

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WILMER URBINA AND RUTILO		
ROMERO-RAMIREZ on behalf of OMAR		
ROMERO-VILLEGAS, a minor,		
individually and on behalf of all others	)	
similarly situated,	)	
Petitioners,	)	
	)	
v.	)	Civil Action No.
	)	
RAMON C. RUSTIN, Warden, Allegheny	)	Class Action
County Jail,	)	
Respondent.	)	
	)	

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

**I. Preliminary Statement**

Attorneys Donald Driscoll and Evalynn Welling on behalf of Wilmer Urbina and Rutilo Romero-Ramirez, parent of Omar Romero-Villegas, a minor, and on behalf of Omar Romero-Villejas in his own right and all others similarly situated petition this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Wilmer Urbina, Omar Romero-Villegas and others have been detained in the Allegheny County Jail without due process nor any other lawful authority. In support thereof the following is stated:

**II. Jurisdiction and Venue**

1. This Court has jurisdiction and may issue relief pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question) and 42 U.S.C. § 1983 (civil rights).

2. Venue is proper in the Western District of Pennsylvania pursuant to 28 U.S.C. § 2241 because Wilmer Urbina, Omar Romero-Villegas and others on whose behalf this matter is brought are in custody at the Allegheny County Jail in Pennsylvania.

### **III. Parties**

3. Petitioner Wilmer Urbina is an adult individual who is presently detained in the Allegheny County Jail.

4. Petitioner Rutilo Romero-Ramirez is an adult individual and the father of Omar Romero-Villegas, who is 17 years old and is presently detained in the Allegheny County Jail.

5. Respondent Ramon C. Rustin is the Warden of the Allegheny County Jail and is the immediate custodian of Mr. Urbina, Mr. Romero-Villegas and others who are similarly situated.

### **IV. Class Action Allegations**

6. This action is brought, as in Fed.R.Civ.P. 23(b)(2) and (3), on behalf of a class consisting of all who are or will be detained in the Allegheny County Jail without being provided due process and based solely on an immigration detainer which does not authorize their detention.

7. The class is so numerous that joinder of all members is impracticable. Although the precise size of the class is unknown, in one recent month it is believed that there were as many as 76 individuals being improperly held on immigration detainers and without due process.

8. There are questions of law or fact common to the class, specifically whether an immigration detainer authorizes the Respondent Warden to detain members of the class indefinitely and without due process.

9. The claims of the representative parties are typical of the claims of the class. Each have been detained pursuant to the same alleged authority.

10. The representative parties will fairly and adequately protect the interests of the class. Their counsel is experienced in class actions raising civil rights claims.

11. Adjudications with respect to individual members of the class would, as a practical matter, be dispositive of the interests of the class who are not parties or substantially impair their ability to protect their interests.

12. The Respondent has acted or refused to act on grounds generally applicable to the class, thereby making appropriate relief with respect to the class as a whole.

13. To the extent there are individual issues among class members involving relief, these are subordinate to the common question raised, making a class action a superior method for the fair and efficient adjudication of the controversy.

**V. Factual Allegations**

14. Wilmer Urbina was arrested following a traffic stop in Wilkinsburg, Pa. on April 3, 2008.

15. At the request of the charging police officer his preliminary hearing was continued from April 10, 2008 until June 26, 2008 and upon the initiation of the Magisterial District Judge from June 26, 2008 until July 3, 2008. All pending charges were dismissed on July 3, 2008.

16. Omar Romero-Villegas was arrested after leaving his place of employment in Ross Township Pa. on June 11, 2008.

17. All criminal charges against Omar Romero-Villegas were withdrawn on or before June 27, 2008.

18. Petitioners and others have been continuously confined in the Allegheny County Jail due to detainers placed on them by federal Immigration and Customs Enforcement agents.

19. At most these detainers provide that those subject to them be held for no more than 48 hours from the time state authorized custody has ended.

20. Petitioners Urbina and Romero-Villegas and others similarly situated are entitled to immediate release.

**VI. Causes of Action**

**Violation of the Due Process Clause of the Fourteenth Amendment**

21. Because there is no authority for the petitioners' detention and they have been provided with no process to demonstrate that this detention is erroneous, this continued detention violates the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

**VII. Prayer for Relief**

WHEREFORE, Petitioners respectfully request that this Court:

- a. Assume jurisdiction over this matter;
- b. Order Respondent to show cause why the writ of habeas corpus should not be granted, pursuant to 28 U.S.C. § 2243;
- c. Grant the writ of habeas corpus and order the immediate release from custody of Mr. Urbina and Mr. Romero-Villegas and all others similarly situated on the grounds that their detention is not authorized by statute and violates due process;
- d. Grant such other relief as is authorized by the laws upon which Petitioners rely.

Respectfully submitted,

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