

United States Courts
Southern District of Texas
FILED

September 29, 2025

Nathan Ochsner, Clerk of Court

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

SANTOS EDUARDO LOPEZ BALTAZAR)	
)	Case No. <u>5:25-CV-160</u>
Petitioner,)	PETITION FOR WRIT OF
v.)	HABEAS CORPUS
)	
NORVAL VASQUEZ, Warden, Rio Grande)	
Processing Center)	
BRET BRADFORD, Field Office Director, for)	
Enforcement and Removal Operations, Houston)	
TODD LYONS, Acting Director U.S.)	
Immigrations and Customs Enforcement,)	
and KRISTI NOEM, U.S. Secretary)	
of Homeland Security,)	
)	
Respondents.)	
)	

1. Petitioner, Santos Eduardo Lopez Baltazar, is a citizen and national of Guatemala who resides in Massachusetts.
2. On information and belief, the Petitioner entered the United States without inspection through the United States-Mexico border on or about December 24, 2012, and has resided in Massachusetts since his entry. The Petitioner has had no prior contact with any officials of the U.S. Department of Homeland Security (“DHS”).
3. Petitioner was arrested in Massachusetts by U.S. Immigration and Customs Enforcement (“ICE”) and/or other federal agents acting on ICE’s behalf on or about May 12, 2025, in Lynn, Massachusetts.
4. On information and belief, Petitioner is currently being held in ICE’s custody in the Southern District of Texas at the Rio Grande Processing Center.

5. Petitioner is present in the United States, and, on information and belief, the Department of Homeland Security (“DHS”) has alleged that Petitioner was not previously admitted or paroled into the United States.

6. On information and belief, Petitioner requested a custody redetermination pursuant to 8 U.S.C. § 1226(a) on June 10, 2025. On June 12, 2025, the Immigration Judge (“IJ”) issued an order denying bond stating, “respondent is ineligible for bond pursuant to *Matter of Q Li*.” Petitioner subsequently filed a motion to reconsider on June 16, 2025 which was subsequently denied on June 17, 20205. Petitioner filed a Notice of Appeal on June 19, 2025.

7. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(1), including because Petitioner does not meet the criteria for Expedited Removal. *See Make the Road New York v. Noem*, No. 25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).

8. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), including because, as a person already present in the United States, Petitioner is not presently “seeking admission” to the United States. *See Kostak v. Trump*, No. 3:25-1093 (W.D. La. Aug. 27, 2025).

9. On information and belief, Petitioner was not, at the time of arrest, paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and therefore Petitioner could not “be returned” under that provision to mandatory custody under 8 U.S.C. § 1225(b) or any other form of custody. Petitioner is not subject to mandatory detention under § 1225 for this reason as well.

10. Instead, as a person arrested inside the United States and held in civil immigration detention, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. *See Kostak*, No. 3:25-1093.

11. Petitioner is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because he has not been convicted of any crime that triggers such detention. *See Demore*

v. Kim, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).

12. Accordingly, Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a).

13. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a custody redetermination hearing (colloquially called a “bond hearing”) with strong procedural protections. *See Kostak v. Trump*, No. 3:25-1093 (W.D. La. Aug. 27, 2025); *see also Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999); 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

14. Petitioner requested such a bond hearing, but that request was denied as the Immigration Judge (“IJ”) found that the Petitioner was not eligible for bond pursuant to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). The Petitioner filed a motion for reconsideration which was also denied.

15. Petitioner filed an appeal of this denial with the Board of Immigration Appeals, which is still pending as of the time of this filing

16. However, on September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals issued a decision which purports to require the Immigration Court to unlawfully deny a bond hearing to all persons such as Petitioner.¹

17. The responsible administrative agency has therefore predetermined that Petitioner will be denied a bond hearing despite his appeal of the Immigration Judge’s determination that they lacked jurisdiction to entertain a request for bond.

18. Petitioner is being irreparably harmed by his ongoing unlawful detention without a bond hearing. *See Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013)(defining irreparable injury as “harm for which there is no adequate remedy at law.”)

¹ The BIA’s reversal and newly revised interpretation of the statute are not entitled to any deference. *See Loper Bright Ent. v. Raimondo*, 603 U.S. 369, 412-13 (2024).

19. The Immigration Court and the Board of Immigration Appeals lack jurisdiction to adjudicate the constitutional claims raised by Petitioner, and any attempt to raise such claims would be futile. *See Ramirez-Osorio v. Immigration and Naturalization Serv.*, 745 F.2d 937, 939 (5th Cir. 1984) (holding “exhaustion is not required when administrative remedies are inadequate”); *Arce-Vences v. Mukasey*, 512 F.3d 167 (5th Cir. 2007).

20. There is no statutory requirement for Petitioner to exhaust administrative remedies. *See Goonsuwan v. Ashcroft*, 252 F. 3d 383 (5th Cir. 2001)(“Even when exhaustion is a jurisdictional bar, this Court recognizes an exception ‘when administrative remedies are inadequate.’”)

21. Accordingly, there is no requirement for Petitioner to further exhaust administrative remedies before pursuing this Petition. *Goonswan*, 252 F.3d at 389.

22. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).

23. 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., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

24. 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 OSC 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.*

25. 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).

26. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

27. Venue is proper because Petitioner is detained in Laredo, Texas, and on information and belief is detained in the Southern District of Texas at the Rio Grande Processing Center.

28. Respondent Norval Vasquez is the Superintendent of the Rio Grande Processing Center and is petitioner’s immediate custodian.

29. Respondent Bret Bradford is the Houston Field Office Director for U.S. Immigration and Customs Enforcement.

30. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement.

31. Respondent Kristi Noem is the U.S. Secretary of Homeland Security.

32. All respondents are named in their official capacities. One or more of the respondents is Petitioner’s immediate custodian.

CLAIMS FOR RELIEF
COUNT ONE
Violation of 8 U.S.C. 1226(a) and Associated Regulations

33. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

34. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

35. Petitioner has not been, and will not be, provided with a bond hearing as required by law due to the administrative agency’s position that they lack jurisdiction to entertain release on bond.

36. Petitioner’s continuing detention is therefore unlawful.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))

37. Because Petitioner is a person arrested inside the United States and is subject to detention, if at all, under 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment to the United States Constitution requires that Petitioner receive a bond hearing with strong procedural protections. *See Kostak v. Trump*, No. 3:25-1093 (W.D. La. Aug. 27, 2025); *see also Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999); 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

38. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

39. Petitioner's continuing detention is therefore unlawful.

COUNT THREE
Violation of Fifth Amendment Right to Due Process
(Failure to Provide an Individualized Hearing for Domestic Civil Detention)

40. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

41. The Fifth Amendment's Due Process Clause specifically forbids the Government to "deprive[] any 'person . . . of . . . liberty. . . without due process of law.'" U.S. CONST. amend. V.

42. "[T]he Due Process Clause 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, 693 (2001); *see Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law"); *cf. Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020) (holding noncitizens due process rights were limited where the person was not residing in the

United States, but rather had been arrested 25 yards into U.S. territory, apparently moments after he crossed the border while he was still “on the threshold”).

43. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*, 533 U.S. 678 at (2001)

44. The Supreme Court has thus “repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); *see also Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

45. Petitioner was arrested inside the United States and is being held without being provided any individualized detention hearing.

46. Petitioner’s continuing detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

COUNT FOUR
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

47. Because Petitioner is not being provided a bond hearing, the government is not taking any steps to effectuate its substantive obligation to ensure that immigration detention bears a “reasonable relation” to the purposes of immigration detention (*i.e.*, the prevention of flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. *See Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

48. Petitioner's detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

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 ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's detention is unlawful;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or, in the alternative, provide Petitioner with a bail hearing pursuant to *Mapp v. Reno*, 241 F.3d 221, 230 (2d Cir. 2001) and order Petitioner's release on conditions the Court deems just and proper;
- (5) Award reasonable costs and attorneys' fees under the Equal Access to Justice Act; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully Submitted,
Santos Eduardo Lopez Baltazar,
By his attorney,

/s/ Stephen A. Roth

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DATED: September 17, 2025

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

I represent Petitioner, Santos Eduardo Lopez Baltazar, 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 17th day of September, 2025.

/s/ Stephen A. Roth

Stephen A. Roth, Esq.