

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Rinaldo Yarrito,
Detainee

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Rinaldo Yarrito,

Carlos Perez
Detainee,

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Carlos Perez,

Maria E. Fragu
Detainee,

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Maria E. Fragu,

José Chavez
Detainee,

United Food & Commercial Workers Union, Local No. 7
As Next Friend of José Chavez,

Adam M. Flores
Detainee,

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Adam M. Flores,

Rinald Dirrato,
Detainee

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Rinald Dirrato,

Arrestada Joy Aspose,
Detainee

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Arrestada Joy Aspose,

Kimberly Cordova,
Detainee

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Kimberly Cordova,

Roberto Burgos Roman,
Detainee

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Roberto Burgos Roman,

Rudy Hernandez,
Detainee

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Rudy Hernandez,

Lionel Vicente Chum
Detainee,

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Lionel Vicente Chum,

Juan Vela,
Detainee

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Juan Vela,

Marquerez Barron,
Detainee

United Food & Commercial Workers Union, Local No. 7
As Next Friend of Marquerez Barron,

And all other persons similarly situated,

v.

Julie L. Meyers,
Assistant Secretary for Homeland Security

And

U.S. Immigration and Customs Enforcement Division of the
Department of Homeland Security.

PETITION FOR WRIT OF HABEAS CORPUS

Petitioners, Rinaldo Yarrito, Carlos Perez, Maria E. Fragu, José Chavez, Adam M. Flores, Rinald Dirrato, Arrestada Joy Aspose, Kimberly Cordova, Roberto Burgos Roman, Rudy Hernadez, Lionel Vicente Chum, Juan Vela, and Marquez Barron, and others similarly situated seek the Great Writ. They act on their own and through their Next Friend, United Food and Commercial Workers Local No. 7. They are being held incommunicado in respondents' unlawful custody.

I.

JURISDICTION

1. Petitioners bring this action under 28 USC §2241 and §2242.
2. This Court is empowered under 28 USC §2241 and §2242 to grant the Writ of Habeas Corpus and to declare the rights of the parties herein.

II.

VENUE

3. The events leading to this petition have all taken place within the District of Colorado.

III.

PARTIES

4. Petitioners are employed as production employees at Swift & Company located in Greeley, Colorado.
5. United Food & Commercial Workers Local Union No. 7, Petitioners' Next Friend, represents the production employees at the Swift Plant in Greeley, Colorado in employment matters regarding terms and conditions of employment.
6. Julie L. Meyers is Assistant Secretary for Homeland Security for Immigration and Customs Enforcement.
7. U.S. Immigration and Customs Enforcement (ICE) is believed to have petitioners in custody.

IV.

Events

8. Petitioners appear to have been taken into custody by the U.S. Citizenship and Immigration Services on December 12, 2006 from their place of employment.
9. The number of Petitioners taken into custody is not specifically known. Based on the observation of persons at the scene it appears that approximately two hundred persons were seized.
10. According to accounts in various media, Petitioners were taken into custody because of investigations relating to identity theft. According to the website of U.S. Citizenship and Immigration Services:

“WASHINGTON, D.C. – This morning, special agents from U.S. Immigration and Customs Enforcement (ICE) executed civil search warrants at six facilities owned by Swift & Company. The operation is part of a worksite enforcement investigation that has identified a large identity theft scheme that has victimized large numbers of U.S. citizens and lawful residents. Swift is a nationwide processor of fresh beef and pork.”

11. Petitioners were not taken to a place of incarceration in Greeley, Colorado. The whereabouts of Petitioners is unknown.
12. It is not known whether Petitioners have been charged with any crime.
13. The Next Friend of Petitioners has not been notified of the place of petitioners' incarceration. Further, despite inquiries at the place of employment, the Next Friend of Petitioners has not been able to determine the location of Petitioners or the basis for their incarceration. Numerous efforts were made by counsel retained to assist Petitioners to determine where Petitioners are being held by contacting an ICE facility in Aurora, Colorado, the Denver office of the Immigration and Customs Enforcement division, the Denver offices of the U.S. Citizenship and Immigration Services. Counsels were advised that the whereabouts of the petitioners were unknown.

V.

CLAIM FOR RELIEF

14. Petitioners incorporate by reference paragraphs 1 – 13.
15. Respondents are liable for the conduct of the agencies they administer.
16. By the actions described above, respondents, acting under color of law, have violated and continue to violate the right of the detained petitioners to be free from arbitrary prolonged and indefinite detention, in violation of the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States.
17. To the extent that Petitioners' detention is without basis in law or fact and violates common law principles of due process and the Due Process Clause of the Fifth Amendment to the Constitution, Petitioners' detention is unlawful.
18. Respondents have violated Petitioners' right to consult with counsel by denying them access to counsel or any means to obtain counsel in a prompt and effective manner.
19. Accordingly, Petitioners are entitled to habeas, declaratory and injunctive relief as well as any other relief the court may deem appropriate, including but not limited to immediate release, an opportunity to meet with counsel and have confidential communications and be fully advised of their right to remain silent and have counsel.
20. Petitioners further request that this Court grant such other relief as the Court may deem necessary and appropriate to protect Petitioners' rights under the common law, the United States Constitution, and federal statutory law.

Respectfully submitted on this 13th day of December, 2006.

Counsel for Petitioners
and Petitioners' Next Friend

s/ John Bowen_____

John P. Bowen
7760 W. 38th Ave., Suite 400
Wheat Ridge, CO, 80033
(303)425-0897 ext. 445

Address of Petitioners' Next Friend

United Food & Commercial Workers Union Local No. 7
7760 W. 38th Ave., Suite 400
Wheat Ridge, Colorado, 80033
303)425-0897 ext. 445

Certificate of Service

I certify that on this 13th day of December 2006, a true and correct copy of the foregoing document was forwarded to the following by certified mail, return receipt requested:

Julie L. Meyers,
Assistant Secretary for Homeland Security for Immigration and
Customs Enforcement
425 Eye Street, NW Room 7100
Washington, D.C., 20536

I certify that on this 13th day of December 2006, a true and correct copy of the foregoing document was forwarded to the following by certified mail, return receipt requested and personal service:

U.S. Immigration and Customs Enforcement Division of the
Department of Homeland Security
Office of the Chief Counsel
Immigration and Customs Enforcement
U.S. Department of Homeland Security
4730 Paris Street, Albrook Center
Denver, Colorado 80239

/s Carol Glasmann_____

Legal Secretary