

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Carlos Manuel Romero Alberto,

Petitioner,

v.

Kristi Noem, Secretary of the Department of
Homeland Security;
Todd Lyons, Director of US Immigration and
Customs Enforcement;
Patricia Hyde, Field Office Director, ICE
Boston Field Office;
Pamela Bondi, Attorney General of the
United States; and
Antoine Moniz, Plymouth County
Correctional Facility, Immediate Custodian

Respondents

Case No.: 1:25-13090

**PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. §
2241**

Petitioner, Carlos Manuel Romero Alberto (hereinafter “Petitioner”), by and through undersigned counsel, petitions this Honorable Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, and in support thereof states as follows:

I. INTRODUCTION AND STATEMENT OF FACTS

Petitioner is a 23-year-old native of Honduras, born on  At age eleven (11), he entered the United States on or about February 8, 2014, after suffering physical harm in Honduras that caused him to fear for his life. He was apprehended at the border, but was thereafter released with a Notice to Appear in INA §240 proceedings. *See* Doc No. 1-1, Notice to Appear.

On or about August 2017, with the assistance of the undersigned attorney’s office, he applied for Asylum as an unaccompanied minor with the United States Citizenship and Immigration Services (“USCIS”). Following his asylum interview, USCIS transferred jurisdiction

over the case to the Immigration Court in or around February 2018, consistent with standard procedures for UAC asylum referrals. *See* 1-2, UAC Asylum Application; 1-3, Referral Notice. On or about August 26, 2025, after regularly appearing for all scheduled court events for several years, Petitioner was detained by ICE. He is currently detained at the Plymouth County Correctional Facility in Plymouth, MA. Petitioner subsequently applied for T Nonimmigrant Status (T Visa) with USCIS on September 19, 2025, based on credible evidence that he was a victim of labor trafficking while residing in the United States. *See* 1-4, T Visa Application Package. Petitioner's T visa application remains pending before USCIS, which has exclusive jurisdiction over such applications.

II. JURISDICTION AND VENUE

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
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 because Petitioner is detained at Plymouth County Correctional Facility in Plymouth, MA, which is within the jurisdiction of this District.
5. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States, Respondent Luna resides and detains the Petitioner in this District, a substantial part of the events or omissions giving rise to his claims

occurred in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

III. PARTIES

6. The Petitioner is an individual in the United States who was previously released from ICE detention and re-detained. He is likely to be arbitrarily denied immigration bond at an Immigration Court bond hearing in violation of this court's precedent. The Petitioner is currently detained at Plymouth County Detention Facility and is a resident of Massachusetts. He is in the custody and under the direct control of the Respondents and their agents.
7. Respondent Antoine Moniz is the Superintendent of Plymouth County Detention Facility, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Moniz is a legal custodian of Petitioner.
8. Respondent Patricia Hyde is sued in her official capacity as the Acting Director of the Boston Field Office of U.S. Immigration and Customs Enforcement. Respondent Hyde is a legal custodian of Petitioner and has the authority to release him.
9. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for implementing and enforcing the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

10. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

IV. CLAIMS FOR RELIEF

COUNT ONE – Violation of Fifth Amendment Right to Due Process

11. The allegations in the above paragraphs are realleged and incorporated herein.
12. The Petitioner's detention, especially given his individual circumstances, constitutes a violation of his Fifth Amendment due process rights.
13. The Fifth Amendment's Due Process Clause extends its protective scope to all "persons" within the United States, including non-citizens who have physically entered the country. A core protection afforded by this clause is the "freedom from bodily restraint". While the government possesses broad authority to detain removable aliens, this authority is not unfettered; due process considerations must inform the duration and conditions of an alien's detention. It is a fundamental principle that immigration detention is civil and regulatory in nature, not punitive.
14. The substantive component of the Due Process Clause of the Fifth Amendment to the United States Constitution protects Petitioner's liberty interests. Petitioner has a substantive liberty interest in remaining in the United States to pursue his T Visa Nonimmigrant claim. The procedural component of the Due Process Clause of the Fifth Amendment to the United States Constitution prevents the Respondents from depriving Petitioner of liberty without procedural protections, such as a bond hearing.

15. While *Demore v. Kim*, 538 U.S. 510 (2003), found that mandatory detention of certain aliens pending removal proceedings was facially constitutional for "relatively brief periods," lower courts have interpreted *Demore* in light of *Zadvydas v. Davis*, 533 U.S. 678 (2001), concluding that if detention becomes "prolonged," it may no longer comport with due process requirements. When detention becomes prolonged, due process often requires that aliens in removal proceedings be afforded bond hearings where the government bears the burden of proving that the alien's continued detention is justified.
16. The First Circuit, in *Hernandez-Lara v. Lyons*, No. 19-2019 (1st Cir. 2021), affirmed a district court order requiring a bond hearing where the government bore the burden of proving dangerousness by clear and convincing evidence, underscoring the importance of due process rights in prolonged detention and the government's burden to justify continued custody.
17. Applying these principles to the Petitioner's case, his detention is not mandatory under INA § 236(c) because he has a limited and non-serious criminal history. The combination of limited criminal history, prior release with an NTA issued under INA §240, and active pursuit of legal status in the form of asylum and T Visa Nonimmigrant Status strongly indicates that the Petitioner is neither a danger nor a flight risk. Therefore, his continued detention serves no legitimate regulatory purpose and becomes punitive, violating his Fifth Amendment due process rights. This makes his custody unlawful under 28 U.S.C. § 2241(c)(3).
18. Immigration detention is regulatory, intended to ensure appearance and protect public safety, not to punish. The government typically justifies detention based on perceived

dangerousness or flight risk. The Petitioner's complete lack of criminal history directly negates any claim of dangerousness. Having never had an interaction with ICE in the eleven (11) years since he has lived in the United States, and having since demonstrated strong ties and intent to legalize his status via asylum and T Visa Nonimmigrant Status, directly contradicts any claim of flight risk. The detention serves no legitimate purpose if the government cannot establish these justifications. When detention serves no legitimate regulatory purpose—meaning the individual is neither a danger nor a flight risk—it transforms into a punitive measure, thereby violating the Fifth Amendment's Due Process Clause, rendering the detention unconstitutional and subject to habeas relief.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Waive the exhaustion requirement, as the interests of the Petitioner weigh heavily against requiring administrative exhaustion.
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or afford him a bond hearing under INA § 236(a);
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(7) Grant any further relief this Court deems just and proper.

Respectfully Submitted,
Carlos Manuel Romero Alberto
By His Attorney

//s// Elizabeth Shaw
Elizabeth Shaw, Esq. | BBO #: 713541
Law Offices of Rachel L. Rado, LLC
175 Portland Street, 2nd Floor.
Boston, MA 02114
(t) 617-871-6030 | (f) 877-246-8795
(e) eshaw@rachelradolaw.com

Date: 10/21/2025

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

I represent Petitioner, Carlos Manuel Romero Alberto, 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 21 day of October, 2025.

//s// Elizabeth Shaw
Elizabeth Shaw, Esq.