UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

OSCAR M. PEREZ-CARDENAS,

(Alien Registration No. A# [redacted]

Petitioner,

v.

FILED
Aug 03 2026
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY s/ GW DEPUTY

WARDEN, OTAY MESA DETENTION CENTER;

FIELD OFFICE DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (SAN DIEGO); AND

SECRETARY OF HOMELAND SECURITY,

Respondents.

CASE NO.: '26CV4423 DMS JAC

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND MOTION FOR INJUNCTIVE RELIEF / IMMEDIATE RELEASE

NOW COMES Petitioner, OSCAR M. PEREZ-CARDENAS, and respectfully petitions this Honorable United States District Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, demonstrating that his ongoing physical detention by Respondents is unconstitutional, arbitrary, and in direct violation of the Due Process Clause of the Fifth Amendment to the United States Constitution. In support thereof, Petitioner states as follows:

I. JURISDICTION AND VENUE

Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 2241 (Habeas Corpus), 28 U.S.C. § 1331 (Federal Question Jurisdiction), and Article I, Section 9, Clause 2 of the United States Constitution (Suspension Clause).

Petitioner has not exhausted administrative remedies because:

1. No administrative mechanism exists to challenge an interstate transfer that impairs access to courts.

2. The issues presented are purely constitutional challenges to due process violations, and the Board of Immigration Appeals (BIA) lacks jurisdiction to adjudicate constitutional claims.

3. Requiring exhaustion would be futile, as Petitioner's August 10, 2026 hearing in New Jersey will be missed if he is not promptly returned or granted videoconference access.

4. This is not a challenge to a bond determination or removal order, but a challenge to the arbitrary interstate transfer that obstructs his ability to defend himself in other judicial proceedings.

The Ninth Circuit's decision in Doe v. Garland, 109 F.4th 1188 (9th Cir. 2024), confirms that for a § 2241 petition, "jurisdiction lies in only one district: the district of confinement" and the proper respondent is the immediate custodian. Petitioner is confined at Otay Mesa Detention Center in the Southern District of California, making venue proper in this Court.

Venue is proper in the Southern District of California pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 2241(a), as Petitioner is currently physically detained within the geographic boundaries of this Judicial District at the Otay Mesa Detention Facility under the custody of Respondents.

II. PARTIES

Petitioner, OSCAR M. PEREZ-CARDENAS (A# [redacted] is a foreign national unlawfully subjected to mandatory executive detention without due process.

Respondents are the immediate physical custodians and executive authorities holding Petitioner:

a. WARDEN, Otay Mesa Detention Center, as immediate physical custodian.

b. FIELD OFFICE DIRECTOR, U.S. Immigration and Customs Enforcement (ICE) - San Diego Field Office, as legal custodian.

c. SECRETARY OF HOMELAND SECURITY, head of the Department of Homeland Security.

III. STATEMENT OF FACTS AND PROCEDURAL HISTORY

On or about July 13, 2026, Petitioner was taken into physical custody in the State of New Jersey.

Following physical apprehension, Petitioner was hospitalized for three (3) consecutive days due to severe health conditions. While incapacitated and lacking physical and mental

capacity, federal agents coerced biometric procedures without medical clearance or legal representation.

Petitioner was subsequently transferred out of New Jersey, moved to Texas, and ultimately transported cross-country to the Otay Mesa Detention Center in San Diego, California.

Crucially, at the precise time of his continuous inter-state physical transit and forced cross-country transfer to California, Petitioner had active, scheduled judicial proceedings in the State of New Jersey, including:

a. A mandatory court hearing on July 27, 2026, which Petitioner was physically prevented from attending because ICE had placed him in undisclosed inter-state transit.

b. A criminal/family proceeding before the Superior Court of New Jersey, Hudson County (Case No. 26003839 / Complaint W 2026 123).

c. An active immigration proceeding before the Executive Office for Immigration Review (EOIR) in New Jersey, with an imminent hearing scheduled for August 10, 2026.

Records from the New Jersey Judiciary (PROMIS/Gavel Public Access) explicitly confirm that:

a. The state criminal charge was formally DOWNGRADED ("DISP ACTION: DOWNGRADE CHARGE") and transferred ("DISP REASON: TRANSF FAM COURT").

b. The active Bench Warrant was officially RECALLED/VACATED upon formal notice to the court regarding Petitioner's involuntary federal custody.

c. There are currently NO ACTIVE DETAINERS ("DETAINERS: NONE") and NO PRISON SENTENCE ("JAIL DAYS: 0000").

Despite the total absence of active state criminal detainers, felony convictions, or outstanding arrest warrants, Respondents executed a forced cross-country transfer to California—causing him to miss his July 27, 2026 hearing—while his primary Immigration Court venue (EOIR New Jersey) remains active for August 10, 2026, severely obstructing his ability to prepare his defense, consult with counsel, and access evidence located in New Jersey.

IV. LEGAL CLAIMS AND CONSTITUTIONAL VIOLATIONS

CLAIM I: VIOLATION OF THE FIFTH AMENDMENT DUE PROCESS CLAUSE

(Arbitrary Inter-State Transfer & Severe Obstruction of Access to Courts with Imminent Hearing)

Petitioner re-alleges and incorporates paragraphs 1 through 10 as if fully set forth herein.

The Fifth Amendment to the U.S. Constitution guarantees that no person shall be "deprived of life, liberty, or property, without due process of law." This protection applies fully to all non-citizens physically present in the United States. See Zadvydas v. Davis, 533 U.S. 678, 693 (2001).

By physically transferring Petitioner over 2,500 miles away to California—thereby causing him to miss his scheduled July 27, 2026 court appearance in New Jersey while in transit—and holding him far from his active immigration venue docketed for August 10, 2026, Respondents have created an insurmountable barrier to due process. This forced separation severely impairs Petitioner's fundamental right to defend himself, gather local New Jersey evidence, and prepare for his upcoming hearings.

Administrative transfers cannot be utilized in a manner that functions as a punitive measure or impairs a detainee's access to courts and legal defense. See Orantes-Hernandez v. Thornburgh, 919 F.2d 549, 565 (9th Cir. 1990).

CLAIM II: UNLAWFUL MANDATORY DETENTION WITHOUT INDIVIDUALIZED BOND HEARING

(Violation of 8 U.S.C. § 1226 / INA § 236)

Petitioner re-alleges and incorporates paragraphs 1 through 14 as if fully set forth herein.

Respondents' continued detention of Petitioner without an individualized bond hearing before an Immigration Judge violates statutory limits and constitutional guarantees.

Official state court records establish that the underlying complaint in Weehawken Township (Complaint W 2026 123 under N.J.S.A. 2C:29-9B(1)) was downgraded and transferred to Family Court. Petitioner has no disqualifying criminal conviction mandating detention under 8 U.S.C. § 1226(c).

Continuing to hold Petitioner under mandatory detention where no criminal conviction or public safety threat exists violates procedural due process. See Casas-Castrillon v. DHS, 535 F.3d 942, 949 (9th Cir. 2008).

V. IRREPARABLE HARM

Petitioner suffers severe, ongoing, irreparable harm every day he remains unlawfully detained thousands of miles away from his primary judicial forums in New Jersey, particularly having already missed his July 27, 2026 hearing and with an active Immigration Court hearing scheduled for August 10, 2026.

Money damages cannot remedy the unconstitutional deprivation of physical liberty or the structural impairment of his legal defense.

VI. REQUEST FOR TEMPORARY RESTRAINING ORDER (TRO)

Petitioner further respectfully requests that this Honorable Court issue a Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65(b), prohibiting Respondents from:

1. Transferring Petitioner outside the Southern District of California; and

2. Removing or deporting Petitioner from the United States, during the pendency of this habeas corpus proceeding.

BASIS FOR TRO REQUEST:

a) Irreparable Harm: If Petitioner is transferred or deported, this Court will lose jurisdiction over his § 2241 petition, and Petitioner will lose his ability to defend himself in pending New Jersey proceedings.

b) Likelihood of Success on the Merits: Petitioner has presented a colorable constitutional claim under the Fifth Amendment Due Process Clause.

c) Balance of Equities: The harm to Petitioner (loss of liberty and access to courts) outweighs any burden on Respondents.

d) Public Interest: It is in the public interest to ensure that constitutional rights are protected and that the Court can exercise its jurisdiction to adjudicate Petitioner's claims.

Legal Authority: Courts have the inherent authority to issue such orders to "preserve the status quo" and "prevent irreparable injury until the court renders a decision on the merits." The All Writs Act, 28 U.S.C. § 1651, authorizes this Court to issue such orders.

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner OSCAR M. PEREZ-CARDENAS respectfully requests that this Honorable Court GRANT the following relief:

A. ISSUE a Writ of Habeas Corpus declaring that Petitioner's current detention and physical transfer violate the Fifth Amendment Due Process Clause;

B. ORDER Respondents to IMMEDIATELY RELEASE Petitioner from physical custody in California under Order of Supervision or Recognizance;

C. IN THE ALTERNATIVE, ORDER Respondents to grant an immediate, individualized Bond Hearing before an Immigration Judge, placing the burden of proof on Respondents to

demonstrate by clear and convincing evidence that Petitioner is a flight risk or danger to the community;

D. ISSUE a Temporary Restraining Order (TRO) pursuant to Federal Rule of Civil Procedure 65(b), prohibiting Respondents from transferring Petitioner outside the Southern District of California or removing/deporting Petitioner from the United States during the pendency of this habeas corpus proceeding;

E. GRANT such other and further relief as this Court deems just, equitable, and proper.

VERIFICATION

I, OSCAR M. PEREZ-CARDENAS, declare under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 31st day of July, 2026, at San Diego, California.

Respectfully submitted,



OSCAR M. PEREZ-CARDENAS

Petitioner, Pro Se

Contact Information for Notice:

Address: Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, CA 92154

Phone: [redacted]

Email: [redacted]@aol.com

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Así es como lo sabe

EOIR Automated Case Information

Court Closures Today July 29, 2026

Please check https://www.justice.gov/eoir-operational-status for up to date closures.

Información automatizada de casos

Nombre: OSCAR, PEREZ-CARDENAS M |
Número de registro de extranjero: [redacted] **|**
Fecha de la lista de causas: 17/7/2026

Información acerca de la próxima audiencia

Su próxima **AUDIENCIA PRELIMINAR** es **POR INTERNET** el **10 de agosto de 2026** a la(s) **8:30 AM**.

JUEZ
Quidley, Joshua D.

DIRECCIÓN DE WEBEX
https://eoir.webex.com/meet/IJ.Quidley

Información sobre Pedimentos y Fallos Judiciales

Este caso está pendiente.

Información de un caso ante la Junta de Apelaciones de Inmigración

No se recibió una apelación para este caso.

Información acerca del Tribunal

Si necesita más información sobre su caso, o desea presentar documentos adicionales, por favor comuníquese con el tribunal de

inmigración.

DIRECCIÓN DEL TRIBUNAL
625 EVANS STREET ROOM 148A
ELIZABETH, NJ 07201

NUMERO DE TELÉFONO
(908) 787-1355

Archivo

Accesibilidad

Calidad de Información

Política de Privacidad

Políticas Legales y Descargos de Responsabilidades
Redes Sociales

Presupuesto & Rendimiento

Oficina del Inspector General

No FEAR Act

Para Empleados
Ley de Libertad de Información en EOIR (FOIA, por sus siglas en inglés)

USA.gov

Comuníquese con EOIR

Página Principal de EOIR

Justice.gov
Immigration Court Online Resource

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Department of Justice | Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041

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