

UNITED STATES DISTRICT COURT DISTRICT OF VERMONT

JOSÉ IGNACIO DE LA CRUZ DE LA ROSA,

Petitioner,

v.

DONALD J. TRUMP, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE UNITED STATES; PATRICIA HYDE, IN HER OFFICIAL CAPACITY AS ACTING BOSTON FIELD OFFICE DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; DAVID W. JOHNSTON, IN HIS OFFICIAL CAPACITY AS VERMONT SUB-OFFICE DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; TODD M. LYONS, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; PETE R. FLORES, IN HIS OFFICIAL CAPACITY AS ACTING COMMISSIONER FOR U.S. CUSTOMS AND BORDER PROTECTIONS; KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY; MARCO RUBIO, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE; AND PAMELA BONDI, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL

Respondents.

Case No. 2:25-cv-580

PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

INTRODUCTION

1. This is a petition for writ of habeas corpus, filed on behalf of the Petitioner, José Ignacio De La Cruz De La Rosa, who was unlawfully arrested without a warrant by U.S. Customs and Border Patrol (CBP) agents in Richford, Vermont, following a car stop for unknown reasons, on June 14, 2025, and, upon information and belief, was brought to the CBP barracks in Richford, VT. He is currently detained at Northwest State Correctional Facility. **Mr. De La Cruz De La Rosa requests either an order not to transfer him or an order that Respondents provide 72-hours notice before transferring him.**

2. Mr. De La Cruz De La Rosa's country of origin is Mexico. He entered without inspection to the United States in about 2016. He left the United States briefly in 2022. Following his brief exit, Mr. De la Cruz entered without inspection in 2022 and has resided in Vermont ever since.

3. Mr. De La Cruz De La Rosa has a three-year-old child, who is a U.S. Citizen, born in Vermont.

4. Accordingly, to vindicate Petitioner's statutory, constitutional, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus.

5. Absent an order from this Court, it is the belief of undersigned that Petitioner will be transported out of this jurisdiction and/or removed from the Country.

JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States

Constitution (Suspension Clause).

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. Venue is proper because Petitioner is detained at Northwest State Correctional Facility in Swanton, Vermont, within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

11. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

12. Petitioner has lived and worked in Vermont for almost 10 years and has a 3-year-old child who is a U.S. citizen. Petitioner is currently detained in Vermont. He is in the custody, and under the direct control, of Respondents and their agents.

13. Respondent Donald J. Trump is named in his official capacity as the President of the United States. In this capacity, he is responsible for the policies and actions of the executive branch, including the Department of State and the Department of Homeland Security. At all relevant hereto, Respondent Trump's address is the White House, 1600 Pennsylvania Ave. NW, Washington, D.C. 20500.

14. Respondent Patricia Hyde is sued in her official capacity as the Acting Director of the Boston Field Office of U.S. Immigration and Customs Enforcement. Respondent Hyde is a legal custodian of Petitioner and has authority to release Mr. De la Cruz.

15. Respondent the Director of the Vermont Sub-Office of ICE Enforcement and Removal Operations, David W. Johnston, is named in his or her official capacity as the Director of the Vermont Sub-Office of the Boston Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations within the district of Vermont and is a custodian of Petitioner. At all relevant times, the Director's address is 64 Gricebrook Road, St. Albans, VT 05478.

16. Respondent Pete R. Flores is named in his official capacity as the Acting Commissioner of CBP. In this capacity, Respondent Flores leads CBP employees who are responsible for the administration of immigration laws and the execution of detention and removal determinations within its area of authority. At all relevant times, the Commissioner's address is 1300 Pennsylvania Avenue NW, Washington, DC 20229.

17. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of Vermont, is legally responsible for pursuing efforts

to remove the Petitioner, and as such is the custodian of the Petitioner. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

18. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

19. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

Background on Mr. De La Cruz De La Rosa

19. Mr. De La Cruz De La Rosa is a citizen of Mexico. He has lived and worked in Vermont since 2016. He left briefly in 2022 and returned to the U.S. less than one month after his departure.

20. Mr. De La Cruz De La Rosa has a three-year-old child in Vermont.

21. He is twenty-nine years old and has no criminal history.

22. He is the employee-owner of New Farmworks Construction with previous employment on dairy farms in Vermont.

23. He has a strong history of community ties and significant community involvement.

Mr. De La Cruz De La Rosa's Speech on Matters of Public Concern

24. Mr. De La Cruz De La Rosa is a prominent spokesperson for the Vermont's immigrant community, part of Migrant Justice's Coordinating Committee, and for years, has been at the forefront of struggles for human rights and social justice.

25. He is also a former dairy worker and currently the Worker-owner of New Frameworkers Construction. He has led campaigns for workers' rights in the dairy and construction industries, and has been at the center of every immigrant rights legislation in Vermont in the past five years.

26. A frequent presence at the Vermont State House, he recently testified in favor of the Housing Access for Immigrant Families proposal, which was signed into law by Governor Phil Scott two days before his arrest.

The Federal Government's Suppression of Constitutionally Protected Speech

27. Starting in 2016, DHS began a campaign of targeted retaliation against Migrant Justice. The agency physically and electronically surveilled the organization, planted confidential informants in meetings, compiled dossiers on leaders, and sowed disinformation to undermine the work of Migrant Justice.

28. Over two years, DHS detained forty immigrant community members affiliated with Migrant Justice, including the highest-profile leadership of the organization.

29. In 2020, the agency settled with Migrant Justice, terminating deportation cases against the plaintiffs and affirming a constitutional prohibition against the targeting of persons due to First Amendment-protected activities of speech and association.

30. This suppression and targeting of immigrants and advocates of immigrant's rights has continued on a very broad scale since President Trump took office in January of 2025.

31. This includes deploying the National Guard on peaceful protests around immigrant's rights in California.¹

32. On June 12, 2025, Senator Alex Padilla, Democrat of California, was shoved out of a room and handcuffed after he tried to question Kristi Noem, DHS Secretary, during a news conference. Senator Padilla is vocal critic of the Trump administration's immigration policies.²

Mr. De La Cruz De La Rosa's Detention by CBP as Implementation of the Policy to Arrest Protestors and to Racially Profile Individuals Not Otherwise Engaged in Unlawful Behavior

33. On June 14, 2025, around 12 pm, Mr. De La Cruz De La Rosa was driving with his step-daughter, [REDACTED], as a passenger on VT Route 105 in Richford, Vermont. They were driving to deliver food to several dairy farms in the area. As they were driving back to their home in Milton, their vehicle was pulled over by CBP by uniformed agents in marked Border Patrol vehicle. There is no known justification for the stop.

34. During the stop, Mr. De La Cruz De La Rosa and Ms. [REDACTED] exercised their rights to remain silent and called Migrant Justice emergency hotline. Border Patrol agents broke driver's side window and opened the car door. They then detained Mr. De La Cruz De La Rosa and Ms. [REDACTED]. There is no known justification for the arrest or detention.

¹ <https://www.nytimes.com/live/2025/06/13/us/la-protests-trump-ice>

² <https://www.theguardian.com/us-news/2025/jun/12/los-angeles-protests-alex-padilla-kristi-noem>

35. Based on information and belief, CBP agents brought Mr. De La Cruz De La Rosa and Ms.  to CBP Barracks in Richford, Vermont. He was then transported to Northwest State Correctional Facility and she was taken to Chittenden Regional Correctional Facility. They remain in custody at these facilities, which are both within the District of Vermont.

CLAIMS FOR RELIEF

COUNT ONE Violation of Fourth Amendment and 8 U.S.C. § 1357(a)(2)

36. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

37. On information and belief, CBP agents stopped Mr. De La Cruz De La Rosa's car without reasonable suspicion, and arrested Petitioner without probable cause or a warrant, violating his constitutional right against warrantless seizure, and CBP's statutory authority under 8 U.S.C. § 1357(a)(2).

COUNT TWO Violation of the First Amendment to the United States Constitution

38. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

39. The First Amendment to the United States Constitution provides that "Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people . . . to petition the Government for a redress of grievances." U.S. Const. Amend. I.

40. The First Amendment protects speech by noncitizens resident in the United States.

41. The First Amendment also protects past, present, and future speech.

42. The government's Policy of detaining noncitizens on the basis of their protected speech, and the targeting, arrest, and detention of Mr. Mr. De La Cruz De La Rosa, violate the First Amendment.

43. The government targeted Mr. De La Cruz De La Rosa on the basis of his past protected speech, and the past protected speech by the organization he is apart of, that is Migrant Justice.

44. The government's targeting and detention of Mr. De La Cruz De La Rosa prevents him from continuing to exercise his constitutional right to speech.

45. The government's targeting and detention of Mr. Mr. De La Cruz De La Rosa chills both his speech and the speech of other individuals who would like to express similar views.

46. The government's targeting and detention of Mr. De La Cruz De La Rosa may prevent his future speech in the United States in the event that he is indeed removed from the country.

47. The government's targeting and detention of Mr. De La Cruz De La Rosa deprives audiences of his present and future speech on matters of public concern.

48. These consequences are not incidental to some legitimate government objective. As the government has made clear, these consequences (chilling and preventing speech sympathetic to Palestine) is the ultimate objective of the government's actions.

COUNT THREE Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution

49. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

50. The Due Process Clause of the United States Constitution applies to "all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001).

51. Immigration detention must further the twin goals of ensuring a noncitizen's appearance during removal proceedings and preventing danger to the community.
52. In light of these goals, Mr. De La Cruz De La Rosa's detention is wholly unjustified. Indeed, it bears no reasonable relation to any legitimate government purpose.
53. Mr. De La Cruz De La Rosa is not a flight risk. He has his own company here, he works here, his three-year old child is her. He has lived in the United States almost continuously for the past nine years, and his life, community, and work all are in the United States.
54. Mr. De La Cruz De La Rosa is not a danger to the community. He has no criminal record, and there is no other legitimate reason to regard him as a danger to the community.
55. Because Mr. De La Cruz De La Rosa's detention bears no reasonable relation to a legitimate government purpose, it is punitive.
56. The sole basis for Mr. De La Cruz De La Rosa's detention is to punish him for his country of origin not being the United States and his speech and to chill similar speech.

COUNT FOUR Release on Bail Pending Adjudication

57. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.
58. This Court has the "inherent authority" to grant bail to habeas petitioners like Mr. De La Cruz De La Rosa. *See Mapp v. Reno*, 241 F.3d 221, 230 (2d Cir. 2001).
59. When considering such a petition, courts assess (1) "whether the petition raises substantial claims" and (2) "whether extraordinary circumstances exist that make the grant of bail necessary to make the remedy effective." *Elkimya v. Dep't of Homeland Sec.*, 484 F.3d 151, 154 (2d Cir. 2007) (cleaned up).

60. As long as Mr. De La Cruz De La Rosa is in detention, he will be unable to speak freely, ratifying the ultimate constitutional violation that the government sought to achieve with his detention.

61. As long as Mr. De La Cruz De La Rosa is in detention, he will be punished for his Mexican-descent and disfavored speech, ratifying another constitutional violation that the government sought to achieve with his detention.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of Vermont;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (4) Declare that Petitioner's detention violates the Fourth Amendment right against warrantless seizure; the First Amendment right to freedom of speech; and the Fifth Amendment right to due process.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,



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Pro Bono Counsel for Petitioner

Dated: June 15, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, JOSE IGNACIO DE LA CRUZ DE LA ROSA, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 15th day of June, 2025.



Brett Stokes, Esq.