



Habeas Petitions: What You Need to Know

A resource for people in immigration detention and their families

What Is a Habeas Petition?

A habeas petition is a lawsuit filed in federal court that asks one simple question: Is it legal for the government to keep this person locked up in ICE detention?

When someone is detained by U.S. Immigration Customs Enforcement (ICE), a habeas petition allows a federal judge to review whether that detention is legal. If the judge finds that the detention is unlawful or unconstitutional, the judge may:

- Order a bond hearing in Immigration court
- Order the person's release from detention
- Temporarily stop a deportation
- Temporarily stop a transfer to another detention center while the case is reviewed
- Issue emergency orders when someone is at immediate risk of removal or transfer
- In some cases, allow the person to be released on bond

What a Habeas Petition Cannot Do

A habeas petition does not grant immigration status, stop an immigration case permanently, or replace proceedings in immigration court. It does not decide whether someone qualifies for a green card, asylum, or another immigration benefit. Instead, it focuses only on whether the government is allowed to keep the person detained while their immigration case continues in immigration court.

When Is a Habeas Petition Used?

A habeas petition is often used when someone:

- Has been held in immigration detention for over six months without a bond hearing
- Was arrested without a valid warrant
- Is facing rapid deportation before a judge has reviewed their case

In urgent situations, a habeas petition may be the only legal tool that can move quickly enough to prevent serious harm, including deportation or transfer to a location far from family and legal counsel.

Why Timing Matters

Habeas cases are often time sensitive. Delays in seeking legal help can limit what a court is able to do, especially if deportation or transfer is imminent.

Information an Attorney May Ask For

- Where the person is currently detained
- Date and place of arrest
- Whether a bond hearing has already occurred
- Any upcoming court dates and hearing notices
- Whether the person has been transferred between facilities

Contact An Immigration Attorney for Support

If you or a loved one is in immigration detention, a habeas case may be an option, but every case is different. You should speak with a licensed immigration attorney who can review the facts of the case and explain whether a habeas petition is appropriate.

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