

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

UNITED STATES DISTRICT COURT

for the
Middle District of Florida

Augusto Laza Cuesta A-Number: A-

Petitioner

v.

Warden, Alligator Alcatraz Detention Facility (or current
ICE custodian)

Respondent

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

Case No. 2:26-cv-1677-SAC NPM

(Supplied by Clerk of Court)

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

Personal Information

1. (a) Your full name: Augusto Laza Cuesta
- (b) Other names you have used: None
2. Place of confinement:
 - (a) Name of institution: Alligator Alcatraz ICE Detention Facility/Florida Soft Side South
 - (b) Address: 54575 TAMiami TRl E
OCHOPEE, FL 34141
 - (c) Your identification number: A-
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
(ICE / DHS)
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): Unlawful and prolonged detention based on materially false criminal information, abuse in custody, and attempted removal without due process

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

- (a) Name and location of the agency or court: _____
- (b) Docket number, case number, or opinion number: _____
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Continued immigration detention based on false DHS criminal classification ("homicide" instead of manslaughter)
Public dissemination of false criminal information, Attempted removal despite inability to deport,
Transfer between facilities to facilitate removal, Physical abuse by ICE guards at Krome Detention Center
- (d) Date of the decision or action: 02/03/2026

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: ICE / DHS CRCL / DHS OIG

(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: Tried to file an appeal when I was abused by the guards but ICE would not assist, the incident happened on December 15th, 2025, I was even taken to a hospital in Kendall and was not able to notify my family members of what happened until I was released.

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: No attorney would take case due to the administration in power currently.

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: 10/20/2025

(b) Date of the removal or reinstatement order: 02/17/1995

(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: _____
- (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: _____

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 Post-Removal-Order Detention Violates Due Process Under Zadvydas v. Davis
 Petitioner respectfully asserts that his continued detention by U.S. Immigration and Customs Enforcement has become constitutionally impermissible under *Zadvydas v. Davis*, 533 U.S. 678 (2001).
 Petitioner has now been detained for more than six months following entry of his final order of removal.

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

Under *Zadvydas*, detention beyond six months is presumptively unreasonable where there is no significant likelihood of removal in the reasonably foreseeable future.

Despite Petitioner's continued detention, removal has not occurred, and there is no evidence that removal is likely to occur soon.

Detained October 20th, 2025 before that I was held by immigration for 5 years and released under USOP 2001

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

☒ Yes

☐ No

GROUND TWO: Fifth Amendment Due Process Violation(False Evidence0 Worst of the Worst website.

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

DHS has publicly labeled petitioner as having committed "HOMICIDE" on its official "Worst of the Worst" website

This is materially false. The actual conviction was manslaughter, confirmed by certified court records. DHS continues to rely on this false information and removal decisions.

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

☐ Yes

☒ No

GROUND THREE: Physical abuse and Retaliation in ICE Custody

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

While detained at Krome Detention Center, Petitioner was physically assaulted by ICE guards after speaking up about mistreatment of another detainee. He was handcuffed, thrown to the floor, punched and kicked in the arm. This constitutes unconstitutional punishment of a civil detainee

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

☐ Yes

☒ No

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GROUND FOUR: CAT Protection / Risk of Torture

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

Petitioner faces a substantial risk of torture if removed to Cuba or any third-world country, including abuse by government authorities, indefinite detention, and retaliation based on criminal history and political conditions. DHS has attempted removal despite these risks.

(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:

Administrative remedies are inadequate because DHS continues to rely on false information and removal attempts are ongoing, creating irreparable harm.

Request for Relief

15. State exactly what you want the court to do:

Order immediate release from ICE custody

Enjoin removal pending correction of DHS records

Order DHS to correct all false criminal information

Grant any other relief the Court deems just and proper

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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:

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:

5/14/26

Augusto Lopez Cruz
Signature of Petitioner

Signature of Attorney or other authorized person, if any