

FILED

JUL 01 2026

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
WJ
DEPUTY CLERK

AXEL SANTIAGO MORENO TOVAR

1:26-CV-5066-EJD(HC)

Petitioner, *California City Correctional Center*
v.

Tae D. Johnson, Acting Director,
U.S. Immigration and Customs Enforcement;
Field Office Director, San Francisco ICE Field Office;
Warden, California City Correctional Center,
Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

I, Axel Santiago Moreno Tovar, respectfully petition this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and state as follows:

I. INTRODUCTION

1. I am a native and citizen of Venezuela currently detained by U.S. Immigration and Customs Enforcement ICE at California City Correctional Center in California.
2. I respectfully challenge my continued immigration detention because it violates the Due Process Clause of the Fifth Amendment and no longer serves a legitimate governmental purpose.
3. I entered the United States lawfully with a B-2 visitor visa.
4. After my arrival, I applied for asylum because I fear returning to Venezuela.
5. I was also granted Temporary Protected Status TPS, which authorized me to remain and work in the United States while those protections remained in effect.
6. I have remained continuously detained by ICE since April 2026 after being transferred through multiple ICE detention facilities from Florida to California.
7. During my detention, I have been moved repeatedly between detention facilities, making it significantly more difficult to communicate with counsel, gather evidence, maintain contact with family, and prepare my immigration case.
8. I have never been convicted of any criminal offense.
9. My immigration bond was denied primarily because I had previously been released on an immigration bond in 2019. That prior bond does not establish that I presently pose either a danger to the community or a meaningful risk of flight.
10. My continued detention has become excessive, unreasonable, and unconstitutional under the circumstances of my case.

11. I remain detained despite my lawful entry into the United States, my pending immigration claims, my lack of any criminal conviction, and the availability of less restrictive alternatives to detention.
12. Every additional day of detention deprives me of my liberty, interferes with my ability to prepare my immigration case, and causes continuing irreparable harm.
13. I respectfully request that this Court issue a writ of habeas corpus ordering my immediate release from ICE custody.

II. JURISDICTION AND VENUE

14. This Court has jurisdiction under 28 U.S.C. § 2241 because I am in custody under the authority of the United States.
15. This Court also has jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States.
16. This Court has authority to determine whether my continued detention violates the Due Process Clause of the Fifth Amendment.
17. Venue is proper in the Eastern District of California because I am presently confined within this judicial district at California City Correctional Center.

III. PARTIES

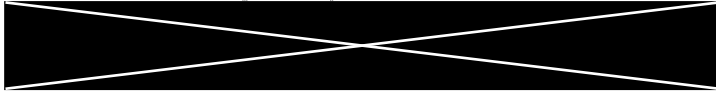
18. I am the Petitioner in this action and am currently detained at California City Correctional Center.
19. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity.
20. Respondent Field Office Director for the Los Angeles ICE Field Office is responsible for supervising my immigration detention.
21. Respondent Warden of California City Correctional Center is my immediate custodian and is responsible for my day-to-day confinement.

IV. FACTUAL BACKGROUND

22. I am a native and citizen of Venezuela.
23. I entered the United States lawfully with a B-2 visitor visa.
24. After entering the United States, I sought protection by filing an application for asylum because I fear persecution if returned to Venezuela.
25. I was also granted Temporary Protected Status by the United States Government.
26. I have continuously pursued my immigration case through lawful means and have attempted to comply with all immigration requirements.
27. In April 2026, ICE took me into custody.
28. Since entering ICE custody, I have been transferred through multiple detention facilities before ultimately arriving at California City Correctional Center.
29. These repeated transfers have disrupted my ability to communicate with counsel, obtain documents, maintain contact with family, and prepare my immigration case.

30. My detention has continued for months despite the absence of any criminal conviction demonstrating that I present a danger to the community.
31. My immigration bond was denied because the Immigration Judge relied upon the fact that I had previously been released on an immigration bond in 2019.
32. My prior immigration bond does not establish that I presently present a danger to the community or a meaningful risk of flight. My continued detention must instead be justified based upon my current circumstances and an individualized assessment of the relevant facts.
33. Continued detention substantially interferes with my ability to prepare my asylum case, communicate with counsel, gather supporting evidence, and meaningfully participate in my immigration proceedings.
34. As a result of my continued detention, I continue to suffer the loss of my liberty, emotional hardship, and significant prejudice in pursuing my immigration claims.

Respectfully submitted,

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AXEL SANTIAGO MORENO TOVAR

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Petitioner, Pro Se

**IN THE UNITED STATES DISTRICT COURT
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AXEL SANTIAGO MORENO TOVAR


Petitioner,
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**MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241**

I. INTRODUCTION

I respectfully submit this Memorandum of Law in support of my Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

I am a native and citizen of Venezuela currently detained by U.S. Immigration and Customs Enforcement ICE at California City Correctional Center. I entered the United States lawfully with a B-2 visitor visa, later applied for asylum because of my fear of returning to Venezuela, and was granted Temporary Protected Status TPS by the United States Government.

I have remained continuously detained by ICE since April 2026 after being transferred through multiple detention facilities across the country. Although I was arrested in connection with a domestic violence allegation, I have never been convicted of any criminal offense. My immigration bond was denied primarily because I had previously been released on an immigration bond in 2019, rather than because of any individualized determination that I presently pose a danger to the community or a meaningful risk of flight.

While detained, I was involved in an incident in which I contend ICE officers used physical force against me, resulting in physical injuries documented by photographs attached as exhibits to my Petition. My continued detention has caused ongoing physical, emotional, and constitutional harm while substantially impairing my ability to prepare my immigration case.

The Due Process Clause of the Fifth Amendment protects every person within the United States from arbitrary deprivation of liberty. Immigration detention is civil—not punitive—and must remain reasonably related to legitimate governmental purposes. Under the facts of my case, my continued detention has become excessive, unreasonable, and unconstitutional.

Accordingly, I respectfully request that this Court grant my Petition for Writ of Habeas Corpus and order my immediate release.

II. LEGAL STANDARD

Federal district courts possess jurisdiction under 28 U.S.C. § 2241 to consider petitions challenging the legality and constitutionality of immigration detention. Habeas corpus remains the traditional and appropriate vehicle through which individuals may challenge unlawful executive detention. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

The Fifth Amendment provides that no person shall be deprived of liberty without due process of law. Freedom from physical restraint lies at the core of the liberty protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Although Congress possesses authority to authorize immigration detention, such detention is civil rather than criminal and remains subject to constitutional limitations. *Demore v. Kim*, 538 U.S. 510, 523–31 (2003).

In *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), the Supreme Court recognized that constitutional challenges to immigration detention may be pursued through habeas corpus proceedings. While *Jennings* rejected a statutory interpretation that imposed periodic bond hearings, it expressly left constitutional challenges to continued detention for the lower courts to resolve.

The Ninth Circuit has likewise recognized that noncitizens detained under civil immigration authority possess substantial liberty interests protected by the Due Process Clause. *Hernandez v. Sessions*, 872 F.3d 976, 990–91 (9th Cir. 2017).

Procedural due process requires consideration of the private liberty interest at stake, the risk of erroneous deprivation under existing procedures, and the governmental interests involved. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

Accordingly, this Court possesses both the jurisdiction and the constitutional authority to determine whether my continued detention comports with the requirements of due process.

III. ARGUMENT

A. MY CONTINUED DETENTION VIOLATES THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT.

The Supreme Court has repeatedly recognized that civil immigration detention cannot become arbitrary, excessive, or punitive. *Zadvydas*, 533 U.S. at 690–91; *Demore*, 538 U.S. at 527.

I entered the United States lawfully with a valid B-2 visitor visa and sought protection through lawful immigration procedures by applying for asylum. The United States Government subsequently granted me Temporary Protected Status, further recognizing the dangerous conditions in Venezuela.

Despite these facts, I have remained continuously detained for months while my immigration proceedings continue. My continued detention no longer bears a reasonable relationship to any legitimate governmental objective and instead constitutes an excessive deprivation of liberty prohibited by the Fifth Amendment.

My detention has also been compounded by repeated transfers between ICE detention facilities, significantly interfering with my ability to prepare my case, maintain communication with counsel, gather evidence, and meaningfully participate in my immigration proceedings.

Under the totality of the circumstances, my continued detention has become constitutionally unreasonable and warrants habeas relief.

B. RESPONDENTS HAVE FAILED TO DEMONSTRATE THAT MY CONTINUED DETENTION IS NECESSARY TO SERVE A LEGITIMATE GOVERNMENTAL PURPOSE.

The Government's authority to detain individuals during immigration proceedings is not unlimited. Civil detention must remain reasonably related to legitimate governmental objectives, including ensuring appearance at future proceedings and protecting the community where appropriate. Once detention becomes excessive in relation to those objectives, it violates the Due Process Clause.

Respondents cannot justify my continued detention merely by relying upon the fact that I was previously released on an immigration bond in 2019. Due process requires an individualized determination based upon my present circumstances, not upon generalized assumptions or historical facts that do not establish a current risk.

I entered the United States lawfully with a B-2 visitor visa. I affirmatively sought protection by filing for asylum and was later granted Temporary Protected Status by the United States Government. These facts demonstrate my continued reliance upon lawful immigration procedures rather than any attempt to evade them.

Although I was arrested in connection with a domestic violence allegation, I have never been convicted of any criminal offense. Continued civil detention cannot be justified solely because of an arrest where there has been no criminal conviction and where Respondents have not demonstrated that I presently pose a danger to the community.

The Due Process Clause requires an individualized determination supported by evidence rather than speculation. Respondents have failed to demonstrate that my continued detention remains reasonably necessary under the circumstances.

C. MY CONTINUED DETENTION SUBSTANTIALLY IMPAIRS MY ABILITY TO PURSUE MY IMMIGRATION CASE.

The Fifth Amendment guarantees not only freedom from arbitrary detention but also a meaningful opportunity to pursue available legal remedies.

Throughout my detention I have been transferred between multiple ICE detention facilities before arriving at California City Correctional Center. These repeated transfers have disrupted my ability to communicate consistently with counsel, maintain contact with family members, obtain supporting documentation, gather evidence, and prepare my asylum case.

Continued detention also limits confidential attorney communication, interferes with witness preparation, delays document collection, and significantly restricts my ability to assist in the presentation of my claims for immigration relief.

The resulting prejudice is especially significant because my immigration proceedings remain ongoing and involve claims that may determine whether I may lawfully remain in the United States.

D. THE PHYSICAL HARM I SUFFERED WHILE IN ICE CUSTODY FURTHER DEMONSTRATES THE IRREPARABLE HARM CAUSED BY MY CONTINUED DETENTION.

While detained, I contend that I was subjected to physical force by ICE officers that resulted in visible physical injuries. Photographs documenting those injuries are attached as exhibits to my Petition.

Regardless of the ultimate resolution of any separate civil rights claims arising from that incident, the injuries I allegedly sustained while detained illustrate the continuing physical and emotional harm associated with my confinement.

Every additional day of detention increases the ongoing deprivation of my liberty and exposes me to additional hardship while I remain unable to adequately prepare my immigration case.

E. LESS RESTRICTIVE ALTERNATIVES TO DETENTION ARE AVAILABLE.

Even where the Government possesses legitimate interests in ensuring compliance with immigration proceedings, continued physical detention is not the only available means of achieving those objectives.

Reasonable alternatives include release under supervision, periodic reporting requirements, electronic monitoring if deemed necessary, address reporting requirements, or any other reasonable conditions the Court determines appropriate.

Because such alternatives adequately protect the Government's legitimate interests, continued detention is excessive and unnecessary under the circumstances presented here.

F. THE BALANCE OF EQUITIES STRONGLY FAVORS HABEAS RELIEF.

The injury caused by unlawful detention is immediate and ongoing. Every additional day I remain confined constitutes a continuing deprivation of the fundamental liberty protected by the Fifth Amendment.

In contrast, Respondents will suffer little prejudice if I am released subject to appropriate conditions. I have sought immigration protection through lawful means, continue to pursue available immigration relief, and remain subject to the jurisdiction of the immigration courts.

The balance of hardships therefore weighs overwhelmingly in favor of granting habeas relief.

IV. CONCLUSION

For all of these reasons, I respectfully submit that my continued immigration detention violates the Due Process Clause of the Fifth Amendment and is unlawful under 28 U.S.C. § 2241.

Accordingly, I respectfully request that this Court grant my Petition for Writ of Habeas Corpus, order my immediate release from ICE custody, prohibit my transfer while this action remains pending, and grant such additional relief as the Court deems just and proper.

Respectfully submitted,



AXEL SANTIAGO MORENO TOVAR



Petitioner, Pro Se