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Attorney for Petitioner

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS**

Camillo Luis Garcia
Petitioner,

v.

Warden, ERO Camp East Montana;
Kristi Noem, Secretary of Homeland Security;
Pamela Bondi, Attorney General;
Todd Lyons, Director of Immigration and Customs
Enforcement
Respondents.

Case No.: 25-570

**PETITION FOR WRIT OF HABEAS
CORPUS**

I. INTRODUCTION

Petitioner, by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, and in support states as follows:

1. This is a habeas corpus petition challenging the legality of Petitioner's continued immigration detention at the ERO Camp East – Montana facility located inside Fort Bliss, El Paso, Texas, within the Western District of Texas.
2. Petitioner has no criminal history, has resided peacefully in the United States for over twenty years, and is the father of a U.S. citizen child. He is eligible for and intends to pursue relief from removal, including Cancellation of Removal under INA § 240A(b)(1) (42B) based on exceptional and extremely unusual hardship to his U.S. citizen child, and a U Visa for which he has already received a law enforcement

certification from a District Attorney's Office. *See* U-Visa Certification.

3. Petitioner's detention is arbitrary, prolonged, and unnecessary, and violates the Due Process Clause. His seizure by ICE almost 21 years after his entry, despite a peaceful record and substantial equities, further underscores the irrationality of his detention.
4. Petitioner seeks immediate release under reasonable conditions of supervision.

II. JURISDICTION AND VENUE

5. 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 Petitioner is "in custody" within the meaning of the statute and challenges the legal basis of that custody.
6. 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).
7. 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.
8. Venue is proper in the Western District of Texas because Petitioner is detained in this District at the ERO Camp East – Montana / Fort Bliss facility in El Paso, Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

9. 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 order to show cause 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.* (emphasis added).

10. 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) (emphasis added).

PARTIES

11. Petitioner is a native of Guatemala who has a U Visa Certification Certified by the Middlesex District Attorney’s Office in Massachusetts. Petitioner is currently detained at ERO Camp East Montana in El Paso, Texas within Fort Bliss. He is in the custody, and under the direct control, of Respondents and their agents.
12. Respondent, Name Unknown, is the Warden of ERO Camp East Montana, and they have immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and are a legal custodian of Petitioner. Warden Respondent is a legal custodian of Petitioner.
13. 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 the implementation and enforcement of 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.
14. 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 a legal custodian of Petitioner.

15. Respondent Todd Lyons is sued in his official capacity as the Director of Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner and has the authority to release.

STATEMENT OF FACTS

16. Petitioner entered the United States in October 2004, entering without inspection.
17. He was never encountered or apprehended by immigration authorities at or near the time of entry.
18. Since that time, Petitioner has lived continuously and peacefully in the United States for over two decades, establishing community ties and a stable family life.
19. Petitioner is the father of a United States citizen child, who relies on him for financial, emotional, and physical support.
20. His U.S. citizen child would suffer exceptional and extremely unusual hardship in his absence, establishing statutory eligibility for Cancellation of Removal under INA § 240A(b)(1).
21. Petitioner has been the victim of a qualifying crime for U-Visa Eligibility and has cooperated with law enforcement.
22. A local District Attorney's Office has signed a U Visa Certification (Form I-918 Supplement B), confirming his assistance in the investigation or prosecution of criminal activity.
23. Petitioner intends to pursue a U Visa application, which would provide lawful status and ultimately a pathway to permanent residence.

24. On September 9, 2025, ICE agents apprehended Petitioner in Waltham, MA, despite his long-term peaceful residence, lack of criminal history, and eligibility for multiple forms of relief.
25. Petitioner was transferred to custody in Texas without meaningful explanation or custody review, where he remains detained.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

26. The allegations in the above paragraphs are realleged and incorporated herein.
27. Petitioner's detention without a bond hearing has become unreasonable prolonged, violating the Fifth Amendment's guarantee of substantive due process.
28. Petitioner has no criminal history, has lived in the U.S. for over twenty years, is the parent of a U.S. citizen child, and has established strong and stable community ties.
29. Petitioner is demonstrably not a danger to the community and presents no meaningful flight risk, particularly given his eligibility for lawful immigration relief.
30. To the extent Respondents assert that Petitioner is detained under 8 U.S.C. § 1225, such detention authority applies solely to applicants for admission who are encountered at or near the border or who otherwise fall within the statutory definition of an arriving alien.
31. Petitioner entered the United States in October 2004 and lived peacefully in the country for more than twenty years without any encounter with immigration authorities. He is not an arriving alien and does not fall under the detention framework of § 1225.

32. Respondents' reliance—explicit or implicit—on § 1225 as a basis for detention is contrary to law, exceeds statutory authority, and constitutes ultra vires agency action.
33. Continued detention is not reasonably related to any legitimate governmental purpose and has become punitive, rendering it unconstitutional.
34. Detention under § 1225 also violates the Fifth Amendment because its mandatory-detention provisions do not apply to long-term residents like Petitioner, who have substantial ties, pending relief, and no record of danger or flight risk.
35. Respondents' refusal to release Petitioner and classifying him as mandatory detention violates his right to substantive due process.
36. For these reasons, Respondents' use of § 1225 as the basis for Petitioner's confinement is legally erroneous, arbitrary, and unconstitutional, entitling Petitioner to immediate release.

COUNT TWO

Violation of the Fifth Amendment Due Process Clause (Lack of Adequate Procedural Protections)

37. The allegations in the above paragraphs are realleged and incorporated herein.
38. Petitioner's detention—whether construed under 8 U.S.C. § 1226 or § 1231—has occurred without meaningful process, including failure to provide a constitutionally adequate custody redetermination, individualized assessment, or access to a neutral decisionmaker.
39. Respondents have not afforded Petitioner a bond hearing with the constitutionally required burden of proof on the Government, nor an opportunity to demonstrate his eligibility for release based on family ties, equities, and pending relief.

40. The absence of adequate procedural safeguards renders Petitioner's continued confinement unconstitutional under the Fifth Amendment.

41. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT THREE

Unlawful Detention in Light of Statutory Eligibility for Relief (Violation of Immigration and Nationality Act and Due Process Clause)

42. Petitioner incorporates all preceding paragraphs.

43. Petitioner is statutorily eligible for Cancellation of Removal under INA § 240A(b)(1) and for a U Nonimmigrant Visa, for which he has already been issued a law enforcement certification.

44. Because Petitioner has viable and pending avenues to lawful immigration status, his detention does not further the statutory purpose of ensuring removal. Respondents cannot lawfully remove Petitioner while his relief applications are pending.

45. Detention for the sole purpose of removal is irrational where removal is legally impossible at present and speculative in the future.

46. Respondents' continued detention of Petitioner under these circumstances violates the INA and the Due Process Clause.

COUNT FOUR

Unlawful Transfer and Interference with Access to Counsel (Violation of Fifth Amendment Due Process)

47. Petitioner incorporates all preceding paragraphs.

48. Following his arrest in Massachusetts, Petitioner was transferred across the country to a remote detention site inside Fort Bliss, far from his family, community, and previously established legal support.

49. This transfer has significantly burdened Petitioner's ability to access counsel, gather evidence for his immigration case, and obtain meaningful review of his detention.

50. Transfers that hinder a detainee's ability to pursue legal relief or communicate with counsel constitute a violation of the Fifth Amendment's Due Process protections.

51. Respondents' actions have materially impaired Petitioner's ability to litigate his removal proceedings and this habeas action, rendering the detention and transfer unconstitutional.

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 violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1226.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner forthwith.
- (5) Or minimally, this Court should order the Respondents to schedule a bond hearing before an immigration judge within 7 days under INA § 1226.
- (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.

Date: 11/21/2025

Respectfully submitted,
Camilo Luis Garcia,
By his Counsel,

//s// Elizabeth Shaw
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Camilo Luis Garcia, 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.

Date: 11/21/2025

//s// Elizabeth Shaw
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Camilo Luis Garcia, and submit this verification on his behalf. I hereby verify that the foregoing petition was served on Respondents via EM/CF on this day.

Date: 11/21/2025

//s// Elizabeth Shaw
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