

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

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Alfredo Jose Jimenez,)	
Petitioner,)	Case No: 1:25-cv-00326-LM-AJ
vs.)	
Esker Tatum, Warden, FCI-Berlin;)	
Patricia Hyde, Acting Field Office Director, Boston, U.S Immigration and Customs Enforcement;)	
Todd Lyons, Acting Director, U.S. Immigration and Customs Enforcement;)	
Kristi Noem, Secretary, U.S. Department of Homeland Security)	
Respondents.)	
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FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Alfredo Jose Jimenez, an asylum applicant from Venezuela, had been following all the rules while he waited for his asylum claim to be adjudicated in the United States – working with authorization, following the laws of the United States, and attending immigration court hearings.

2. Yet, on or about July 14, 2025, after attending a routine immigration court hearing, Mr. Jimenez was arbitrarily arrested by the Department of Homeland Security (DHS) at the New York Immigration Court for no discernible reason. He has been detained ever since.

3. Mr. Jimenez had fled his home in Venezuela in 2023 for fear of persecution by

 He left his home and made his way to the U.S.-Mexico border where he then entered the United States in August 2023 to seek asylum.

4. After crossing the border, Mr. Jimenez surrendered to Customs and Border Protection (CBP) officers and he was placed in detention while officers assessed his fear of persecution.

5. Once Mr. Jimenez was found to have a credible fear of persecution, he was issued a notice to appear in immigration court and released from custody.

6. Mr. Jimenez believed he had been released on parole pursuant to 8 U.S.C. § 1182(d)(5)(A). Regardless under which authority he was released, DHS necessarily determined that he was neither a danger nor a flight risk.

7. As part of the conditions of his release, Immigration and Customs Enforcement (ICE), a component of DHS, required Mr. Jimenez to check in with ICE and to attend hearings before the New York Immigration Court.

8. Mr. Jimenez did just as he was instructed: he complied with ICE's check-ins, lived a quiet life in New York and attended his court hearings.

9. Mr. Jimenez also applied for asylum within his first year in the U.S., obtained Employment Authorization and filed his taxes.

10. Yet, despite his full compliance with ICE's and the Immigration Court's directives, Mr. Jimenez was arrested by ICE in July 2025 without warning when exiting a routine immigration court hearing at the New York Immigration Court.

11. Mr. Jimenez never received any information—from ICE or any other component of DHS—explaining on what basis he is being held in custody.

12. Mr. Jimenez reasonably and lawfully relied on DHS's initial release determination to live in the United States and to seek relief under the Immigration and Nationality Act (INA) and pursuant to the United States's treaty obligations. That reasonable expectation has been cut short for no discernible reason.

13. Mr. Jimenez cannot be removed from the United States while his asylum application is pending, and no circumstances have occurred to disturb DHS's determination that custody was not warranted.

14. Mr. Jimenez has been detained by DHS for over one month. He is currently detained at Federal Correctional Institute (FCI) - Berlin in Berlin, New Hampshire.

15. On August 28, 2025, Mr. Jimenez filed a Petition for Writ of Habeas Corpus (Doc. No. 1) arguing his detention violated 8 U.S.C. § 1182 and 5th Amendment of the United States Constitution.

16. On September 3, 2025 Respondents revealed in a brief that they did not consider that Mr. Jimenez was released on parole pursuant 8 U.S.C. § 1182(d)(5)(A), because the notice to appear, issued while Mr. Jimenez was in DHS custody prior to his release in August 2023, canceled any grant of parole.

17. If Respondents' contention is true, and Mr. Jimenez was not paroled pursuant 8 U.S.C. § 1182(d)(5)(A), then he can only have been released in August 2023 on conditional parole pursuant to 8 U.S.C. § 1226(a)(2)(B) and re-detained pursuant to 8 U.S.C. § 1226(b). In that case, Mr. Jimenez is entitled to a bond hearing in immigration court.

18. Due to his current detention, Mr. Jimenez does not have in his possession any documents he received when he was released from DHS in August 2023, except for documents filed in immigration court.

19. Regardless of whether he was released on humanitarian parole pursuant to 8 U.S.C. § 1182 or conditional parole pursuant to 8 U.S.C. § 1226, Mr. Jimenez's continued custody violates the INA and the Due Process Clause of the Fifth Amendment.

20. Accordingly, by this Petition, Mr. Jimenez requests that the Court order his immediate release from detention, or in the alternative order that he receive a custody redetermination hearing conducted by the Executive Office for Immigration Review.

JURISDICTION & VENUE

21. The U.S. District Court for the District of New Hampshire has jurisdiction to adjudicate the present Petition for Writ of Habeas Corpus pursuant to Sections 2241 and 1331 of United States Code Title 28.

22. The U.S. District Court for the District of New Hampshire is the proper venue to hear Mr. Jimenez's petition because Mr. Jimenez is presently being detained at FCI-Berlin in Berlin, New Hampshire.

PARTIES

23. Alfredo Jose Jimenez is a national of Venezuela who is presently detained by Respondent Esker Tatum, Warden of FCI-Berlin, at the direction of DHS.

24. Respondent Esker Tatum is the Warden of, and thus has day-to-day control over FCI-Berlin, the facility in which DHS is presently housing Mr. Jimenez. Respondent Tatum is being sued in his official capacity.

25. Respondent Patricia Hyde is the Acting Field Office Director for the U.S. Immigration and Customs Enforcement (ICE) Boston Field Office and directs the detention of individuals in ICE custody in New England. She is being sued in her official capacity.

26. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement (ICE) and supervises all ICE field offices, including the Boston Field Office. He is being sued in his official capacity.

27. Respondent Kristi Noem is the U.S. Secretary of Homeland Security. She supervises the Department of Homeland Security (DHS), including its sub-component, U.S. Immigration and Customs Enforcement (ICE). She is being sued in her official capacity.

FACTS

A. Mr. Jimenez's Initial Detention and Release from Immigration Custody in August 2023

28. Alfredo Jose Jimenez was born in Venezuela and is a citizen of that country.

29. Mr. Jimenez fled Venezuela in 2023 because he was afraid that the Venezuelan government would retaliate against him for participating in protests and demonstrations against the Maduro government.

30. Mr. Jimenez traveled through Central America to Mexico, near the U.S.-Mexico border, to seek asylum in the United States.

31. Mr. Jimenez crossed the border into the U.S. through Eagle Pass, Texas where he then surrendered to CBP officers. CBP detained Mr. Jimenez for approximately two weeks.

32. At the detention center, Mr. Jimenez told immigrations officers that he was afraid of returning to Venezuela and he was scheduled for a Credible Fear Interview (CFI) related to this fear.

33. The interviewing officers returned a negative finding on his credible fear, and DHS issued an expedited order of removal, but Mr. Jimenez sought review of the finding before an immigration judge (IJ), and the IJ reversed the finding and vacated the order of removal.

34. After this IJ determination, ICE issued a notice to appear to Mr. Jimenez, placing him in section 240 removal proceedings, then released him.

35. Mr. Jimenez was told to check-in with ICE periodically and attend immigration court hearings.

36. From the time he was released, Mr. Jimenez complied with all his check-ins, attended his court hearings, submitted his asylum application and obtained employment authorization.

B. Mr. Jimenez's Re-detention in July 2025

37. Once released, Mr. Jimenez went to live in New York with his cousin.

38. Around January 2024, Mr. Jimenez filed his I-589 Application for Asylum, Withholding of Removal and Protection under the Torture Convention.

39. Around July 2024, Mr. Jimenez applied for a work permit based on his asylum application. His work permit was approved on July 25th, 2024.

40. Around February 2025, Mr. Jimenez found temporary employment in Florida and relocated to this state for the duration of his employment.

41. On or about July 14, 2025, Mr. Jimenez traveled from Florida to New York for a routine hearing before the Immigration Court. During this hearing, Mr. Jimenez informed the court about his filed asylum application, informed the court about his approved work permit, and asked for more time to find an attorney. The IJ scheduled Mr. Jimenez's case for another hearing in September 2026.

42. After Mr. Jimenez exited the Court room, he was arrested by ICE agents without warning. Mr. Jimenez asked them what was happening and told them that he had a work permit and identification. The ICE agents stated that everyone was going to be arrested that day.

43. Mr. Jimenez's arbitrary arrest is one of many that occurred at the New York Immigration Court in 2025, where ICE has been systematically arresting individuals as they appear at their court dates for no discernible reason.

44. After Mr. Jimenez was arrested at the courthouse he was taken to ICE's office in New York where he spoke with an ICE officer who told him that he would be detained because he entered the country without authorization.

45. Following this exchange, Mr. Jimenez was taken to a small room where other people were being held. There were approximately fifty people in that room. Mr. Jimenez was detained in this room for approximately 3 days and slept on the floor. Mr. Jimenez was given food only twice a day and was not given any toiletries.

46. Mr. Jimenez was then transported from ICE's office in New York to the Wyatt Detention Center in Central Falls, Rhode Island. In August 2025, still in ICE's custody, Mr. Jimenez was transferred to FCI-Berlin in Berlin, New Hampshire.

47. Mr. Jimenez remains detained by ICE at FCI-Berlin.

48. Given the circumstances of his original custody and release in August 2023, Mr. Jimenez believed he had been released on humanitarian parole pursuant to 8 U.S.C. § 1182 in August 2023.

49. On August 28, 2025, Mr. Jimenez filed a Petition for Writ of Habeas Corpus (Doc. No. 1) arguing his detention violated 8 U.S.C. § 1182 and 5th Amendment of the United States Constitution.

50. On September 3, 2025, Respondents revealed in a brief that they did not consider that Mr. Jimenez was released on parole pursuant to 8 U.S.C. § 1182(d)(5)(A), because the

notice to appear, issued while Mr. Jimenez was in DHS custody prior to his release in August 2023, canceled any grant of parole.

51. If Respondents' contention is true, and Mr. Jimenez was not paroled pursuant to 8 U.S.C. § 1182(d)(5)(A), then he can only have been released in August 2023 on conditional parole pursuant to 8 U.S.C. § 1226(a)(2)(B) and re-detained pursuant to 8 U.S.C. § 1226(b).

52. Due to his current detention, Mr. Jimenez does not have in his possession any documents he received when he was released from DHS in August 2023, except for documents that have been filed in the immigration court.

53. The Declaration of Petitioner Alfredo Jose Jimenez, sworn under penalty of perjury, is attached to this Petition as **Exhibit 1** and the allegations therein are incorporated hereto by reference – in satisfaction of the requirements of United States Code Title 28, Sections 2242 and 1746.

54. Press reports on ICE's operations at the New York Immigration Court in 2025 are attached hereto as **Exhibit 2**.

55. Form I-213 (Record of Inadmissible/Deportable Alien) prepared by DHS regarding Mr. Jimenez is attached hereto as **Exhibit 3**.

56. DHS's notice of referral to an immigration judge following Mr. Jimenez's expedited removal proceeding is attached hereto as **Exhibit 4**.

57. The immigration judge's order finding that Mr. Jimenez had established significant possibility of eligibility for asylum and vacating DHS's expedited removal order is attached here as **Exhibit 5**.

58. The Notice to Appear issued to Mr. Jimenez on August 27, 2023, is attached hereto as **Exhibit 6**.

FIRST CAUSE OF ACTION – UNLAWFUL DETENTION IN VIOLATION OF 8 U.S.C. OF UNITED STATES CODE TITLE 8, SECTION 1182

59. Mr. Jimenez incorporates paragraphs 1 through 58 above as if fully restated below.

60. Mr. Jimenez is currently in the custody of Respondents under or by color of the authority of the United States – that is, detained at FCI – Berlin at the direction of DHS.

61. Mr. Jimenez was detained by immigration authorities after his entry into the United States in August 2023 and released shortly thereafter.

62. Mr. Jimenez has reason to believe he was released from custody on humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5)(A) so that he could apply for asylum.

63. The grant of parole authorized Mr. Jimenez to be free from custody so long as nothing material changed to disturb DHS's August 2023 release decision.

64. On or about July 14, 2025, DHS took Mr. Jimenez into custody for no discernible reason and has detained him ever since.

65. DHS has deprived Mr. Jimenez of liberty in violation of 8 U.S.C. § 1182(d)(5)(A).

SECOND CAUSE OF ACTION – UNLAWFUL DETENTION IN VIOLATION OF 8 U.S.C. OF UNITED STATES CODE TITLE 8, SECTION 1226

66. Mr. Jimenez incorporates paragraphs 1 through 65 above as if fully restated below.

67. Mr. Jimenez is currently in the custody of Respondents under or by color of the authority of the United States – that is, detained at FCI – Berlin at the direction of DHS.

68. Mr. Jimenez was detained by immigration authorities after his entry into the United States in August 2023 and released shortly thereafter.

69. Respondents have stated that Mr. Jimenez was not released from custody on humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5)(A), because the notice to appear issued to him while still in custody canceled any such parole.

70. If Mr. Jimenez was not released from custody on humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5)(A) in August 2023, he could only have been released on conditional parole pursuant to 8 U.S.C. § 1226(a)(2)(B).

71. On or about July 14, 2025, DHS took Mr. Jimenez into custody for no discernible reason and has detained him ever since.

72. DHS has not given Mr. Jimenez a custody redetermination hearing before an immigration judge.

73. DHS has deprived Mr. Jimenez of liberty in violation of 8 U.S.C. § 1226(a).

THIRD CAUSE OF ACTION - UNLAWFUL DETENTION IN VIOLATION OF U.S. CONSTITUTION, FIFTH AMENDMENT – SUBSTANTIVE DUE PROCESS

74. Mr. Jimenez incorporates paragraphs 1 through 73 above as if fully restated below.

75. Mr. Jimenez is currently in the custody of Respondents under or by color of the authority of the United States – that is, detained at FCI – Berlin at the direction of DHS.

76. Mr. Jimenez was detained by immigration authorities after his entry into the United States in August 2023 and released shortly thereafter.

77. On or about July 14, 2025, DHS took Mr. Jimenez into custody for no discernible reason and has detained him ever since.

78. There is no compelling and legitimate government purpose for which DHS could detain Mr. Jimenez.

79. DHS has deprived Mr. Jimenez of liberty without due process, in violation of Mr. Jimenez’s substantive due process rights under the Fifth Amendment of the U.S. Constitution.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests that the Court:

- A. Order Respondents to release Mr. Jimenez immediately;
- B. In the alternative, order that Mr. Jimenez be given a custody redetermination hearing before the Executive Office for Immigration Review within 10 days of the grant of this Petition;
- C. Award to Petitioner his reasonable litigation costs and attorney's fees pursuant to the Equal Access to Justice Act; and
- D. Grant such other further relief that is deemed just and proper by the Court.

Respectfully submitted,

ALFREDO JOSE JIMENEZ, Petitioner,

By his attorneys,

Dated: September 4, 2025

/s/ Kara Thorvaldsen

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Dated: September 4, 2025

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Certificate of Service

I, Claire Maguire, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF). I am not aware of any non-registered participant.

/s/ Claire Maguire

Dated: September 4, 2025