

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

Carlos Noe Mendoza,
Petitioner,

v.


MIGUEL VERGARA,
in his official capacity as Field
Office Director, Harlingen Field
Office, U.S. Immigration &
Customs Enforcement;

TODD LYONS,
In his official capacity as Acting
Director, U.S. Immigration and
Customs Enforcement,

KRISTI NOEM,
In her official capacity as Secretary
of Homeland Security,

Respondent.

Civil Action No. 25-253

Immigration No. A 

**PETITION FOR WRIT OF
HABEAS CORPUS**

Oral Argument Requested

TABLE OF CONTENTS

PRELIMINARY STATEMENT1

THE PARTIES.....1

CUSTODY2

JURISDICTION & VENUE2

I. SUBJECT MATTER JURISDICTION 2

II. PERSONAL JURISDICTION..... 2

III. VENUE..... 2

LEGAL FRAMEWORK WITH RESPECT TO BOND ERROR! BOOKMARK NOT DEFINED.

FACTS3

CLAIMS FOR RELIEF4

COUNT 1: VIOLATION OF THE INA4

COUNT 2: VIOLATION OF DUE PROCESS.....4

PRAYER FOR RELIEF.....4

VERIFICATION BY SOMEONE ACTING ON PETITIONER’S BEHALF PURSUANT TO 28 U.S.C. § 2242..... ERROR! BOOKMARK NOT DEFINED.

PRELIMINARY STATEMENT

1. Mr. Carlos Noe Mendoza (“Mr. Mendoza”) is a citizen of El Salvador who is presently being held at the Port Isabel Service Processing Center in Los Fresnos, Texas. On January 5, 2023, he was granted deferral of removal under the Convention Against Torture (“CAT”). However, ICE has informed him that they intend to deport him to Mexico, with no opportunity to challenge such removal. This would, in effect, be an illegal method of refoulement of Petitioner to El Salvador without due process, as Mexico is likely to remove Petitioner to his country of persecution.

2. Accordingly, Petitioner seeks a writ of habeas corpus. Petitioner requests an order that he may not be removed to a Third Country without having the opportunity to challenge such removal.

THE PARTIES

3. Petitioner Carlos Noe Mendoza is detained in the custody of ICE. He is being held at the Port Isabel Service Processing Center in Los Fresnos, Texas. His custody and governmental actions related to his removal are likewise controlled by the Harlingen Field office of ICE, which is located within this judicial district.

4. Respondent Miguel Vergara is the Harlingen, Texas Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. He is the local ICE official who has authority over the Petitioner. *See Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001). Respondent Vergara’s office is at 1717 Zoy Street, Harlingen, TX 78552.

5. Petitioner’s custody within this judicial district and the governmental actions related to his potential removal from the district are likewise controlled by Respondents Lyons and Noem.

CUSTODY

6. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). The Deportation Officer responsible for his case is stationed at the Harlingen Field Office and/or the Port Isabel Service Processing Center. The Petitioner is under the direct care, custody and control of Respondents and their agents.

JURISDICTION & VENUE

I. SUBJECT MATTER JURISDICTION

7. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

8. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I, § 9, cl. 2 of the Constitution of the United States (the Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, the All Writs Act, 28 U.S.C. § 1651 and the Court's equitable habeas authority.

II. PERSONAL JURISDICTION

9. This Court has personal jurisdiction over Petitioner's immediate custodian (who is physically within the district).¹

III. VENUE

¹ Petitioner asserts this Court has personal jurisdiction over the additional Respondents, however, in the interests of brevity, the Petitioner will brief this if (1) any governmental acts challenged herein are found to relate to those Respondents (instead of the immediate custodian) and (2) the Government seeks to argue against personal jurisdiction.

10. 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 Southern District of Texas, the judicial district in which Petitioner is being detained. Petitioner is being detained at the Port Isabel facility and his detention falls under the jurisdiction of the ICE Field Office of Harlingen, Texas, which encompasses the area where Petitioner is being detained, pursuant to 28 U.S.C. § 1391.

FACTS

11. Mr. Carlos Noe Mendoza (“Mr. Mendoza”) is a citizen of El Salvador who is presently being held at the Port Isabel Service Processing Center in Los Fresnos, Texas.

12. On January 5, 2023, Mr. Mendoza was granted deferral of removal under the Convention Against Torture (“CAT”). Upon information and belief, the order states that Mr. Mendoza may not be removed to the country of El Salvador.

13. In order to grant CAT relief, an Immigration Judge must find that a noncitizen is “more likely than not” to be persecuted or tortured in his country of citizenship.

14. Upon information and belief, ICE intends to imminently remove Mr. Mendoza to a third country, to wit, Mexico, without any opportunity to challenge such removal or otherwise raise a fear of return, under the current administration’s third country removal policies.

15. This removal of Petitioner to a third country without an opportunity to challenge it is in violation of Petitioner’s due process rights, statutory law, and/or agency regulations, and is in effect a manner of refoulement of Petitioner to El Salvador without due process, as Mexico is likely to remove Petitioner to his country of persecution.

16. Accordingly, Petitioner seeks a writ of habeas corpus. Petitioner requests an order that he may not be removed to a Third Country without having the opportunity to challenge such removal.

17. Without relief from this Court, Petitioner faces the prospect of being removed to his country of persecution, El Salvador, through a back channel means, via third-country removal to Mexico.

CLAIMS FOR RELIEF

COUNT 1: VIOLATION OF THE INA

18. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

19. The deportation of an individual to a third country, which was not identified in their order of removal, is in violation of the Immigration and Nationality Act.

COUNT 2: VIOLATION OF DUE PROCESS

20. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

21. Removal of a non-citizen to a third country without an opportunity to challenge that removal is a violation of due process rights.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;

- (2) Issue a writ of habeas corpus stating that Respondents may not deport Petitioner to any “third country”;
- (3) Issue a writ of habeas corpus requiring that Respondents release Petitioner from custody;
- (4) Issue a temporary stay of Petitioner’s removal until this action is decided; and
- (5) Fashion such additional relief as is necessary and appropriate, including declaratory relief or other interim relief necessary to vindicate Petitioners’ rights under U.S. and international law.

Dated: November 7, 2025

/s/ Matthew K. Borowski

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