

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN**

CARLOS LUIS HERNANDEZ NIEVES,

Petitioner,

v.

ROBERT LYNCH, Detroit Field Office Director for U.S. Immigration and Customs Enforcement, in his official capacity; TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; and KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity,

Respondents.

Case No. 25-1267

**VERIFIED PETITION FOR WRIT OF  
HABEAS CORPUS AND COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

**ORAL ARGUMENT REQUESTED**

**INTRODUCTION**

On September 24, 2025, Petitioner, Carlos Luis Hernandez Nieves, an asylum-seeker from Venezuela was arrested by agents from U.S. Immigration and Customs Enforcement (“ICE”) while grocery shopping in Chicago with his wife<sup>1</sup> and 2-year-old son.

Since then, he has been detained in a private, for-profit prison in Baldwin, Michigan. No charging document has been filed with the immigration court or provided to Petitioner in an intelligible form nor provided to Petitioner’s counsel. On October 14, 2025, an immigration judge ordered Petitioner’s release on his own recognizance. Exhibit A, Signed Release Order.

Respondents are refusing to provide any information to Petitioner or his Counsel, are refusing to formally begin immigration proceedings against him, and, most importantly, are refusing to follow the immigration judge’s direct order and release Petitioner from federal

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<sup>1</sup> Petitioner and his wife are in a “common-law” marriage. They do not possess a marriage certificate, but cohabit, consider themselves married, and are raising their young son as husband and wife.

custody. Even Department of Homeland Security's counsel who represented the government at the bond hearing, conceded he didn't know what the charges against petitioner are.

On October 17, 2025, at 9:45CST, counsel for Petitioner called the Detroit Immigration Court and confirmed that there were no paper filings in the Record of Proceedings for Petitioner's removal "case".

Accordingly, the Petitioner seeks a writ of habeas corpus ordering (a) his immediate release or, at minimum, (b) a prompt (48 hours) individualized custody hearing before a neutral decisionmaker under 8 U.S.C. §1226(a), at which the government bears the burden by clear and convincing evidence and where the government must provide notice of the charges against him.

Petitioner seeks additional declaratory relief in the form of a finding by this Court that Respondents' failure to timely file a charging document with the immigration court is a violation of Petitioner's Fifth Amendment right to due process.

Petitioner seeks additional declaratory relief in the form of a finding by this Court that Respondents' refusal to communicate with Petitioner's counsel of record is a violation of his Fifth Amendment right to due process.

## **JURISDICTION**

1. Petitioner is in the physical custody of Respondents. Petitioner is detained at the North Lake Processing Center in Baldwin, Michigan. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. See, e.g., *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

2. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus) and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

3. This Court has additional remedial authority under 28 U.S.C. §§ 2201–2202 (declaratory relief), Federal Rules of Civil Procedure Rule 65 (injunctive relief), 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

4. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

#### **VENUE**

5. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Western District of Michigan, the judicial district in which the Petitioner is currently detained.

6. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Michigan.

#### **PARTIES**

7. Petitioner Carlos Luis Hernandez Nieves is a Venezuelan national who has resided in the United States with his wife and infant child since Spring of 2023. He currently has a pending application for asylum and withholding of removal with USCIS based on

religious and political persecution he suffered in his home country. Exhibit B, Biometrics Scheduling Notice with Asylum Application Receipt Number.

8. Respondent Robert Lynch is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division, a component of the Department of Homeland Security. As such, he is Petitioner's immediate custodian for purposes of habeas and is responsible for Petitioner's detention and removal. *See Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003). He is sued in his official capacity.

9. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens, and a component agency of the Department of Homeland Security.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

## **LEGAL FRAMEWORK**

11. The habeas statute, 28 U.S.C. § 2241, allows a court to grant a writ of habeas corpus to a prisoner held "in violation of the Constitution or laws or treaties of the United States[.]" *Id.* at § 2241(c)(3).

12. The Due Process Clause of the Fifth Amendment to the U.S. Constitution extends to all persons regardless of status, including non-citizens. *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025)

13. “Fifth Amendment guarantees of due process extend to aliens in deportation proceedings, entitling them to a full and fair hearing.” *Huicochea-Gomez v. INS*, 237 F.3d 696, 699 (6th Cir. 2001). (quoting *Denko v. INS*, 351 F.3d 717, 723 (6th Cir. 2003))

14. Thus, at its core, due process requires “notice and an opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Garcia v. Fed. Nat. Mortg. Ass'n*, 782 F.3d 736, 741 (6th Cir. 2015) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

15. The notice must be provided in a manner “‘reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action’ and afford them an opportunity to present their objections.” *Matter of F-B-G-M- & J-E-M-G-*, 29 I&N Dec. 52, 55 (BIA 2025) (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*), 339 U.S. 306, 314 (1950).

## FACTS

### **A. Petitioner’s Background, Arrest, Detention, and Bond Hearing**

16. The Petitioner in this case, Carlos Luis Hernandez Nieves (“Petitioner” or “Mr. Hernandez Nieves”) is a person unlawfully detained by the U.S. Department of Homeland Security (“DHS”) at GEO North Lake, a detention center in Baldwin, Michigan owned and managed by the for-profit corporation the GEO Group, Inc. on behalf of DHS.

17. Petitioner is a native of Venezuela and fled his country in 2023 after he was targeted for persecution on the basis of his religious and political beliefs by the Maduro regime. He entered the United States from Mexico in late April of 2023.

18. Shortly thereafter, Petitioner filed form I-589, Application for Asylum and Withholding of Removal, with United States Citizenship and Immigration Services (“USCIS”). The application was received and is currently pending with USCIS.

19. Petitioner and his wife and 2-year-old son have resided in the United States since May of 2023 – more than two years ago. He and his family currently live in Chicago, Illinois and are involved with multiple local churches.

20. Petitioner has a pending application for asylum with USCIS and is authorized to work in the United States. He works as a delivery driver for multiple employers, and he is his family’s sole means of support.

21. Outside of a handful of parking and traffic tickets, Petitioner has never been arrested, charged, or convicted of any crime here in or in his home country.

22. On September 24, 2025, while grocery shopping with his wife and 2-year-old son in Chicago, agents from U.S. Immigration and Customs Enforcement (“ICE”) arrested Petitioner.

23. Petitioner was processed at a DHS facility in Broadview, Illinois before being transferred to GEO North Lake Processing Center, a detention center subcontracted by ICE to The GEO Group, Inc., a for-profit private prison group.

24. According to the Executive Office of Immigration Review (“Immigration Court”), Plaintiff’s removal proceedings were closed by the Immigration Judge on September 25, 2025 “due to failure to prosecute.”

25. Therefore, Petitioner has been held without being charged or without an active case before the Immigration Court for more than three weeks.

26. On October 1, Counsel for Petitioner filed a motion for custody redetermination, which, a week later, was scheduled by the immigration court for October 14, 2025.

27. At the October 14 hearing, before immigration judge David Paruch, the government's attorney conceded that he had very little information regarding Petitioner or his case, and that he did not know the charges against Petitioner.

28. Immigration Judge David Paruch granted Petitioner's motion for custody redetermination and ordered him released on his own recognizance. Exhibit A, Order of October 14, 2025.

29. However, Petitioner remains detained by DHS at North Lake.

#### **B. DHS Refuses to Communicate with Petitioner's Counsel**

30. Since Petitioner was detained on September 24, 2025, counsel for Petitioner, Michael Drew, has been unable to contact any DHS or ICE official regarding Petitioner's arrest, charging, and continued detention, despite persistent attempts.

31. A civilian employee of North Lake agreed to have Petitioner sign the DHS G-28 form (Notice of Appearance of Attorney) prepared by Petitioner's counsel, Michael Drew, and sent via email to North Lake.

32. On October 2, 2025, Petitioner's counsel sent the signed DHS G-28 form (Notice of Appearance of Attorney) to the Detroit ICE/ERO<sup>2</sup> Field Office via email (Detroit.Outreach@ice.dhs.gov), requesting the charging documents or any other documents related to Petitioner's case.<sup>3</sup>

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<sup>2</sup> ERO is Enforcement & Removal Operations, a component of ICE.

<sup>3</sup> Counsel initially sent an email on October 1, but it included only the signature page of the G-28, not the entire form.

33. Petitioner received an automatic reply from the Detroit ICE/ERO field office which included a phone number for “ERO Detroit Management,” (313) 568-6049.

34. Calls to that number receive an automated message saying that “the number you have reached has been disconnected or is no longer in service.”

35. On October 2, 2025 Petitioner’s counsel also submitted his G-28 directly to ICE/ERO through their online platform, ERO eFile.

36. Repeated calls to the Detroit ICE/ERO field office number listed on the DHS website, (313) 771-6601, are instead answered by operators at a nationwide call center. On one occasion the operator informed counsel that the ICE Detroit Field Office “was not answering phone calls.”

37. Petitioner’s counsel sent follow up emails to Detroit ICE/ERO on October 7, October 8, October 14, and October 15.

38. As of filing, counsel has not received a response from DHS or ICE regarding his client.

### **C. DHS Refuses to File Charges with the Immigration Court**

39. Petitioner is being held without being informed of the charges against him and without any pending immigration case before the Executive Office of Immigration Review (“EOIR” or “Immigration Court”).

40. The formal charging document in immigration cases is the Notice to Appear (“NTA”).

41. DHS issues NTA’s to individuals they believe are in violation of immigration laws. The NTA contains a brief recitation of DHS’s factual allegations and legal charges against the individual.

42. Immigration courts are courts of limited jurisdiction and until DHS files the NTA with the immigration court, the court only has jurisdiction to redetermine bond or terms of custody that DHS sets when detaining an individual.

43. Without a filed NTA, there is no case before the immigration court.

44. DHS refuses to file the NTA with the immigration court.

45. Until DHS files the NTA, Petitioner's counsel has no clue what his client is being charged with – DHS refuses to serve the document on Petitioner's counsel.

46. Petitioner, who speaks only Spanish, has been shown various pieces of paperwork by DHS officials while being detained at North Lake, all of which are in English. He has been unable to retain any copies of the documents.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Violation of the Due Process Clause Of The Fifth Amendment To The U.S. Constitution**

47. The Petitioner realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 46 above.

48. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

49. *First*, Petitioner has a fundamental interest in liberty and being free from official restraint.

50. *Second*, Petitioner is entitled to know the charges against him and to have a *meaningful* opportunity to be heard. Neither Petitioner nor his Counsel know the charges against him and no opportunity to be heard could ever be meaningful without that information.

51. More importantly, DHS's active refusal to file the NTA with the immigration court means that Petitioner will *never* have a meaningful opportunity to be heard.

52. *Third*, Petitioner has already been ordered released by an Immigration Judge.

53. Respondents' continued detention in contravention of the immigration judge's order Petitioner violates his right to due process.

54. Respondents' willful failure to file any NTA's with the immigration court and willful refusal to communicate with Counsel places Petitioner in a particularly precarious position where neither he nor his counsel can even ascertain or respond to any charges. Such detention violates his right to due process.

55. The Petitioner's detention thus constitutes a deprivation of his fundamental interest in personal liberty and a failure to provide the Petitioner with due process of law.

56. For the foregoing reasons, Respondents' detention of the Petitioner and Respondents' refusal to communicate with Petitioner's counsel of record violate the rights guaranteed to him by the Due Process Clause of the Fifth Amendment to the United States Constitution.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to release Petitioner or show cause why this Petition should not be granted within three days;
3. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner immediately;
4. Restrain and enjoin Respondents from removing the Petitioner from the United States and from the Western District of Michigan pending the resolution of this case;
5. Declare that the process of detaining individuals without filing an NTA as applied to the Petitioner by Respondents violates the Due Process Clause of the Fifth Amendment;
6. Declare that the process of refusing to obey a lawful immigration court order releasing Petitioner violates the Due Process Clause of the Fifth Amendment;
7. Declare that the Petitioner may remain undetained by DHS and in the United States pending adjudication of his application for asylum;
8. Award the Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. §2412, or other statutes;
9. Grant such further relief as the Court deems just and proper.

Dated: October 20, 2025

Respectfully submitted,

s/ Amy Maldonado

Amy Maldonado, Esq.  
Law Office of Amy Maldonado LLC  
333 Albert Ave., Suite 390  
East Lansing, MI 48823-4351  
Tel. (517) 803-2870  
Fax: (888) 299-3780  
Email: amy@amaldoandolaw.com

/s/ Michael Drew\*

Michael Drew  
Neighborhood Legal, LLC  
20 N. Clark Street #3300  
Chicago, IL 60602  
Tel. (773) 505-2410  
Email: mwd@neighborhood-legal.com

*Attorneys for Petitioner*

*\*Application for admission to the Western District of Michigan forthcoming*

**VERIFICATION**

I, Michael Drew, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. I make this verification in lieu of and acting on behalf of Petitioner, Carlos Luis Hernandez Nieves because the Petitioner is currently detained and because of the urgent nature of the relief requested. I am authorized to make this verification as a member of the legal team representing the Petitioner.

Dated: October 20, 2025,

/s/ Michael Drew

Neighborhood Legal, LLC  
20 N. Clark Street #330  
Chicago, IL 60602  
773-505-2410  
mwd@neighborhood-legal.com