

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

WILFREDO RAMIREZ RIVERO

Petitioner-Plaintiff,

v.

KRISTI NOEM, in her official capacity as  
Secretary of the Department of Homeland Security;  
PAMELA BONDI, in her official capacity as  
Attorney General; TODD LYONS, in his official  
Capacity as Acting Director of Immigration and  
Customs Enforcement; JOSH JOHNSON, in his  
official capacity as Acting Director of Immigration  
and Customs Enforcement's Enforcement and  
Removal Operations Dallas Field Office; and  
THOMAS BERGAMI, in his official capacity as  
Warden of the Prairieland Detention Center.

Respondents.

Case No. \_\_\_\_\_

Agency File: 

**PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR ORDER TO  
SHOW CAUSE**

**I. INTRODUCTION**

1. Petitioner, Wilfredo Ramirez Rivero, has been in detention since March 20, 2025, and remains in custody currently at the Prairieland Detention Center located at 1209 Sunflower Lane, Alvarado, Texas 76009. Mr. Ramirez has been moved to various detention facilities since his initial detention on March 20, 2025. On April 10, 2025, Mr. Ramirez was granted bond to be released from detention, however, he was not released because the Department of Homeland Security ("DHS") appealed the Custody Redetermination Decision. On May 29, 2025, Mr.

Ramirez was granted residency by Immigration Judge Michael Pleters at El Paso SPC Immigration Court, pursuant to an approval of Mr. Ramirez's Application for Cancellation of Removal for Certain Nonpermanent Residents under INA § 240A(b)(1), 8 U.S.C. §1229b (b)(1). Following the grant of relief of removal by an Immigration Judge and the waiver of appeal by the Government, DHS's appeal of the Custody Redetermination Decision became moot, and the Board of Immigration Appeals ("BIA") now lacks jurisdiction over the review of the bond decision.

2. A grant of cancellation of removal results in the adjustment of status to that of a lawfully admitted permanent resident, an alien who was previously inadmissible or deportable. INA § 240A(b)(1), 8 U.S.C. §1229b (b)(1). Accordingly, after a grant of Cancellation of Removal for Certain Nonpermanent Residents, Mr. Ramirez was issued an approval notice from the U.S. Citizenship and Immigration Services ("USCIS") on June 3, 2025. On June 16, 2025, DHS issued a third Notice to Appear on June 16, 2025, that has not been served to Mr. Ramirez's counsel of record but was served to him in person.

3. As there has been no change in circumstances or facts from the date of Mr. Ramirez's Individual Hearing, where he was granted relief from removal, and the date of the issuance of the third Notice to Appear, therefore, there is no lawful means for the issuance of the third Notice to Appear. Since the third Notice to Appear was unlawfully issued, and Mr. Ramirez has been granted relief from removal—with both parties waiving their rights to appeal—Mr. Ramirez is now a Lawful Permanent Resident who is being unlawfully detained in violation of his Fifth Amendment due process rights.

4. Absent an order from this Court, Petitioner will continue to suffer irreparable harm caused by his unlawful detention and violation of his constitutional rights.

5. To remedy his unlawful confinement, Mr. Ramirez asks this Court to, under 28 U.S.C. § 2241, issue a writ of habeas corpus directing Respondents to release Mr. Ramirez because his continued confinement violates procedural due process and substantive due process.

6. Mr. Ramirez requests this Court to order Respondents to show cause demonstrating why he should not be released within three days. 28 U.S.C. § 2243.

## **II. JURISDICTION**

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101.

8. 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).

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651. Under 8 U.S.C. § 1252(e)(2), this Court has habeas authority to whether Petitioner can prove by a preponderance of the evidence that he is a lawful permanent resident.

## **III. VENUE**

10. Venue is proper in this district pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1391 because Mr. Ramirez is detained in the Prairieland Detention Center in Alvarado, Texas, within the Northern District of Texas, Dallas Division, and Petitioner’s immediate physical custodian is in this District.

## **IV. REQUIREMENTS OF 28 U.S.C. § 2243**

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause 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.*

12. 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).

## V. PARTIES

13. Petitioner is a Lawful Permanent Resident, who is currently detained at Prairieland Detention Center in Alvarado, Texas. Mr. Ramirez is in the custody, and under the direct control of Respondents and their agents.

14. Respondent, Kristi Noem, is named in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); is legally responsible for pursuing any effort to confine and remove the Petitioner; and as such is a custodian of Mr. Ramirez. Respondent Noem’s address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

15. Respondent, Pamela Bondi, is named in her official capacity as Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g); and as such is a custodian of Mr. Ramirez. Respondent Bondi’s address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

16. Respondent Todd Lyons is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing any effort to remove Mr. Ramirez and confine him pending removal. As such, he is a custodian of Mr. Ramirez. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

17. Respondent, Josh Johnson, is named in his official capacity as Acting Director of the ICE Enforcement & Removal Operations (“ERO”) Dallas Field Office in Dallas, Texas. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration confinement and the institution of removal proceedings within North Texas, which is the jurisdiction where Mr. Ramirez is confined. As such, he is a custodian of Mr. Ramirez. Mr. Johnson’s address is 8101 North Stemmons Freeway, Dallas, Texas 75247.

18. Respondent, Thomas Bergami, is named in his official capacity as the Warden of Prairieland Detention Center. In this capacity, he is responsible for the immediate execution of detention over Petitioner and is the immediate custodian of Petitioner. Respondent Bergami’s address is 1209 Sunflower Lane, Alvarado, Texas 76009.

## **VI. STATEMENT OF FACTS**

19. Petitioner is a native and citizen of Venezuela, born on [REDACTED] 1984.

20. Mr. Ramirez entered the United States as a B-2, Visitor for Pleasure, on January 27, 2015, and has had no criminal history.

21. On March 20, 2025, ICE/ERO, Homeland Security Investigations (“HIS”), Alcohol Tobacco and Firearms (“ATF”), Florida Highway Patrol (“FHP”), Okaloosa County

Sheriff's Office ("OCSO"), and the Florida Department of Law Enforcement ("FDLE") went to Mr. Ramirez's home located at 630 Lloyd St., Fort Walton Beach, FL 32547 on the suspicion that Petitioner was part of Tren de Aragua. Officers and agents waited for Mr. Ramirez to leave his home to then conduct a vehicle stop and detain him.

22. The Department of Homeland Security ("DHS") issued an initial Notice to Appear ("NTA") on March 20, 2025, which the Immigration Judge at LaSalle Immigration Court dismissed on April 7, 2025, for being insufficient. Petitioner's counsel believes that the initial NTA contained only a charge of removability pursuant to INA §237(a)(1)(B), 8 U.S.C. 1227(a)(1)(B), as listed in the I-213, Record of Deportable/Inadmissible Alien, however, Petitioner's counsel does not have access to the initial NTA to confirm.

23. On April 7, 2025, DHS issued a second NTA with a charge of removability pursuant to INA §237(a)(1)(B), 8 U.S.C. 1227(a)(1)(B), as an alien who remained in the United States longer than permitted after being admitted as a nonimmigrant.

24. On April 10, 2025, Petitioner was granted bond, however, he remained in detention because DHS appealed the Custody Redetermination decision issued by Immigration Judge Jennifer A. May at the LaSalle Immigration Court.

25. On or about April 15, 2025, Mr. Ramirez was moved from LaSalle Detention Facility located at 830 Pinehill Road, Jena, LA 71342, to Bluebonnet Detention Facility located at 400 E 2nd Street, Anson, TX 79501.

26. On May 29, 2025, Mr. Ramirez presented his case in support of his Application for Cancellation of Removal for Certain Nonpermanent Residents under INA § 240A(b)(1), 8 U.S.C. §1229b (b)(1), where he was subject to cross-examination by DHS.

27. On May 29, 2025, Mr. Ramirez was granted residency by Immigration Judge Michael Pleters at El Paso SPC Immigration Court, pursuant to an approval of Mr. Ramirez's Application for Cancellation of Removal for Certain Nonpermanent Residents under INA § 240A(b)(1), 8 U.S.C. §1229b(b)(1).

28. DHS waived appeal of the May 29, 2025, decision granting Mr. Ramirez residency.

29. Following the grant of residency, Mr. Ramirez was issued an approval notice from USCIS on June 3, 2025.

30. On June 16, 2025, DHS issued a third NTA, that has not been served to Mr. Ramirez's counsel of record but was served to him. Based on communications with Mr. Ramirez, it appears to be that the third NTA is charging him with removability pursuant to INA § 237(a)(1)(A), 8 U.S.C. §1227(a)(1)(A), as an alien who at the time of entry or adjustment of status was within one or more classes of inadmissibility, and inadmissibility pursuant to INA § 212(a)(6)(C)(i), 8 U.S.C. §1182(a)(6)(C)(i), as an alien who by fraud or willful misrepresentation of a material fact procured a visa, other documentation or admission into the U.S. or other benefit provided under the INA.

31. On or about June 25, 2025, Mr. Ramirez was moved to the Prairieland Detention Center located at 1209 Sunflower Lane, Alvarado, Texas 76009.

32. Mr. Ramirez currently has a Master Hearing scheduled for July 24, 2025, before the Executive Office for Immigration Review ("EOIR") at the El Paso SPC Immigration Court.

33. There has been no change in facts or circumstances from the date of the Individual Hearing, when Mr. Ramirez won his case before the EOIR, and the date of the issuance of the third NTA.

## VII. CLAIMS FOR RELIEF

### COUNT ONE

#### Violation of Fifth Amendment Right to Procedural Due Process

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

35. When the Government interferes with a liberty interest, “the procedures attendant upon that deprivation [must be] constitutionally sufficient.” *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The constitutional sufficiency of procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government’s interest. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

36. The risk of erroneous deprivation of Mr. Ramirez’s liberty is extremely high, given that an Immigration Judge has already determined that Mr. Ramirez does not pose a danger to society or a flight risk; Mr. Ramirez won his residency, and both sides waived appeal; and the facts and circumstances of have not changed to justify the issuance of a third NTA. Since Mr. Ramirez was granted residency while in detention and both parties waived their right to appeal the decision, he should have been released immediately. However, he remained in detention while DHS eventually issued a third NTA to attempt to justify his continued detention. The circumstances and facts of the case have not changed, meaning there was no reason for the issuance of a third Notice to Appeal.

37. Based on the, now moot, appeal of the custody redetermination, and the initial bases of Mr. Ramirez’s arrest, it could be assumed that the interest of the Government is to ensure national security as it alleged, without any evidence to support such allegation, that Mr. Ramirez was a member of the Tren de Aragua. However, these concerns were known to DHS prior to the Individual Hearing, where the Government waived appeal. Had there been justifiable

or supported concerns that Mr. Ramirez was affiliated with the Tren de Aragua, the Government had the opportunity to address them at the Individual Hearing and could have elected to further address them before the BIA in the form of an appeal, as it did with the Custody Redetermination decision. Despite having waived its right to appeal, the Government has now issued a third Notice to Appear alleging fraud, seemingly to justify the continued detention of a Lawful Permanent Resident with no criminal record, whose only connection to the Tren de Aragua is his Venezuelan nationality.

38. Given that the Government has waived its right to appeal the merits of the case, the key safeguard meant to protect its interests in removing Mr. Ramirez, releasing Mr. Ramirez would have no meaningful costs to the government.

**COUNT TWO**  
**Violation of Fifth Amendment Right to Substantive Due Process**

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

40. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

41. The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

42. With respect to immigration confinement, the Supreme Court has recognized two special justifications: (1) preventing flight and (2) preventing danger to the community. *See id* at 690.

43. The government’s detention of Mr. Ramirez is wholly unjustified. The government has not demonstrated that Mr. Ramirez, a Lawful Permanent Resident with no criminal history, needs to be detained. Since Mr. Ramirez was granted residency while in

detention and both parties waived their right to appeal the decision, he should have been released immediately. However, he remained in detention while DHS eventually issued a third NTA to attempt to justify his continued detention. The circumstances and facts of the case have not changed, meaning there was no reason for the issuance of a third Notice to Appeal.

44. An Immigration Judge has already found that Mr. Ramirez poses no threat of danger to the community or flight risk that would justify such a detention, and Mr. Ramirez has since won his residency, making DHS's appeal of the bond determination moot.

45. Mr. Ramirez's detention appears to be purely punitive as it bears no "reasonable relation" to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus assumed to be "nonpunitive in purpose and effect"). It appears that the Government is seeking to punish Mr. Ramirez for winning on the merits of his case or possibly for DHS's own decisions for how it chose to litigate the case, i.e. not present evidence of the alleged affiliation and waiving appeal.

46. For these reasons, Petitioner's detention action violates the Due Process Clause of the Fifth Amendment.

### **COUNT THREE Release Pending Determination**

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

48. As part of this Court's authority under the All Writs Act, the habeas corpus statute, and its inherent equitable authority to preserve the Court's authority, the Court may order the release of Mr. Ramirez on bond during the pendency of these proceedings. *Calley v. Callaway*, 496 F.2d 701, 702 (5th Cir. 1974). Such release is proper when the Petitioner (1) has raised substantial constitutional claims with a high probability of success; and (2) where exceptional circumstances exist. *Calley*, 496 F.2d at 702 & n.1.

49. Mr. Ramirez was found to not be a flight risk or pose any danger to the community by an Immigration Judge, and has been granted his residency, therefore the Government has no legitimate interest in his continued detention that could outweigh the daily harm and constitutional violation that his continued detention inflicts.

50. Here, Mr. Ramirez has presented substantial constitutional claims challenging the unjust detention of Mr. Ramirez. Extraordinary circumstance, such as Mr. Ramirez's grant of residency while in detention, exists making Mr. Ramirez's release essential for the remedy to be effective.

#### **VIII. PRAYER FOR RELIEF**

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to show cause why the petition for a writ of habeas corpus filed by Mr. Ramirez pursuant to 28 U.S.C. § 2241 should not be granted within three days;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment; and
- (5) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Kenia Garcia

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Dated: June 30, 2025

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

I represent Petitioner, Wilfredo Ramirez Rivero, 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 30th day of June 2025.

/s/Kenia Garcia

Kenia Garcia