

UNITED STATES DISTRICT COURT DISTRICT OF RHODE ISLAND

Wilson Rodrigez,
PETITIONER,

C.A. NO:

V.

PATRICIA HYDE Acting Director of
Boston Field Office, U.S. Immigration and
Customs Enforcement; KRISTI NOEM,
Secretary of the U.S. Department of
Homeland Security; PAMELA BONDI,
Attorney General of the United States; in
their official capacities,
RESPONDENTS,

**EMERGENCY WRIT OF HABEAS CORPUS AND MOTION FOR TEMPORARY
RESTRAINING ORDER**

Now comes Petitioner seeking immediate bond and or in the alternative an order preventing the movement, deportation of petitioner and, or prevention of the federal government to transfer petitioner outside the State of Rhode Island. Petitioner has been on Asylum for over 8 years as he and his family were targeted by MS-13. The very people the government wants to rightly deport MS-13 members, deporting Mr. Rodrigez before he has been able to participate in his defense of a Police Report which is not considered evidence is not Justice, it's a death sentence. His entire family is in Rhode Island which is where his support system is as he has a wife and three kids here. His attorneys are located in this jurisdiction. For him to be moved outside the Jurisdiction and be Defaulted in a minor misdemeanor offence is violation of his procedural and substantive due process rights. The reason for Mr. Reyes being picked up by Immigration officials, upon information and belief is a DUI charge. The only evidence currently the Government has is a police report which is not evidence. Based upon past history, without an

order from this Court releasing Mr. Rodriguez or at a minimum preventing his movement outside of this Jurisdiction, the Government will move him and deny him the ability to participate in his own defense, and the genesis of the entire proceeding is completely baseless, as no conviction exists for Mr. Rodriguez. Absent an order from this Court, on information and belief and based on DHS's actions in similar cases, DHS will take Mr. Rodriguez into DHS custody, detain him, and remove him from this District. In so doing, DHS would deprive Mr. Rodriguez of his right to participate in his own defense. Mr. Rodriguez seeks immediate relief from this Court enjoining DHS from removing him from this District or from the United States, and ordering Respondents to release him from their immediate and constructive custody so he can participate in his own defense and exonerate himself of any charges.

Currently the Rhode Island Court has let Mr. Reyes out on Personal Recognizance as they do not see him as a danger or likely to flee. To hold him without bail or to set bail amounts in of \$7,000 plus is unjust and just as if they are saying he is not able to get bail as the Federal System requires dollar for dollar payment.

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant writs of habeas corpus where a person is "in custody in violation of the Constitution or laws or treaties of the United States." 28 USCS § 2241.
2. This Court also has jurisdiction under 28 U.S.C. § 1331, as this action arises under the Constitution and laws of the United States. 28 USCS § 1331, and 28 USC § 2201.
3. 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.
4. Venue is proper in this Court because Petitioner is currently detained within the jurisdiction of this Court at Department of Homeland Security in Warwick RI in the District of Rhode Island.

REQUIREMENTS OF 28 U.S.C. § 2243


5. 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.
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6. 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).
7. 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

8. Petitioner Wilson Rodriguez has lived in Rhode Island for over Eight years as he has been seeking asylum from Guatemala where he owned a business and was the target of MS-13 and his entire family was as well.
9. Respondent Acting Director of Boston Field Office Director Patricia Hyde is the Field Office Director of ICE Boston, and is Petitioner's immediate custodian. Respondent is sued in her official capacity.
10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security and is responsible for the administration and enforcement of the immigration laws. Respondent is sued in her official capacity.
11. Respondent Pamela Bondi is the US Attorney General responsible for the administration and enforcement of the Department of Justice. Respondent is sued in her official capacity.

FACTUAL BACKGROUND

12. Petitioner came to the United States legally Eight years ago.
13. Petitioner is a pillar of the community and has lived here for Eight years, dedicating the past eight years of his life to care for his three children and wife.
14. Petitioner was granted Asylum status eight years ago due to being targeted by MS-13.

15. On Friday August 15th, Petitioner was taken into ICE custody at Jefferson Blvd as he walked out of Sixth Division District Court.
16. Petitioner has been detained by ICE at Jefferson Blvd /Wyatt since August 15, 2025
17. There is currently no details about any hearing provided by ICE nor by looking up his A number. 
18. Without any information from ICE on his location or hearings Petitioner has been prevented from attempting to obtain a release from Detention.
19. Counsel upon information and belief has been informed that the detention is for an alleged DUI.

LEGAL CLAIMS

15. Petitioner's detention by ICE violates the Due Process Clause of the Fifth Amendment to the United States Constitution, which prohibits the government from depriving any person of liberty without due process of law. USCS Const. Amend. 5.
16. As an Asylum recipient, Petitioner had a reasonable expectation of protection from detention and deportation based on the government's prior promises and actions. Which Petitioner has relied upon in working and raising his three children with his wife.
17. ICE has authority to arrest and detain aliens pending a decision on whether the alien is to be removed from the United States under 8 U.S.C. § 1226(a), but such detention must comply with constitutional requirements. 8 USCS § 1226.
18. Even after a final order of removal, detention must comply with constitutional due process requirements, particularly when detention becomes prolonged or indefinite. 8 USCS § 1231.
19. Here there is no order of removal so his detention is without merit.
20. By holding him and potentially moving him out of this jurisdiction prevents his participation in his alleged misdemeanor which will then provide ICE the authority to take further action. So they are currently rigging the game by holding him and not permitting him to be exonerated from this alleged offense.
21. Mr. Rodriguez upon information and belief has never received a final order of removal, to be held upon any basis without any notice is a violation of 8 USCS Section 1226, his 4th, 5th, and 6th Amendment Rights, in addition to Procedural and Substantive Due Process Rights.

22. Petitioner is entitled to seek habeas corpus relief to challenge this detention, as confirmed by federal law and court precedent. 28 USCS § 2241.
23. The judicial review provisions of 8 U.S.C. § 1252 expressly preserve review of constitutional claims raised in habeas corpus petitions. 8 USCS § 1252.
24. Petitioner's continued detention is not reasonably necessary to effectuate removal and therefore violates due process.
25. Petitioner poses no flight risk or danger to the community, as evidenced by lack of criminal history, his three children and wife and his employment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a Writ of Habeas Corpus directing Respondents to show cause why Petitioner should not be released from custody;
2. This court assume jurisdiction over Petitioners matter, declare the respondents actions violates the due process clause and 8 U.S.C. Section 1231 and issue a writ of habeas corpus ordering the respondents to release him immediately.
3. Conduct a hearing on the legality of Petitioner's detention;
4. Order Petitioner's immediate release from custody or, in the alternative, order a bond hearing before an Immigration Judge with appropriate procedural protections;
5. Award Petitioner reasonable costs and attorney's fees; and
6. Grant any other relief that this Court deems just and proper.

Respectfully Submitted,
Plaintiff, Wilson Rodrigez
By and through HIS Attorney,

/s/ Lawrence P Almagno Jr.
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