

RAMIREZ-SMITH LAW
NIKKI R. SMITH, ISB: 9030
JACOB C. ROURK, ISB: 12585

Attorney for Petitioner

FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

Kevin Edgardo Ramirez Solis,

Petitioner,

v.

Mike Hollinshead, Sheriff, Elmore County;
Jared Callahan, Acting Director of Boise U.S.
Immigration and Customs Enforcement
Field Sub-Office;

Jason Knight, Director of the Salt Lake City
U.S. Immigration and Customs Enforcement
Field Office;

Kristi Noem, Secretary of the U.S. Department of
Homeland Security; and **Pam Bondi**,
Attorney General of the United States,
in their official capacities,

Respondents.

File No. 

INTRODUCTION

1. Petitioner, Kevin Edgardo Ramirez Solis, present in the United States without lawful immigration status, pursuing a visa based on marriage to a United States citizen, hereby petitions this Court for a writ of habeas corpus. On June 24, 2025, Mr. Ramirez Solis was seized by agents with Immigration and Customs Enforcement (ICE) who shattered his car window while he was inside, unmoving, and detained him. ICE claimed to have a warrant which they did not show him

and which was signed by a supervising ICE officer. Accordingly, to vindicate Petitioner's statutory and constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

2. Petitioner also asks the Court to issue a writ of habeas corpus by determining that his detention is not justified because the government has not established by clear and convincing evidence that he presents a risk of flight or danger in light of available alternatives to detention, and order his release. In the alternative, Mr. Cortez asks the Court to issue a writ of habeas corpus and order his release within 20 days unless Respondents schedule a bond hearing before an immigration judge, wherein they will bear the burden to demonstrate that he is a danger to the community or a flight risk to justify continued detention.
3. Petitioner asks this Court to find that his apprehension was unconstitutional and to order his release, and to stay his transportation out of the Court's jurisdiction.

JURISDICTION AND VENUE

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
5. 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).
6. 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.
7. Venue is proper because Petitioner is detained at the Elmore County Detention

Center in Mountain Home, Idaho, which is within the jurisdiction of this District. 28 U.S.C. § 1391(b); *see also* 28 U.S.C. § 2241(d); *Palma v. Holder*, 2014 U.S. Dist. LEXIS 175721 (9th Cir. 2014).

REQUIREMENTS OF 28 U.S.C. § 2243

8. 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).
9. 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

10. Petitioner is a national of El Salvador who has lived in the United States since December of 2018. Petitioner is currently detained at the Elmore County Detention Center in Mountain Home, Idaho, and is a resident of Meridian, Idaho. He is in the custody, and under the direct control, of Respondents and their agents.
11. Respondent Mike Hollinshead is the Sheriff of Elmore County, and he has immediate physical custody of Petitioner pursuant to the Elmore County detention facility’s contract with U.S. Immigration and Customs Enforcement to detain

noncitizens and is a legal custodian of Petitioner. Respondent Hollinshead is a legal custodian of Petitioner.

12. Respondent, Jared Callahan, is sued in his official capacity as the Acting Director of the Boise Field Office of U.S. Immigration and Customs Enforcement.

Respondent is a legal custodian of Petitioner and has authority to release him.

13. Respondent, Jason Knight, is sued in his official capacity as the Director of the Salt Lake City Field Office of U.S. Immigration and Customs Enforcement.

Respondent is a legal custodian of Petitioner and has authority to release him.

14. 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, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

15. Respondent Pam 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

16. Petitioner is a 32-year-old citizen of El Salvador, who married his spouse, a United States citizen, on March 1, 2023. He is a committed member of his

community, has family in North Carolina and Colorado, and lives near his lifelong friend from El Salvador who is now a United States citizen. Petitioner entered the United States in 2018 without inspection. He has been convicted once of Driving Under the Influence in 2021, and Driving Without Privileges in January of 2025. He has no other non-infraction criminal history.

17. On June 24, 2025, Petitioner was in his stopped car when he was approached by ICE agents. He video-called his spouse, while two agents knocked on his window, threatening him in broken Spanish to get out and roll down the window, or else they would break it. Petitioner displayed to them a red card explaining his constitutional rights in English and Spanish. The ICE officers instructed him to close his eyes, and smashed his window with a pointed tool. The ICE agents handcuffed Kevin. One took his phone, and spoke with his spouse while the others told him to hang up. The ICE officers did not at any time display a warrant for the arrest of Petitioner, and claim that they had in their possession an SJ 1200, allegedly signed by a supervising ICE agent, but not by a judge.

LEGAL FRAMEWORK

18. The Supreme Court has stated that it “‘is well established the Fifth Amendment entitles aliens to due process of law in deportation proceedings.’” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes

protection against unlawful or arbitrary personal restraint or detention.”). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“both removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious”).

19. Due process therefore requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* at 690 (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

20. The allegations in the above paragraphs are realleged and incorporated herein.
21. Mr. Ramirez Solis is entitled to due process protections. *See Reno v. Flores*, 507 U.S. 292, 306 (1993); *United States v. Mendoza-Lopez*, 481 U.S. 828 (1987).
22. A wrongful detention can ripen into a due process violation if “it was or should have been known [by the Respondents] that the [Petitioner] was entitled to release.” *Cannon v. Macon County*, 1 F.3d 1558 (11th Cir. 1993).
23. 42 U.S.C. § 1983 provides that “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ... subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction

thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured.” A local government entity is liable under 42 U.S.C. § 1983 when “action pursuant to official municipal policy of some nature causes a constitutional tort.” *Oviatt v. Pearce*, 954 F.2d 1470, 1473-74 (9th Cir. 1992).

24. Although in general, the burden is on the detainee to “show to the satisfaction of the Immigration Judge that he or she merits a release on bond,” *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006), the Ninth Circuit has previously found in cases before habeas courts where a “substantial liberty interest” is at stake, “the government must prove by clear and convincing evidence that continued detention is justified.” *Singh v. Holder*, 638 F.3d 1196, 1203-1204 (9th Cir. 2011) (citing *Casas-Castrillim v. Department of Homeland Security*, 535 F.3d 942 (9th Cir. 2008)).
25. ICE agent’s flagrant disregard for Petitioner’s security of person and property, and excessive force to secure his arrest in the midst of his unmovable display of his Constitutional rights, is sufficient to show that they knowingly violated his Constitutional rights and should understand he should be released.
26. For these reasons, Petitioner’s detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of the Fourth Amendment Protection Against Unreasonable Searches and Seizures

27. The allegations in the above paragraphs are realleged and incorporated herein.

28. ICE agents violated Petitioner's Fourth Amendment protections by forcing their way into his unmovable vehicle, without displaying a warrant for his arrest. *Payton v. New York*, 445 U.S. 573, 584, 586 (1980) ("[i]t is a 'basic principle of Fourth Amendment law' that searches and seizures inside a home without a warrant are presumptively unreasonable.") (quoting *Coolidge v. New Hampshire*, 403 U.S. 443, 477, 91 S. Ct. 2022, 29 L. Ed. 2d 564 (1971)).
29. The California Central District Court has previously found that ICE violated the Fourth Amendment where it secured entry into a home by misrepresentation, despite having an administrative arrest warrant for the alien which they did not show to the residents. *Kidd v. Mayorkas*, 734 F.Supp.3d 967 (C.D. Cal. 2024).
30. In this case, ICE did not gain entry into a dwelling by mere misrepresentation, but into Petitioner's vehicle by force. They have alleged to have, but at no point displayed, an administrative arrest warrant. ICE therefore engaged in an unlawful search and seizure when they broke the Petitioner's window to apprehend him.
31. For these reasons, Petitioner's detention violates the Fourth Amendment of the Constitution.

COUNT THREE
Violation of 8 C.F.R. § 287.8(c)(2)(iii)

32. The allegations in the above paragraphs are realleged and incorporated herein.
33. The regulations require agents and officers, at the time of an arrest or as soon as it is practicable and safe to do so, to identify themselves as "an immigration officer who is authorized to execute an arrest" and "state that the person is under arrest and the reason for the arrest." 8 C.F.R. § 287.8(c)(3).

34. Respondents did not timely identify themselves to Petitioner, despite his queries. Respondents refused to inform Petitioner that he was being arrested for his DUI from years prior until he was already detained in their vehicle.
35. For these reasons, Respondents' detention of Petitioner was in violation of regulation.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Stay Petitioner's transportation to another jurisdiction until this Court resolves his petition for a writ of habeas corpus;
- (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 arrest and seizure violated the Fourth Amendment of the Constitution;
- (5) Declare that Petitioner's detention violates the Fifth Amendment of the Constitution;
- (6) Issue a writ of habeas corpus ordering Respondents to release Petitioner immediately; or, in the alternative, issue an order requiring Respondents to schedule a bond hearing within 20 days, wherein they will bear the burden to demonstrate by clear and convincing evidence that he is a danger to the community or a flight risk, to justify his continued and currently unjustified detention.
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Jacob C. Rourk

Jacob C. Rourk

Attorney for Petitioner

Ramirez-Smith Law

444 W. Iowa Ave.

Nampa, ID 83686

Tel.: (208) 461-1883

Dated: June 25, 2025

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

I represent Petitioner, Kevin Edgardo Ramirez Solis, 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 9th day of July, 2025.

s/Jacob C. Rourk

Jacob C. Rourk