

SAA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

ABILANE

PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241

SEBASTIAN GOMEZ
PETITIONER
(Full name of Petitioner)

BLUEBONNET DET FCLTY
CURRENT PLACE OF CONFINEMENT

vs.



PRISONER ID NUMBER

ICE IMMIGRA-COR-ENFORC
RESPONDENT
(Name of TDCJ Director, Warden, Jailor, or
authorized person having custody of Petitioner)

1:25-CV-220-H
CASE NUMBER
(Supplied by the District Court Clerk)

INSTRUCTIONS - READ CAREFULLY

1. The petition must be legibly handwritten or typewritten, and signed and dated by the Petitioner, under penalty of perjury. Any false statement of an important fact may lead to prosecution for perjury. Answer all questions in the proper space on the form.
2. Additional pages are not allowed except that ONE separate additional page is permitted in answering question 10.
3. Receipt of the \$5.00 filing fee or a grant of permission to proceed *in forma pauperis* must occur before the court will consider your petition.
4. If you do not have the necessary filing fee, you may ask permission to proceed *in forma pauperis*. To proceed *in forma pauperis*, (1) you must sign the declaration provided with this petition to show

1. Place of detention: BLUEBONNET DET FCLTY

2. State the offense with which you have been charged and whether you have been convicted of the charged offense(s) or whether you are still awaiting trial: I have been waiting for my final hearing for an extended period of time. During this time, I have remained in detention without the opportunity to request or receive a bond, which has caused great hardship to me and my family

3. Name and location of court in which your case is pending or in which you were convicted: Judge Herbert, Nathan L. Court Address 8915 MONTANA AVENUE EL PASO, TX 79925

4. The criminal docket or case number and the offense(s) for which you have been charged or convicted: I crossed the border and was released. Later, I was taken into custody again without any le justification or warrant for my arrest.

5. If you have been convicted of the charged offense(s), the date upon which sentence was imposed and the length of the sentence: N/A

6. Check whether a finding of guilty was made:
 - a. after a plea of guilty
 - b. after a plea of not guilty
 - c. after a plea of nolo contendere

7. If you were found guilty, check whether that finding was made by:
 - a. a jury
 - b. a judge without a jury

8. Did you appeal from the judgment of conviction or the imposition of sentence?
 Yes No

9. If you did appeal, give the following information for each appeal:

a. (1) Name of court and docket or case number:

I filed for bond but it was denied for Matter c

(2) Result and date of result: I am still waiting

(3) Grounds raised (list each):

(a)

(b)

(c)

(d)

b. (1) Name of court and docket or case number:

(2) Result and date of result:

(3) Grounds raised (list each):

(a)

(b)

(c)

(d) _____

10. State concisely every ground on which you claim that you are held unlawfully. Summarize briefly the facts supporting each ground. If necessary, attach a single page only behind page 6.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date. You must state facts, not conclusions, in support of your grounds. Do not argue or cite law. Just state the specific facts that support your claim. Legal arguments and citation to cases or law should be presented in a separate memorandum.

a. **GROUND ONE:**

1. Under 8 C.F.R. § 1003.19(a), Judge Tuckman had jurisdiction and was required to hear the bond motion. His refusal was legal error.

Supporting facts: ATTACHED

b. **GROUND TWO:**

Jurisdiction and Due Process Protections

Supporting facts: ATTACHED

1- Under 8 C.F.R. § 1003.19(a), Judge Tuckman had jurisdiction and was required to hear the bond motion. His refusal was legal error.

Under the Immigration and Nationality Act (INA) and applicable federal regulations, Immigration Judges are granted express authority to conduct custody and bond redetermination hearings in removal proceedings. Specifically, 8 C.F.R. § 1003.19(a) provides that:

"Custody and bond determinations... may be made by an immigration judge... notwithstanding the provisions of § 1003.14."

Furthermore, 8 C.F.R. § 1003.14(a) states that jurisdiction vests with the Immigration Court upon the filing of a Notice to Appear (NTA), but the final clause of that regulation makes clear that:

"However, no charging document is required to be filed with the Immigration Court to commence bond proceedings pursuant to §§ 1003.19, 1236.1(d), and 1240.2(b) of this chapter."

This language creates a clear and separate pathway for Immigration Judges to adjudicate custody matters, regardless of whether removal proceedings have formally begun through the filing of an NTA.

Therefore, Immigration Judge Dean Tuckman was not only authorized—but legally obligated—to exercise jurisdiction over Respondent's Motion for Bond Redetermination. In fact, the ability to conduct bond redetermination hearings independent of the initiation of removal proceedings serves to protect due process and ensure individualized custody assessments.

Judge Tuckman's refusal to adjudicate the bond motion—based on a misapplication of *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025)—was in direct conflict with the regulatory framework governing bond jurisdiction. *Q. Li* does not override or limit the general grant of jurisdiction in bond matters under 8 C.F.R. § 1003.19. That case involved unique circumstances (including an active INTERPOL Red Notice and credible public safety concerns) not present here.

Accordingly, under governing law, the Immigration Judge had a mandatory duty to exercise jurisdiction over the Respondent's bond motion, and his refusal to do so constituted reversible legal error.

2- Jurisdiction and Due Process Protections

Pursuant to 8 C.F.R. § 1003.14(a), jurisdiction vests with the Immigration Court upon the filing of a Notice to Appear (NTA). Once jurisdiction is vested, the Immigration Judge may hear and rule on custody redetermination matters unless precluded by statute or regulation. Additionally, under the Fifth Amendment to the U.S. Constitution, all individuals in immigration proceedings are entitled to procedural due process, which includes the right to a full and fair hearing before an impartial adjudicator. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Mathews v. Eldridge*, 424 U.S. 319 (1976):

"Procedural due process must be evaluated by using a balancing test that accounts for the interests of the affected individual, the interest of the government in limiting procedural burdens, and the risk of erroneously curtailing individual interests under the existing procedures, as well as how much additional procedures would help reduce the risk of

error. Detention decisions based on inaccurate or unsupported factual assertions—such as incorrect nationality or encounter location—undermine the fairness of proceedings and may violate due process when those errors prejudice the respondent's ability to seek release or defend against removal."

3- **My misidentification as a Venezuelan national deprived me of meaningful notice and the opportunity to present my claim accurately. DHS's error misinformed the adjudicator of my identity, nationality, and eligibility for relief under the correct country conditions. This misinformation materially impacted the fairness and integrity of the proceedings, violating due process under the Fifth Amendment.**

Due process requires, at a minimum, that an individual be given meaningful notice and a meaningful opportunity to be heard. In this case, DHS's error directly impaired both requirements. The Respondent was never afforded the opportunity to be evaluated under the correct factual predicate—his true nationality and the corresponding country conditions of Colombia. Instead, DHS's incorrect designation of the Respondent as Venezuelan tainted nearly every aspect of his proceedings, from initial custody determinations to the analysis of potential relief under the Immigration and Nationality Act.

4- **The Respondent Was Denied Due Process in Violation of the Fifth Amendment**

Whether my Fifth Amendment right to procedural due process was violated by ICE's reliance on incorrect and unsupported factual claims that led to his unlawful detention.

Under the Fifth Amendment, all persons—including noncitizens—are entitled to procedural due process before being deprived of liberty. Due process requires fair procedures, accurate notice, and decisions based on reliable evidence.

ICE incorrectly recorded my nationality as Venezuelan and falsely claimed that I was "encountered" at the Dallas Field Office lobby, despite the fact that I voluntarily appeared for a scheduled ICE check-in, fully complying with my supervision conditions. In reality, I am a Colombian citizen and national, as documented and previously disclosed to immigration authorities.

These material factual inaccuracies likely impacted the initial custody determination and led me to be treated as subject to expedited removal or ineligible for bond under incorrect

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assumptions and triggering a subsequent detention. Had my true nationality been properly identified from the outset, it is unlikely I would have been detained at all. Accordingly, my apprehension was legally flawed, as it was based not on individualized assessment or lawful criteria, but on misinformation and procedural error.

Furthermore, I was denied a meaningful opportunity to challenge these errors, and the IJ accepted ICE's narrative without requiring evidentiary support or clarification. This violates core due process protections that require accurate factfinding and a full and fair hearing.

I was deprived of liberty based on false and unsupported facts. This constitutes a violation of my Fifth Amendment rights, and the Court should reverse and remand for a constitutionally sound bond redetermination.

11. Relief sought in this petition:

I respectfully requests that this Honorable Court issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering his immediate release from immigration custody. I have been detained for an extended period while awaiting my final hearing, despite not posing a danger to the community or a flight risk. My bond request was denied under *Matter of Q-L-I-*, and the Immigration Judge claimed lack of jurisdiction. I further asserts that my arrest and continued detention are unlawful, having been effected without a warrant or sufficient legal justification, causing severe hardship to my wife and daughter, who remain unprotected and without support.

11. Relief sought in this petition: ATTACHED

12. Have you filed a previous application or petition for habeas corpus or any other application, petition or motion with respect to the grounds raised in this petition?

Yes No

13. If your answer to Question No. 12 is yes, give the following information as to each previous application, petition, or motion:

a. (1) Name of court and docket or case number: _____

(2) Result and date of result: _____

(3) Grounds raised (list each):

(a) _____

(b) _____

(c) _____

(d) _____

b. (1) Name of court and docket or case number: _____

(2) Result and date of result: _____

(3) Grounds raised (list each):

(a) _____

Wherefore, Petitioner prays that the Court grant him the relief to which he may be entitled.

XXXXXXXXXXXXXXXXXXXXXXXXX
Signature of Attorney (if any)

XXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXXXXXXX

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for a Writ of Habeas Corpus was placed in the prison mailing system on Oct. 30, 2025 (month, day, year).

Executed (signed) on Oct, 30, 2025 (date).

SEBASTIAN DIEZ G
Signature of Petitioner (required)

Petitioner's current address:

BLUEBONNET DET FCLTY400 E 2nd St,
Anson, TX 79501