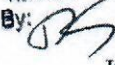


MAY 29 2026

KEVIN P. WEIMER, Clerk
By:  Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOSE EDGAR REINA-MORAN,
Petitioner,

1:26-CV-3029

v.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT ("ICE");
TODD M. LYONS, Acting Director of ICE;
MELLISSA B. HARPER, Field Office Director;
U.S. DEPARTMENT OF HOMELAND SECURITY ("DHS");
PAM BONDI, Attorney General of the United States;
Respondents.

Civil Action No. _____

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28
U.S.C. § 2241, EMERGENCY MOTION FOR IMMEDIATE RELEASE, MOTION
FOR TEMPORARY RESTRAINING ORDER, MOTION FOR PRELIMINARY
INJUNCTION, AND EMERGENCY MOTION TO EXPEDITE PROCEEDINGS**

Petitioner, JOSE EDGAR REINA-MORAN ("Petitioner"), respectfully petitions this Honorable Court for issuance of a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and respectfully requests immediate release from immigration detention because his continued confinement violates the Due Process Clause of the Fifth Amendment to the United States Constitution and constitutes arbitrary, excessive, punitive, disproportionate, and unconstitutional civil detention unsupported by constitutionally sufficient findings or individualized evidentiary analysis.

I. INTRODUCTION

This case involves one of the most fundamental constitutional protections recognized under American law: freedom from arbitrary physical restraint.

Petitioner remains incarcerated under civil immigration detention despite the Government's failure to establish through constitutionally adequate evidence that continued incarceration is necessary.

The Constitution does not permit civil detention to become punishment.

The Fifth Amendment prohibits the federal government from depriving any person of liberty through generalized conclusions, speculative allegations, unadjudicated accusations, or boilerplate determinations unsupported by individualized factual analysis.

On March 17, 2026, Immigration Judge Ryan Fisher denied Petitioner's request for custody redetermination before the Atlanta Immigration Court.

The Immigration Judge concluded that Petitioner was allegedly subject to mandatory detention under the so-called "Laken Riley Act" due to a shoplifting-related offense and further stated that Petitioner allegedly failed to demonstrate that he was not a danger to the community and not a flight risk.

However, the Government's own records establish that the underlying offense was ultimately reduced to misdemeanor shoplifting.

Additionally, the Superior Court of Cobb County formally terminated Petitioner's probation early after determining that he complied with all imposed conditions and conducted himself in a law-abiding manner.

Despite these favorable findings, the Immigration Judge deprived Petitioner of liberty without conducting the individualized constitutional scrutiny required under the Fifth Amendment.

The detention order contains generalized conclusions rather than specific findings supported by clear and convincing evidence.

The Immigration Judge failed to:

- identify specific evidence of present dangerousness;
- identify specific evidence of actual flight risk;
- analyze less restrictive alternatives;
- explain why supervision or monitoring would be insufficient;
- distinguish allegations from final convictions;
- conduct proportionality analysis;
- apply heightened constitutional scrutiny;
- articulate a factual nexus between detention and a legitimate governmental interest.

Instead, detention was effectively treated as automatic.

Such confinement violates:

- substantive due process;
- procedural due process;
- fundamental proportionality principles;
- constitutional limitations upon civil detention.

Accordingly, immediate federal intervention is necessary.

II. JURISDICTION AND VENUE

This Court possesses jurisdiction pursuant to:

- 28 U.S.C. § 2241;
- 28 U.S.C. § 1331;
- The Suspension Clause of the United States Constitution;
- The Due Process Clause of the Fifth Amendment.

Federal courts retain habeas corpus authority to review unconstitutional immigration detention and order immediate release where confinement violates constitutional protections.

Venue is proper in the Northern District of Georgia because the immigration proceedings occurred before the Atlanta Immigration Court located within this judicial district.

III. PARTIES

Petitioner JOSE EDGAR REINA-MORAN is presently detained by ICE pursuant to civil immigration detention proceedings.

A-Number 

Respondents are federal agencies and officers responsible for Petitioner's detention and custody.

IV. STATEMENT OF FACTS

1. Petitioner is presently detained under ICE civil immigration custody.
2. Petitioner appeared before the Atlanta Immigration Court in custody redetermination proceedings.
3. On March 17, 2026, Immigration Judge Ryan Fisher denied Petitioner's request for release.
4. The Immigration Judge concluded that Petitioner was allegedly subject to mandatory detention under the so-called "Laken Riley Act."
5. The Immigration Judge further concluded that Petitioner allegedly failed to demonstrate that he was not dangerous and not a flight risk.
6. The order contains generalized and boilerplate conclusions rather than individualized factual analysis.
7. DHS submitted criminal history materials and allegations in support of detention.
8. DHS attorneys associated with the proceedings included Alex Chang, Deputy Chief Counsel, and Ryan Matsuno, Chief Counsel for DHS/ICE OPLA Atlanta.
9. The Government's own criminal records establish that the alleged felony shoplifting offense was reduced to misdemeanor shoplifting.
10. DHS additionally relied upon allegations, arrests, and accusations that do not constitute final convictions.
11. The Immigration Judge failed to distinguish allegations from final adjudications.
12. The Immigration Judge failed to identify individualized evidence establishing present dangerousness.
13. The Immigration Judge failed to identify individualized evidence establishing actual flight risk.
14. The Immigration Judge failed to analyze less restrictive alternatives to detention.
15. Official Cobb County Superior Court records further establish that Petitioner's probation was formally terminated early by order of the state court.
16. The Petition for Termination of Probation expressly states that Petitioner "has complied with all general and special conditions of probation" and "has conducted himself/herself in a law-abiding manner."
17. The supervising probation officer formally requested early termination of probation due to Petitioner's satisfactory compliance and law-abiding conduct.
18. On December 5, 2025, the Superior Court of Cobb County formally ordered Petitioner released and forever discharged from probation.
19. These state judicial findings directly contradict the Immigration Judge's conclusory assertion that Petitioner constitutes a danger to the community.
20. The Immigration Judge significantly ignored these favorable findings.
21. Continued detention constitutes ongoing irreparable constitutional injury.

V. ARGUMENT

A. THE FIFTH AMENDMENT PROHIBITS ARBITRARY, EXCESSIVE, AND PUNITIVE CIVIL DETENTION

Freedom from physical restraint constitutes one of the most fundamental rights protected under the United States Constitution.

The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law.

In *Zadvydas v. Davis*, the Supreme Court held that civil immigration detention must remain reasonably related to its regulatory purpose and may not become punitive confinement.

Likewise, *Demore v. Kim* reaffirmed that even within the immigration context the Government remains subject to fundamental due process protections.

Similarly, *Jennings v. Rodriguez* recognized the continuing importance of constitutional habeas corpus review.

The Government cannot constitutionally incarcerate individuals through conclusory findings unsupported by individualized evidence.

Here, the Immigration Judge merely stated that Petitioner allegedly failed to demonstrate that he was not dangerous and not a flight risk.

Such boilerplate findings are constitutionally insufficient.

B. THE GOVERNMENT FAILED TO SATISFY THE "CLEAR AND CONVINCING EVIDENCE" STANDARD

Continued physical detention requires individualized, specific, and constitutionally sufficient evidence.

The Government failed to identify:

- specific evidence of present dangerousness;
- specific evidence of actual flight risk;
- recent conduct justifying incarceration;
- evidence of supervision violations;
- reasons why less restrictive alternatives would be insufficient.

Civil detention cannot rest upon speculation, accusations, or administrative convenience.

C. THE IMMIGRATION JUDGE IGNORED EXCULPATORY AND FAVORABLE EVIDENCE

The state court records directly destroy the narrative of dangerousness.

The Superior Court of Cobb County terminated Petitioner's probation early and ordered his permanent discharge from supervision.

The official petition expressly states that Petitioner: “has complied with all general and special conditions of probation” and “has conducted himself/herself in a law-abiding manner.”

These state judicial findings directly contradict the dangerousness narrative used to justify detention.

The Immigration Judge significantly ignored these findings.

Such omission demonstrates:

- arbitrariness;
- abuse of discretion;
- absence of meaningful constitutional scrutiny;
- lack of individualized analysis.

D. DETENTION BASED UPON UNRESOLVED ALLEGATIONS AND ACCUSATIONS VIOLATES DUE PROCESS

DHS relied upon allegations, arrests, and accusations that do not constitute final convictions.

The Constitution does not permit incarceration based merely upon unadjudicated allegations.

The Immigration Judge additionally failed to distinguish between:

- arrests;
- accusations;
- allegations;
- final convictions;
- final adjudications.

Such improper reliance constitutionally contaminates the detention order.

E. THE UNDERLYING OFFENSE WAS REDUCED TO MISDEMEANOR SHOPLIFTING

The Government’s own records establish that the alleged felony shoplifting offense was reduced to misdemeanor shoplifting.

The mere existence of an offense reduced to a misdemeanor does not automatically constitute evidence of present dangerousness.

The Constitution requires proportional and individualized analysis.

F. THE IMMIGRATION JUDGE ABUSED DISCRETION

In *Matter of Guerra*, the BIA recognized that custody determinations require individualized evaluation.

Likewise, *Matter of Adeniji*, *Matter of Joseph*, and *Matter of Patel* recognize the importance of proper legal analysis before detention may be imposed.

Here, the Immigration Judge:

- ignored favorable evidence;
- ignored early probation termination;
- ignored law-abiding conduct;
- ignored less restrictive alternatives;
- issued generalized conclusions;
- failed to apply heightened constitutional scrutiny.

Such deficiencies constitute abuse of discretion and constitutional violation.

G. APPLICATION OF THE "LAKEN RILEY ACT" IN THIS CASE IS UNCONSTITUTIONAL AS APPLIED

No federal statute may override the Constitution.

Application of the so-called "Laken Riley Act" in this case became unconstitutional as applied because:

- individualized constitutional scrutiny was absent;
- detention was treated as automatic;
- the Government failed to present clear and convincing evidence;
- less restrictive alternatives were ignored;
- exculpatory evidence was ignored;
- detention became excessive and punitive.

H. CIVIL DETENTION MAY NOT BECOME PUNISHMENT

Immigration detention exists solely for limited regulatory purposes.

When detention ceases being reasonably related to those purposes and transforms into excessive or arbitrary incarceration, it becomes punitive and unconstitutional.

Continued incarceration:

- lacks proportionality;
- lacks constitutionally adequate evidence;
- imposes ongoing irreparable harm.

I. PETITIONER SUFFERS CONTINUING IRREPARABLE HARM

Each additional day of unconstitutional incarceration constitutes irreparable harm.

Petitioner continues suffering:

- ongoing deprivation of liberty;
- severe emotional harm;
- psychological distress;
- family separation;
- continuing constitutional injury.

No monetary remedy can adequately repair the damage caused by unlawful incarceration.

VI. TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Petitioner requests immediate issuance of a Temporary Restraining Order and Preliminary Injunction ordering immediate release pending resolution of this action.

Petitioner is likely to prevail on the merits because the detention order violates the Fifth Amendment.

The balance of equities strongly favors release.

The public interest always favors prevention of unconstitutional detention.

VII. EMERGENCY MOTION TO EXPEDITE PROCEEDINGS

Each additional day of unlawful detention constitutes irreparable constitutional harm.

Immediate judicial intervention is necessary.

VIII. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

1. GRANT this Emergency Petition for Writ of Habeas Corpus;
2. FIND that continued detention violates the Fifth Amendment;
3. FIND that the Immigration Judge's findings were constitutionally insufficient;
4. FIND that the Government failed to establish through clear and convincing evidence the necessity of continued detention;
5. ISSUE a Temporary Restraining Order;
6. ISSUE a Preliminary Injunction;
7. ORDER Petitioner's immediate release from ICE custody;
8. GRANT expedited review;
9. GRANT any additional relief this Court deems just and proper.

Respectfully submitted,



JOSE EDGAR REINA-MORAN
Petitioner Pro Se

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