

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO**

**Edgar Eduardo REYES GONZALEZ,** )  
 )  
 *Petitioner-Plaintiff,* )  
 )  
 **v.** )  
 )  
 **Richard K. JONES,** Sherriff, Butler County )  
 Jail, )  
 )  
 **Kevin GRATHWOHL** Warden, Butler )  
 County Jail, )  
 )  
 **Kevin RAYCRAFT,** Acting/Director, Detroit )  
 Field Office, Immigration and Customs )  
 Enforcement, )  
 )  
 **David VENTURELLA,** Acting Director of U.S. )  
 Immigration and Customs Enforcement, )  
 )  
 **Markwayne MULLIN,** Secretary of the U.S. )  
 Department of Homeland Security; and )  
 )  
 **Todd BLANCHE,** Attorney General of the )  
 United States, )  
 )  
 in their official capacities, )  
 )  
 *Respondents-Defendants.* )  
 \_\_\_\_\_ )

Case No. \_\_\_\_\_

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**INTRODUCTION**

1. This case challenges the unlawful detention of Edgar Eduardo Reyes Gonzalez (“Petitioner” or “Petitioner Reyes Gonzalez”), who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at Butler County Jail located at 705 Hanover St, Hamilton, OH 45011. Petitioner is neither a flight risk nor a danger to the community. On May 15, 2026, ICE detained him at a routine marriage-based adjustment of status interview with U.S. Citizenship and Immigration Services (“USCIS”).

2. The same day, Petitioner was served with an I-871, Notice of Intent/ Decision to Reinstate Prior Order despite all appropriate waivers in regard to the prior removal expedited removal order filed with USCIS.
3. On May 16, 2026, Petitioner timely filed a Petition for Review with the U.S. Court of Appeals for the Sixth Circuit challenging the validity of the reinstatement order due to that fact that he was inspected and admitted into the United States.
4. On May 19, 2026, the U.S. Court of Appeals for the Sixth Circuit entered an administrative stay of removal, legally blocking Respondents-Defendants from executing the reinstatement order and stripping the order of its present executability.
5. Because the Sixth Circuit's stay has frozen the removal process, Respondents-Defendants have no lawful authority to subject Petitioner Reyes Gonzalez to mandatory post-removal detention. Petitioner has fully complied with all immigration requirements, has deep family and community ties, and poses no threat to the public safety. Yet, Respondents- Defendants continue to unlawfully detain him at Butler County Jail.
6. These actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and the Immigration and Nationality Act, because the government cannot lawfully maintain mandatory detention when a federal court stay has legally blocked the execution of the underlying removal order.
7. Accordingly, to vindicate Petitioner Reyes Gonzalez's statutory and constitutional rights, this Court should grant the instant petition for writ of habeas corpus.
8. Petitioner Reyes Gonzalez brings this action for injunctive, habeas and declaratory relief orderings Respondents to release him.

### **JURISDICTION**

9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

### **VENUE**

10. Venue is proper in this district because Respondent-Defendant Sherriff RICHARD K. JONES and Warden KEVIN GRATHWOHL are Petitioner's immediate custodians and under 28 U.S.C. § 1391(e)(1) because Respondents-Defendants are officers of United States agencies, Petitioner currently resides within this District, and there is no real property involved in this action.
11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

### **REQUIREMENTS OF 28 U.S.C. § 2243**

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).
13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).


### **PARTIES**

14. Petitioner Reyes Gonzalez has lived in the United States for over 10 years. Prior to Petitioner's detention on May 15, 2026 he was residing in Liberty Township, Ohio. Petitioner is currently detained at Butler County Jail in Hamilton, Ohio. He is in the custody, and under the direct control, of Respondents-Defendants and their agents.
15. Respondent-Defendant RICHARD K. JONES is the Sherriff of the Butler County Jail, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner Reyes Gonzalez.
16. Respondent-Defendant KEVIN GRATHWOHL is the Warden of the Butler County Jail, and he has immediate physical custody of Petitioner Reyes Gonzalez pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner Reyes Gonzalez.
17. Respondent-Defendant KEVIN RAYCRAFT is sued in his official capacity as the Acting Director of the Detroit Field Office of U.S. Immigration and Customs Enforcement (ICE). Respondent-Defendant Raycraft is a legal custodian of Petitioner Reyes Gonzalez and has authority to release him.
18. Respondent-Defendant DAVID VENTURELLA is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent-Defendant Venturella is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent-Defendant Venturella is a legal custodian of Petitioner Reyes Gonzalez.
19. Respondent-Defendant MARKWAYNE MULLIN is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent-

Defendant Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees the component agency responsible for Petitioner's detention and custody. Respondent-Defendant Mullin is a legal custodian of Petitioner Reyes Gonzalez.

20. Respondent-Defendant TODD BLANCHE is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority over the administration and enforcement of the nation's immigration laws including the shared responsibility over custody determinations and the execution of prior removal orders. Respondent-Defendant Blanche is a legal custodian of Petitioner Reyes Gonzalez.

#### **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

21. Petitioner Reyes Gonzalez is a 29-year-old citizen and national of Mexico.
22. Petitioner has resided continuously in the United States for over 10 years, has no criminal history, and is a skilled construction worker specializing in framing American homes.
23. Petitioner is married to a United States citizen who is an attorney and is currently pregnant with the couple's first child, due .
24. Petitioner filed a comprehensive Adjustment of Status application packet (Form I-485) with USCIS based upon his marriage to a U.S. citizen and his procedural, inspected entry under *Matter of Quilantan*, with all appropriate waivers.
25. Petitioner submitted an Application for Waiver of Grounds of Inadmissibility (Form I-601) to waive the prior misrepresentation associated with his entry, alongside an Application for Permission to Reapply for Admission into the United States After Deportation or Removal (Form I-212) to address the prior expedited removal order issued in 2015.
26. Petitioner attended his scheduled biometrics appointment with USCIS, was issued an Employment Authorization Document and a Social Security number, and his case was

scheduled for an interview at the USCIS Cincinnati Field Office.

27. On May 15, 2026, Petitioner attended his marriage-based adjustment of status interview. His U.S. citizen spouse was interviewed first. Petitioner was then interviewed, accompanied and represented by separate legal counsel.
28. At the conclusion of the adjustment interview, Immigration and Customs Enforcement (ICE) agents entered the interview room, arrested Petitioner, and served counsel with a Warrant for Arrest (Form I-200) and a copy of the prior expedited removal order.
29. Petitioner was detained at the Butler County Jail and served with a Notice of Intent/Decision to Reinstate Prior Order (Form I-871), which wrongfully alleged that Petitioner had illegally reentered the United States after a prior removal.
30. On the same day as his arrest, May 15, 2026, Petitioner, through counsel, submitted an administrative application for a stay of removal with ICE.
31. Concurrently, Petitioner promptly filed a Petition for Review with the United States Court of Appeals for the Sixth Circuit, alongside an Emergency Motion for a Stay of Removal.
32. On May 19, 2026, the Sixth Circuit Court of Appeals entered an order issuing an administrative stay of removal.
33. On May 21, 2026, Petitioner's counsel received a letter from ICE denying a separate stay of removal submitted to their office. Counsel immediately responded to ICE with a copy of the Sixth Circuit's active administrative stay and formally requested Petitioner's release from custody.
34. On May 22, 2026, counsel followed up with Petitioner's assigned Deportation Officer ("DO") who asserted that Petitioner was subject to mandatory detention. Counsel advised the DO that mandatory detention lacked a legal basis due to the circuit court's stay.
35. The Acting Assistant Field Office Director of the Detroit Field Office, Columbus Ohio Sub-

Office, subsequently contacted counsel, stating that ICE had been unaware that the Sixth Circuit had granted a stay, and confirmed that Petitioner's removal plans had been canceled. However, he maintained the position that mandatory detention still applied despite the administrative stay.

36. Counsel clarified that because the Sixth Circuit's stay stopped the 90-day removal period from running pursuant to 8 U.S.C. §1231(a)(1)(B)(ii), detention is no longer mandatory under §1231, rendering continued mandatory detention legally erroneous.

37. At this time, counsel has not received a response. To remedy this unlawful detention, Petitioner now files this Petition for a Writ of Habeas Corpus.

### **LEGAL FRAMEWORK**

#### **Due Process Governs Decisions to Subject a Non-Citizen to Mandatory Detention**

38. "The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690.

39. Under substantive due process doctrine, a restraint on liberty like the mandatory, non-discretionary detention of a non-citizen is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention). Where a federal court has legally blocked an individual's removal by granting a stay, continuing to hold that individual under a mandatory, non-discretionary framework bears no rational relationship to a legitimate regulatory goal and amounts to unlawful, punitive imprisonment.

40. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision by immigration authorities to maintain a non-citizen in mandatory custody without a valid statutory trigger. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified).

**Statute and Case Law Govern Procedures and Authority for Immigration Detention**

41. A non-citizen who is subject to an order of removal that has been reinstated under 8 U.S.C. § 1231(a)(5) is generally subject to mandatory detention under 8 U.S.C. § 1231(a)(2) only during the statutory 90-day "removal period."
42. However, the statutory framework explicitly dictates when that removal period actually begins. Pursuant to 8 U.S.C. § 1231(a)(1)(B)(ii), if the removal order is judicially reviewed and the reviewing court orders a stay of the removal of the non-citizen, the removal period does not begin until "the date of the court's final order."
43. Because an active judicial stay of removal legally blocks the execution of the underlying removal order, the statutory removal period is suspended or fails to commence. Consequently, the government cannot lawfully maintain mandatory detention under §1231, as the sole statutory trigger for such non-discretionary detention is legally unavailable.
44. Where the removal period has been legally halted by a circuit court's stay, mandatory detention under §1231 lacks any lawful statutory basis. Because the government cannot execute the removal order, it cannot rely on pre-removal mandatory detention provisions to deny an individual their liberty. Where the statutory prerequisite for mandatory custody has failed, continuing to imprison a non-citizen under that framework is unauthorized by law and requires immediate release from custody.

**The APA Sets Minimum Standards for Final Agency Action**

45. The Administrative Procedure Act authorizes judicial review of final agency action. 5 U.S.C. § 704.
46. Final agency actions are those (1) that “mark the consummation of the agency’s decision-making process” and (2) “by which rights or obligations have been determined, or from which legal consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (citation modified).
47. ICE’s determination to subject Petitioner Reyes Gonzalez to mandatory pre-removal detention, and its categorical refusal to recognize that its statutory authority for mandatory custody is legally blocked by a judicial stay, constitutes a final agency action subject to this Court’s review.
48. The determination here marked the consummation of ICE’s decision-making process regarding Petitioner’s custody, as ICE rejected counsel’s requests for release and finalized the agency’s position that mandatory detention applies despite the circuit court’s stay.
49. The determination was also an action by which rights or obligations have been determined or from which legal consequences flowed because it led ICE to continuously imprison Petitioner at the Butler County Jail in violation of his rights under the Constitution, the Immigration and Nationality Act, and controlling federal case law.

**CLAIMS FOR RELIEF**

**COUNT ONE**

**Violation of the Fifth Amendment of the U.S. Constitution  
(Substantive Due Process)**

50. Petitioner Reyes Gonzalez realleges all paragraphs above as if fully set forth here.
51. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. Freedom from bodily restraint lies at the absolute core of this constitutional protection.
52. Under substantive due process, an administrative restraint on liberty is only permissible if it

serves a "legitimate nonpunitive objective." The government cannot lawfully maintain mandatory, non-discretionary detention when a federal court stay has legally blocked the execution of the underlying removal order.

53. Because the United States Court of Appeals for the Sixth Circuit granted an administrative stay of removal on May 19, 2026, the government is legally barred from removing Petitioner.

54. Consequently, continuing to hold Petitioner in absolute, mandatory custody at the Butler County Jail bears no rational relationship to any legitimate regulatory purpose. Because the government cannot execute his deportation, denying Petitioner his liberty under a blanket, non-discretionary framework constitutes unlawful, punitive imprisonment.

**COUNT TWO**  
**Violation of the Fifth Amendment of the U.S. Constitution**  
**(Procedural Due Process)**

55. Petitioner Reyes Gonzalez realleges all paragraphs above as if fully set forth here.

56. To determine whether a statutory detention scheme provides constitutionally sufficient procedural safeguards, courts balance the three-factor test articulated in *Mathews v. Eldridge*: (1) the private interest affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the fiscal and administrative burdens that additional requirements would entail. *Id.* at 335.

57. Respondents are currently detaining Petitioner Reyes Gonzalez under a rigid, mandatory framework under 8 U.S.C. §1231 based upon the reinstatement of a prior removal order. Because this statutory framework contains no native mechanism for an ordinary custody or bond review before an Immigration Judge, it completely strips Petitioner of any procedural vehicle to challenge his ongoing confinement, present evidence of his deep ties to the community, or demonstrate his suitability for release.

58. While mandatory detention under a reinstated order may be constitutionally permissible when removal is truly imminent, it becomes an unconstitutional deprivation of liberty when applied to an individual whose removal has been judicially stayed. Because a federal court has stayed his removal, the government is legally prohibited from executing the reinstatement order. Consequently, Petitioner's ongoing detention is no longer a brief, permissible administrative accompaniment to swift deportation; it has become an indefinite deprivation of physical liberty without judicial oversight.
59. By applying a blanket, categorical policy of mandatory detention to a stayed individual, and refusing to provide an individualized custody hearing where the government bears the burden of justifying detention, Respondents have failed to provide the minimum procedural protections required by the Due Process Clause of the Fifth Amendment.

**COUNT THREE**  
**Violation of the Administrative Procedure Act**  
**(Contrary to Law and Constitutional Right)**

60. Petitioner Reyes Gonzalez realleges all paragraphs above as if fully set forth here.
61. The Administrative Procedure Act ("APA") mandates that reviewing courts hold unlawful and set aside agency actions, findings, and conclusions found to be contrary to constitutional right, power, privilege, or immunity, or otherwise not in accordance with the law. 5 U.S.C. §§ 706(2)(A), (B).
62. Respondents' final determination to subject Petitioner to mandatory detention violates the explicit statutory commands of the Immigration and Nationality Act. Under 8 U.S.C. § 1231(a)(1)(B)(ii), an active judicial stay halts the statutory "removal period." Because the mandatory detention provision of §1231(a)(2) applies *only* during an active removal period, Respondents have no lawful statutory authority to mandate his custody.
63. Furthermore, because this detention lacks a valid statutory trigger and deprives Petitioner of his

fundamental right to liberty, the agency's action is contrary to his constitutional rights under the Fifth Amendment. Enforcing mandatory custody under these circumstances is a direct violation of both the INA and the Constitution.

**COUNT FOUR**  
**Violation of the Administrative Procedure Act**  
**(Arbitrary and Capricious Action)**

64. Petitioner Reyes Gonzalez realleges all paragraphs above as if fully set forth here.
65. The APA requires reviewing courts to set aside agency actions that are arbitrary, capricious, or an abuse of discretion. 5 U.S.C. § 706(2)(A). Agency action is arbitrary and capricious if the agency fails to consider an important aspect of the problem or offer an explanation for its decision that runs counter to the evidence before it.
66. Respondents-Defendants' decision to enforce mandatory detention is arbitrary and capricious because it is predicated on a legally defective Form I-871 Notice of Intent to Reinstatement. This reinstatement order relies on the false factual premise that Petitioner "illegally reentered" the United States, completely ignoring uncontroverted evidence that he was procedurally inspected and admitted under *Matter of Quilantan*.
67. Additionally, ICE completely failed to consider that Petitioner has active Applications for a Waiver of Inadmissibility (Form I-601) and Permission to Reapply (Form I-212) pending alongside his Application to Register Permanent Residence or Adjust Status (I-485) with USCIS to cure his prior immigration history. By ignoring these crucial facts, applying a blanket policy without individualized analysis, and failing to recognize that the Sixth Circuit's stay legally blocked his removal, ICE's action represents an abuse of discretion.

**COUNT FIVE**  
**Violation of the Administrative Procedure Act**  
**(In Excess of Statutory Authority)**

68. Petitioner Reyes Gonzalez realleges all paragraphs above as if fully set forth here.

69. The APA requires courts to hold unlawful and set aside agency action, findings, and conclusions found to be in excess of statutory jurisdiction, authority, or limitations, or short of statutory right. 5 U.S.C. § 706(2)(C).
70. Congress has strictly delineated the boundaries of ICE's authority to enforce mandatory detention under 8 U.S.C. §1231. This authority is explicitly restricted to the statutory 90-day removal period, which cannot run while a federal circuit court stay is in effect.
71. By affirmatively declaring on May 22, 2026, that mandatory detention applies to Petitioner despite the court's stay, ICE expanded the agency's mandatory detention powers beyond the limits set by Congress. Because the statutory prerequisites for mandatory custody have failed, ICE's insistence on maintaining non-discretionary confinement operates entirely in excess of its statutory authority.

**COUNT SIX**  
**Ultra Vires Action**

72. Petitioner Reyes Gonzalez realleges all paragraphs above as if fully set forth here.
73. Executive agencies possess only the authority delegated to them by Congress. When an agency acts completely outside the scope of their delegated statutory authority, their actions are ultra vires and legally void.
74. ICE lacks any inherent or independent executive authority to imprison individuals under a mandatory, non-discretionary framework outside of a running statutory removal period. The agency cannot invent a category of mandatory detention that survives a federal court's stay, nor can it use a flawed reinstatement order to strip an individual of their right to be free from unauthorized bodily restraint.
75. Because Respondents-Defendants have no statutory or constitutional authority to maintain Petitioner in mandatory custody while his removal is judicially stayed, their operational enforcement of mandatory detention against him at the Butler County Jail is ultra vires, invalid,

and requires his immediate release.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, and the APA;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

s/ Maria A. Reyes

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Dated: May 22, 2026

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Edgar Eduardo Reyes Gonzalez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 22<sup>nd</sup> day of May, 2026.

s/Maria A. Reyes  
Maria A. Reyes, Esq.

