

US government charges ICE victim Garces Perez, refuses medical care

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30 September 2026

A federal judge on Wednesday denied bond to Wilber Garces Perez, the 28-year-old delivery worker shot in the back by an Immigration and Customs Enforcement (ICE) thug in Austin, Texas on September 20. According to his attorney, Kate Lincoln-Goldfinch, Garces Perez remains imprisoned with a bullet lodged near his spine and without the surgery specialists have recommended.

The ruling followed the Trump administration's vindictive prosecution of Garces Perez for allegedly assaulting, resisting, interfering with and impeding a federal officer. The criminal charge has already derailed a scheduled hearing on his habeas corpus petition, prolonging his imprisonment as his attorneys fight to secure his release and obtain medical treatment.

In the complaint filed by Homeland Security Investigations Special Agent Rick Bazan, the government admits that Garces Perez was not the target of a criminal investigation, but simply working a Sunday DoorDash shift, picking up food for delivery instead of spending the day at home with his wife.

The complaint states that an ICE officer noticed Garces Perez's car outside a restaurant with its "emergency flashers on." No probable cause was listed in the complaint, but ICE officers ran his license plate through their databases and allegedly identified a removal order. The document lists no preexisting criminal warrant as the basis for the stop.

The affidavit records conflicting accounts of what followed. Officer D.F. claims he activated his emergency lights before the initial stop and denies there was a collision. Garces Perez says an unmarked SUV cut him off, caused a collision and only then activated its lights.

The government describes the initial conversation between Garces Perez and an agent identified as "L.G."

as "pleasant and not aggressive." It subsequently alleges that Garces Perez drove away and struck officer L.G. with his sideview mirror. The three body-camera stills reproduced in the complaint do not establish that alleged contact.

The shooting itself was not captured by either officer's body camera. L.G., who fired the shot, had none. D.F. switched his off after losing sight of the pursuit.

Agent Bazan claimed that on September 20, the day Garces Perez was shot and then quickly transferred out of the hospital and into ICE custody at Pearsall, Garces Perez agreed to waive his right to have counsel present while being interviewed. Bazan claimed that during the interview, Garces Perez admitted to "disregarding the command to get out and drove off" after L.G. refused to allow him to move his car and let him park it so his wife could retrieve it.

In addition to not capturing the shooting on any body camera, the complaint does not include an account of the events by L.G., the agent who shot Garces Perez. The affidavit is based on D.F.'s recollection of a telephone call he had with L.G. after the shooting occurred.

According to Garces Perez's attorney, Lincoln-Goldfinch, the habeas case was scheduled for 1 p.m. at the federal courthouse in San Antonio, but was bumped because the government decided to charge Wilber Garces Perez under 18 U.S.C. § 111 with assaulting, resisting, interfering with and impeding a federal officer.

Lincoln-Goldfinch noted that the government often uses this charge against protesters. A Reuters investigation published in February found that at least 655 people had been prosecuted under the statute nationwide since the previous summer, more than

double the number during the corresponding period a year earlier.

Instead of attending his habeas case, Garces Perez was scheduled for a hearing in the criminal case at 1 p.m. on September 30 at the Austin federal courthouse.

In an update shared Wednesday morning, Lincoln-Goldfinch said she hoped Garces Perez would be granted bond, “which unfortunately would release him back into immigration custody which would allow us to go back to pursuing the habeas and getting him the life-saving surgery that the government has withheld from him for now 10 days.”

Early Wednesday evening, Lincoln-Goldfinch revealed that after the lengthy court hearing, the judge declined to grant bond to Garces Perez, leaving him imprisoned as the criminal case proceeds against him. Garces Perez’s attorney emphasized that he “still needs surgery. He still has a bullet in his back.”

In an update shared Tuesday, Lincoln-Goldfinch detailed how she discovered Garces Perez had been criminally charged. The attorney said she had a call scheduled with him for 7 a.m., but when the time came, he was not there. Garces Perez had been moved, without his attorneys’ knowledge, to the Austin federal courthouse for an initial hearing on the charge.

Lincoln-Goldfinch said she was able to get to the courthouse and see Garces Perez in person. She said he was “emotionally distraught” and “in so much pain.” She added that he was “dizzy,” “lightheaded” and “winching.” He could not believe “this was happening to him.”

Lincoln-Goldfinch said her client was unable to take off or put on his translation headphones during the hearing and had “difficulty signing papers.” She added that he remained “immobile” due to the bullet in his body.

“This is an example of the government playing games with the life of a human being,” Lincoln-Goldfinch said.

Neither of the two ICE officers whose statements were cited in the charging documents has been publicly named. The criminal complaint claims that one of the ICE thugs wore a body camera that recorded part of the interaction, but did not capture the shooting itself. That footage has yet to be released in full.

The prosecution of Garces Perez unfolds amid a broader offensive against the ability of immigrants to

challenge their imprisonment and against judges who object to the government’s defiance of court orders.

On Wednesday, the Trump Justice Department filed a judicial misconduct complaint against Minnesota federal judges who spoke to the *New York Times* about Operation Metro Surge. The complaint targets Patrick J. Schiltz, John R. Tunheim and five judges who spoke anonymously. It demands an investigation and their recusal from pending and future cases involving the Department of Homeland Security.

At a Wednesday press conference, Attorney General Todd Blanche denounced the judges’ comments as “overtly political” and evidence of “obvious bias.”

Schiltz, a George W. Bush appointee who keeps signed photographs of conservative Supreme Court justices John G. Roberts Jr. and Samuel A. Alito Jr. in his chambers, said the government’s conduct “created a grave threat to the rule of law.” He described the events in his court from January through March of this year as virtually unprecedented since the Civil War.

The Justice Department’s complaint claims that any violations of court orders by DHS were the judges’ fault. Its complaint blames their legal rulings for a flood of habeas petitions and the resulting strain on government resources, and asserts that the administration’s noncompliance was a consequence of judicial error.

Schiltz’s defense of the courts expresses the concerns of a section of the ruling establishment over the erosion of its own institutions. The appearance of equality before the law is essential to sustaining the fiction that the capitalist state and its institutions, including the courts and the police, stand above classes. Open executive defiance of judicial orders threatens to upend this charade.

The Trump administration is asserting that even these institutional restraints are intolerable. Judges who insist that the government obey court orders are themselves targeted for investigation. The aim is to subordinate the judiciary to the executive as part of the establishment of a presidential dictatorship.



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