusion is that the Petitioner is immediately entitled to a bond hearing. Any continuation of his detention without such a hearing violates federal law as interpreted by the court overseeing this district.

GROUND II

THE PETITIONER'S INITIAL ARREST ON JANUARY 16, 2026, WAS ILLEGAL, PRETEXTUALLY, AND CONSTITUTIONALLY FLAWED UNDER THE FOURTH AMENDMENT, INVALIDATING ALL SUBSEQUENT IMMIGRATION DETENTION UNDER THE POISONOUS TREE FRUIT DOCTRINE

A. The Traffic Stop Was Based on a False and Pretextual Justification

The Fourth Amendment to the U.S. Constitution guarantees every person—regardless of immigration status—the right to be free from unreasonable detention and arrest without probable cause. *Terry v. Ohio*, 392 U.S. 1 (1968). The justification invoked by the officer—that the Petitioner's children were traveling without seat belts—was demonstrably false and is directly contradicted by the eyewitness testimony of the Petitioner's wife. Even assuming that the alleged violation had occurred, it would constitute at most a minor civil offense that does not warrant the arrest of the driver or the confiscation of the family vehicle.

B. The Doctrine of the Fruit of the Poisonous Tree Invalidate All Subsequent Arrest

Under the doctrine of the Fruit of the Poisonous Tree set forth in *Wong Sun v. United States*, 371 U.S. 471 (1963), all evidence obtained, and any action taken as a direct result of an unlawful arrest must be suppressed. The Petitioner's immigration detention, transfer to ICE custody, and all subsequent immigration proceedings—including the voluntary departure order—are the direct and immediate result of the unconstitutional traffic stop. The constitutional defect that initiated this chain of events irrevocably contaminates all its fruits and compels this Court to order the immediate release of the Petitioner.

The Eleventh Circuit's decision in Hernandez Alvarez expressly confirms that, when an alien is arrested during an inland traffic stop, § 1225(b)(2)(A) does not apply. This conclusion further reinforces the Petitioner's argument under the Fourth Amendment: his arrest was unlawful, and any detention stemming from him is unlawful as well.

GROUND III

THE PETITIONER'S CONTINUED DETENTION IS UNLAWFUL BECAUSE THE GOVERNMENT HAS FAILED TO EXECUTE THE VOLUNTARY DEPARTURE ORDER AND CONTINUES TO DEPRIVE THE PETITIONER OF HIS LIBERTY WITHOUT ANY VALID LEGAL BASIS, IN VIOLATION OF THE FIFTH AMENDMENT

A. A Voluntary Departure Order Is Not a Detention Order

A voluntary departure order issued under section 240B of the INA does not constitute a detention order nor does it authorize the government to detain a person indefinitely. Under section 240B(b)(2) of the INA, the maximum period allowed for voluntary departure is 60 days. The government's failure to execute the release within that timeframe, while simultaneously refusing to release the Petitioner, renders his continued detention arbitrary, capricious, and illegal. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

B. Pending Appeal to BIA Automatically Stays Voluntary Departure Order

The Petitioner has filed or is in the process of filing a Notice of Appeal with the Board of Immigration Appeals (BIA). Pursuant to 8 C.F.R. § 1240.26(i), timely filing of an appeal with the BIA automatically suspends the voluntary departure order. With the order suspended, the government has no legal basis to continue detaining the Petitioner.

C. Detention Without Execution of Order Constitutes Punishment Without Conviction

The Petitioner has been detained since January 16, 2026. The government has had more than enough time to execute the Voluntary Departure or release the Petitioner. Its failure to do so—while continuing to deprive the Petitioner of his liberty—constitutes punishment without conviction in direct violation of the Fifth Amendment. The Supreme Court has unequivocally ruled that detention that does not serve any legitimate governmental purpose violates due process. *Zadvydas v. Davis*, 533 U.S. at 690.

GROUND IV

THE IMMIGRATION JUDGE VIOLATED PETITIONER'S DUE PROCESS RIGHTS BY ISSUING A VOLUNTARY DEPARTURE ORDER WITHOUT HIS APPLICATION OR CONSENT AND WITHOUT ADEQUATELY CONSIDERING HIS INDIVIDUAL CIRCUMSTANCES AND EXCEPTIONAL FAMILY SUFFERING, RENDERING THE AB INITIO ORDER NULL AND VOID

Voluntary departure under section 240B of the INA is, by statutory mandate, a benefit that can only be granted when a person freely and voluntarily requests and accepts it. The term 'voluntarily' in section 240B(a)(1) of the INA is not aspirational language; it is a mandatory legal requirement. *Given v. Mukasey*, 554 U.S. 1 (2008). *Matter of Zmijewska*, Dec. 24 I&N 87 (BIA 2007).

In the present case, the Petitioner NAHU ARELLANO APOLINAR never requested voluntary departure. He did not consent to it or accept it. The immigration judge imposed the order unilaterally and against the Petitioner's will, acting *ultra vires*—outside the bounds of

his legal authority. An order issued that exceeds judicial authority is null and void and without legal effect ab initio.

In addition, the Immigration Judge issued the voluntary departure order without adequately considering: (1) the exceptional suffering that deportation would cause to the Petitioner's wife, who is currently losing vision in one eye; (2) the devastating impact on the Petitioner's three minor children, who depend on him as their sole caregiver and provider; (3) the absence of meaningful legal representation at the hearing due to the gross negligence of counsel; and (4) the totality of the Petitioner's individual circumstances. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

GROUND V

THE PETITIONER WAS DEPRIVED OF HIS CONSTITUTIONAL RIGHT TO EFFECTIVE LEGAL ASSISTANCE DUE TO HIS ATTORNEY'S PATTERN OF GROSS NEGLIGENCE, FRAUD, ABANDONMENT, AND EXTORTION, RESULTING IN A FUNDAMENTALLY UNFAIR PROCESS IN VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

The Petitioner and his family hired an immigration attorney and paid him the sum of ELEVEN THOUSAND DOLLARS (\$11,000.00) in legal fees. Such an attorney engaged in the following pattern of gross negligence, fraud, and abandonment:

- Attorney NEVER contacted the Petitioner directly throughout the representation. She never called him to the detention center, never visited him in person, or communicated with him about the status of his case.

- The Petitioner repeatedly attempted to contact counsel by telephone. Their calls went unanswered. The Petitioner was completely unaware of the proceedings being conducted on his behalf.
- Attorney never prepared the Petitioner for any hearing. The Petitioner appeared at his final hearing unprepared and without knowing the arguments that would be presented in his defense.
- The attorney represented the family by telephone that a request for cancellation of removal had been filed under § 240A(b) of the INA, but never provided copies of the documents filed, court orders, denial notices, or confirmation documentation, despite having received \$11,000.00 for that purpose.
- On the day of the Petitioner's last hearing, counsel contacted the family and demanded an additional payment of THREE HUNDRED DOLLARS (\$300.00) as a condition of their appearance at the hearing. This conduct—demanding additional payment as a condition of appearing at a critical hearing after having already received \$11,000.00—constitutes extortion and a fundamental violation of the attorney's professional and ethical obligations.
- Despite receiving the additional payment of \$300.00 and appearing at the final hearing, counsel did not make any significant effort to litigate the Petitioner's case. He failed to present evidence, to make substantive legal arguments, to present witnesses, to file motions, and to take no effective legal action to defend the

Petitioner's rights, refute the government's case, or present the exceptional suffering of the Petitioner's family.

The pattern of conduct described constitutes gross negligence and effective abandonment of the attorney-client relationship at every critical stage of the case. The Eleventh Circuit has recognized that the gross negligence of counsel in immigration proceedings resulting in a fundamentally unfair process violates the Due Process Clause of the Fifth Amendment and justifies the granting of relief.

Matter of Lozada, Dec. 19, 19 I&N 637 (BIA 1988). *Dent v. Holder*, 627 F.3d 365 (11th Cir. 2010).

GROUND VI

THE PETITIONER'S CONTINUED UNLAWFUL DETENTION CAUSES EXCEPTIONAL, EXTREME, AND IRREPARABLE SUFFERING TO HIS WIFE, WHO IS CURRENTLY LOSING VISION IN ONE EYE, AND TO THEIR THREE MINOR CHILDREN WHO HAVE NO OTHER CAREGIVER OR FINANCIAL PROVIDER

A. Petitioner Is the Sole Financial Provider and Caregiver of Your Home

Petitioner NAHU ARELLANO APOLINAR is the sole financial provider and primary caregiver for his household, comprised of his wife and three minor children. His detention since 16 January 2026 has deprived his family of their only daily sustenance and care, causing devastating and irreparable damage that is compounding every day.

B. Petitioner's Wife Suffers a Serious and Progressive Medical Crisis

The Petitioner's wife is currently experiencing a serious and progressive medical condition that is causing her to lose vision in one eye. This condition requires ongoing medical care and daily assistance. As a direct result of the Petitioner's unlawful detention, his wife is forced to serve as the sole caregiver for three minor children while simultaneously battling a condition that affects her vision. She does so without the support of her husband, who is illegally detained, and without the financial resources that the Petitioner's work would have provided.

C. Three Minor Children Have Been Left Without Their Father and Sole Caregiver

The Petitioner's three youngest children have been deprived of their father—their sole caregiver and financial provider—for more than three and a half months. The children are in the care of a mother who is losing vision in one eye and who cannot physically or financially support them on her own. Children suffer serious emotional, psychological, and financial harm as a direct result of forced and unjustified separation from their father. The best interests of these children — a principle deeply rooted in U.S. law and jurisprudence — demands the immediate release of their father. *Troxel v. Granville*, 530 U.S. 57 (2000).

D. The Totality of Circumstances Scandalizes the Conscience and Demands the Granting of the Remedy

Continuing to detain a man whose wife is losing her sight and whose three children have no other caregiver—without any valid legal basis, as a result of an unlawful arrest, a null voluntary departure order, and the gross negligence of a paid attorney, and now expressly violating the binding decision of the Eleventh Circuit in *Hernandez Alvarez*—shocks

conscience and violates the most fundamental principles of justice, humanity and constitutional law. *Rochin v. California*, 342 U.S. 165 (1952). This Tribunal cannot stand idle while an innocent family is destroyed by an unlawful detention that serves no legitimate governmental purpose.

V. REQUEST FOR REMEDY

THEREFORE, PETITIONER NAHU ARELLANO APOLINAR respectfully requests this Honorable Court:

- **IMMEDIATE:** To apply the binding decision of the Eleventh Circuit in *Hernandez Alvarez v. Director*, No. 25-14065 (11th Cir. May 6, 2026), and to order an emergency bond hearing pursuant to § 1226(a) of the INA, as this decision is directly applicable and binding on this Court.
- Issue a Writ of Habeas Corpus directing the Respondents to demonstrate why the Petitioner should not be immediately released from custody.
- To declare that the Petitioner's initial arrest on January 16, 2026, was unlawful, pretextual, and in violation of the Fourth Amendment to the United States Constitution, and that all subsequent immigration detention is tainted and void under the Fruit of the Poisonous Tree doctrine.
- To declare that Petitioner's continued detention at the Stewart ICE Processing Center since January 16, 2026, is unlawful and in violation of the Fourth and Fifth

Amendments to the United States Constitution, as well as the binding decision of the Eleventh Circuit in Hernandez Alvarez.

- Declare null and void the Voluntary Departure Order issued by the Immigration Judge, having been imposed against the express will of the Petitioner, without his consent, in excess of the legal authority of the Immigration Judge, and without adequate consideration of the Petitioner's individual circumstances and the exceptional sufferings of his family.
- Order the immediate release of Petitioner NAHU ARELLANO APOLINAR from the Stewart ICE Processing Center.
- Alternatively, order an emergency bail hearing at which the Petitioner can demonstrate that he does not pose a flight risk or danger to the community, taking full account of the exceptional suffering of his wife, who is losing vision in one eye, and their three minor children.
- Order a new and complete hearing before a different Immigration Judge, with competent and effective legal representation, where the Petitioner may present all available forms of relief, including, but not limited to, Cancellation of Removal pursuant to section 240A(b) of the INA.
- To grant such other additional relief as this Honorable Tribunal deems just and appropriate.

VI. VERIFICATION

I, NAHU ARELLANO APOLINAR, declare, under penalty of perjury pursuant to 28 U.S.C.

§ 1746, that the foregoing is true and correct to the best of my knowledge. Executed this 05

day of 11, 2026, in Stewart, Georgia.

Respectfully,

NAHU ARELLANO APOLINAR, Pro Se Petitioner

Stewart Detention Center

146 CCA Road Lumpkin, GA 31815

Number A:



Date: 05/11/2026

CERTIFICATE OF SERVICE

I hereby certify that on this 05 day of 11, 2026, I delivered a true and correct copy of the Petition for Writ of Habeas Corpus prior to the following:

- **Director, Stewart ICE Detention Center.**

146 CCA Road Lumpkin, GA 31815.

- **Office of the Chief Legal Counsel of the U.S. Immigration and Customs Enforcement**

146 CCA Road, Lumpkin, GA 31815.

- **U.S. Department of Homeland Security, Office of the Attorney General.**

245 Murray Lane, SW Mail Stop 0485 Washington, DC 20528-0485.

- **U.S. Attorney's Office**

950 Pennsylvania Avenue, NW Washington, DC 20530.