

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

ERIKSEN HERNAN VENTURA
ROMERO,

Petitioner,

Case No. 25-586

v.

Hon. Judge

Warden of the ERO El
Paso Camp East Montana
KRISTI NOEM, Secretary of the
Department of Homeland Security,
TODD LYONS, Acting Field Office
Director, Immigration and Customs
Enforcement, MARY DE ANDA-YBARRA,
El Paso Field Officer Director for
United States Immigration and Customs
Enforcement.

Respondents.

/

PETITION FOR HABEAS CORPUS

Petitioner, Eriksen Hernán Ventura Romero, by and through the undersigned counsel, hereby petitions this Honorable Court for a Writ of Habeas and in support thereof, states as follows:

I. INTRODUCTION

1. The Petitioner hereby files this Petition for a Writ of Habeas Corpus in order to secure his release from unlawful detention.
2. The Respondents detained Eriksen Hernán Ventura Romero (Romero) on or about October 24, 2025 while he was sitting in his vehicle waiting for his spouse to exit from the clinic where she was being seen for prenatal care. She was 8 months pregnant at the time. Romero was detained as part of the controversial Operation Midway Blitz. “Federal judge's report shares details on use of force during Operation Midway Blitz”, Lissette Nuñez, Friday, November 21, 2025 1:35PM, ABC Eyewitness News 7 <https://abc7chicago.com/post/ice-chicago-federal-judges-report-shares-details-use-force-during-operation-midway-blitz/18184325/> ; “Chicago’s immigration crackdown is being documented, one jarring phone video at a time” Sarah Raza, Published 9:08 PM EST, November 20, 2025, AP News, <https://apnews.com/article/chicago-operation-midway-videos-0000019aa424d174a59be56fd1560000>
3. Romero was paroled into the U.S. at the Port of Entry on October 2, 2023 as

part of a humanitarian parole program for nationals of Venezuela. He utilized the CBP One application as he was required to do. CBP One Fact Sheet <https://www.cbp.gov/document/fact-sheets/cbp-one-fact-sheet-english> The purpose of the CBP One was to have Venezuelans who were seeking asylum enter through an orderly process. Venezuelans who entered through a port of entry with an appointment, as did Romero, were paroled into the United States so they could apply for asylum.

4. He timely applied for asylum to escape the dictatorship of Venezuela's head of state, Nicolas Madura. Romero is waiting for his immigration court date to have his case heard as no decision has been made on his case. He always appeared *pro se* in his immigration court proceedings.

5. Romero is not challenging the execution of a removal order before this Court. He is challenging his unconstitutional detention under 8 U.S.C. §1225(b).

6. The Respondents' actions are not only contrary to law and unconstitutional but have also inflicted extreme emotional distress on family.

7. Respondents did not terminate Romero's parole upon a determination that the purpose of parole has been served, as is expressly required by the Immigration and Nationality Act ("INA") and DHS regulations. Instead, Respondents

terminated en masse the lawful parole status of hundreds of thousands of noncitizens seeking asylum or other immigration relief and who secured appointments for inspection at the border through the U.S. government's CBP One. This termination, according to the government placed those persons who had followed the law, illegal in the U.S.

8. This unlawful termination is the government's justification for the detention of Romero. However, no individualized determination was made as to why Romero should be detained. Nothing has changed since he was paroled into the United States other than the unlawful cancellation of parole status. Even then he has an asylum pending so he is lawfully allowed to remain in the U.S. during this time.

9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released within five days.

II. JURISDICTION

10. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1346 (original jurisdiction) 28 U.S.C. §2201, 28 U.S.C. §2241 et seq., Art. I § 9, cl. 2 of the United States Constitution (Suspension Clause), 28 U.S.C. § 1343; 28 U.S.C. § 1361; and 5 U.S.C. § 702, 705 and 706, and common law.

11. This action arises under the Fourth and Fifth Amendments of the United States Constitution and the Immigration and Nationality Act (INA).
12. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of Respondents' conduct. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. See e.g., *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
13. This Court has jurisdiction under the Suspension Clause to review the actions of the executive branch's enforcement of the immigration laws if those actions violate the Constitution by depriving Petitioner of due process or other constitutional rights. Compare Suspension Clause with 8 U.S.C. § 1252(g); see also *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). The Suspension Clause protects the right to the writ of habeas corpus where, as here, no adequate or effective alternative remedy exists. See *Boumediene v. Bush*, 553 U.S. 723 (2008).

III. VENUE

14. Venue lies in the Western District of Texas, the judicial district in which the Petitioner is detained by the Respondents.

IV. PARTIES

15. The Petitioner, Eriksen Hernán Ventura Romero, a native and citizen of Venezuela, who is currently being detained by Respondents. He was paroled into the United States in October 2023.

16. Respondent, Warden of the ERO El Paso Camp East Montana. (Warden) The Petitioner is detained at this facility and is under the control of the Warden. The Warden is being sued in their official capacity.

17. Respondent, Mary de Anda-Ybarra (Anda-Ybarra) is the Director of the El Paso Field Office of the Immigration and Customs Enforcement (ICE – El Paso) She is responsible for the detention and removal of aliens within the El Paso District. She is being sued in his official capacity.

18. Respondent, Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). She is generally charged with enforcement of the Immigration and Nationality Act and is further authorized to delegate such powers and authority to subordinate employees of the DHS and its various divisions. 8 USC §1103(a). She is being sued in her official capacity.

19. Respondent, Todd Lyons is the Acting Director of Immigration and

Customs Enforcement (ICE) and is responsible for the administration of the detention and removal of aliens in the United States. He is being sued in his official capacity.

V. FACTS

20. In May 2023, DHS began directing noncitizens to use the CBP One mobile application as the exclusive mechanism to seek parole and/or asylum at the U.S. Mexico border. See Circumvention of Lawful Pathways, 88 Fed. Reg. 31,314, 31,317–18. (May 16, 2023). DHS’s regulations required that noncitizens at the border use the CBP One app to schedule an appointment for inspection at a port of entry, or else they were ineligible for asylum, with very limited exceptions. *Id.*

21. At the port of entry interview, noncitizens seeking parole provided biometrics, including fingerprints, photographs and sometimes DNA. During inspection, the CBP officer determined an appropriate processing disposition for the noncitizen, including by initiating removal proceedings by issuing a Notice to Appear before an immigration judge, and considering, on a case-by-case basis, whether to grant parole for urgent humanitarian reasons or a significant public benefit. INA § 212(d), 8 U.S.C. 1182(d).

22. In April 2025, the Trump Administration terminated all grants of parole

authorized through CBP One. See “Trump’s DHS Revokes Legal Status for Migrants Who Entered the US on Biden-Era CBP One App” Valerie Gonzalez, Apr. 8, 2025, AP, <https://apnews.com/article/immigration-cbp-one-trump-biden-border-95b89a3bb0859ec8b6a39f2eef78f672>

23. Termination of parole results in harms that include elevated risk of detention and removal. These persons, like Romero, are now deemed illegal aliens even though they may have applications pending with immigration courts.

24. Petitioner entered the United States on or about October 2, 2023 at a port of entry through the CBP One application. He was granted parole on a humanitarian basis and has resided in the Chicagoland area ever since. He is engaged to Rosalia, who is currently nine months pregnant and about to give birth to their first child.

25. On the date he entered the Respondents served him with a Notice to Appear (NTA) which is required to commence immigration court proceedings. He was charged as an arriving alien. (Ex. 1 – NTA) Romero filed an application for asylum with his immigration court and is awaiting his final immigration court date to have his case heard. He was charged as an arriving alien in the NTA. During this time, he has had valid work authorization and has been supporting himself and his fiancé.

26. The Respondents then cancelled the parole of over half a million persons who had entered legally without exempting those persons who applied for asylum and are legally entitled to remain in the United States during the pendency of their application. "Migrants who entered the U.S. via CBP One app should leave immediately, DHS says", Joel Rose and Sergio Martínez-Beltrán, April 8, 2025 4:27 PM ET, NPR, <https://www.npr.org/2025/04/08/g-s1-58984/cbp-one-app-migrants-dhs-border>

27. Romero never received notification of the cancellation of his parole but even so, he had already applied for asylum on or about May 18, 2024, prior to the expiration of his parole and is therefore legally allowed to remain in the U.S. during the pendency of his application.

28. On October 24, 2025, Petitioner was detained by Respondents in Chicago, Illinois. He was sitting in his vehicle outside the Erie Community Center, located at 1701 W. Superior Street, in Chicago, Illinois, waiting for his fiancée, Rosalia Suarez who is eight months pregnant, to finish her pre-natal appointment.

29. ICE agents approached the vehicle and when Petitioner tried to explain that he was waiting for his pregnant fiancé to finish her appointment; they broke the car windows and violently pulled him out in view of his fiancé. She witnessed the

entire incident. This was captured in pictures and in video recordings which can be made available to all parties and the Court.

30. Upon information and belief, ICE processed the Petitioner at the ICE Facility in Broadview, Illinois, and then transferred him to the El Paso Camp East Montana away from his wife, his support system and counsel. He remains in detention at El Paso Camp East Montana.

31. He has held steady employment since he was paroled into the United States by the Respondents. He is the sole financial, as the financial supporter of his pregnant fiancée. He has no criminal history.

32. Since this incident his fiancé has had to move in with the priest at Romero's church in order to be able to continue to take care of their unborn child and herself. She has no support in the U.S. but for Romero. Romero will also miss the birth of his first child.

VI. APPLICABLE LAW

33. An arriving alien is means an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport. 8 C.F.R. §1.2.

34. An immigration judge cannot determine bond for any person considered to be an arriving alien. 8 C.F.R. § 1003.19(h)(2)(i).

35. The Court has broad, equitable authority under the habeas statute, 28 USC 2241, 2243 and the common law, to dispose of Petitioner's case as law and justice require, based on the facts and circumstances of this case, in order to remedy Petitioner's unlawful detention.

36. The Due Process Clause provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. In this case there has been absolutely no due process of law.

VII. EXHAUSTION OF ADMINISTRATIVE REMEDIES

37. There is no applicable statute or rule that mandates administrative exhaustion. However, the court could mandate prudential exhaustion. But even if a court would ordinarily enforce prudential exhaustion, it may still choose to waive such exhaustion. For example, when the "legal question is fit for resolution and delay means hardship," a court may choose to decide the issues itself. *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000) (citation omitted). "Exceptions to the exhaustion requirement are appropriate where the available administrative remedies either are unavailable or wholly inappropriate to the relief

sought, or where the attempt to exhaust such remedies would itself be a patently futile course of action.” *Hernandez-Jimenez v. Warden*, Civil Action 3:24-cv-689-KHJ-MTP (S.D. Miss. Jun 02, 2025) (quoting *Hessbrook v. Lennon*, 777 F.2d 999, 1003 (5th Cir. 1985)

38. In this case, there are no administrative remedies to exhaust since as an arriving alien, immigration judges have no jurisdiction to determine a bond. There is no avenue for administrative review.

39. Romero faces substantial hardship if the Court declines to address this issue. The deprivation of liberty, by itself, constitutes a serious hardship. Courts have recognized that exhaustion requirements may be excused when an administrative remedy operates under “an unreasonable or indefinite timeline.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992).

CAUSES OF ACTION
FIRST CLAIM FOR RELIEF
Detention pursuant to Parole Terminations are Contrary to Law
(APA - 5 U.S.C. § 706(2)(A)

40. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

41. A reviewing court must “hold unlawful and set aside agency action” that is “arbitrary [or] capricious” or otherwise “not in accordance with law.” 5 U.S.C. § 706(2)(A)-(C).

42. DHS's parole authority, as set forth in 8 U.S.C. § 1182(d)(5)(A), requires that terminations of parole be made on a "case-by-case basis" and upon a determination that, in the opinion of the Secretary of Homeland Security, "the purposes of such parole . . . have been served."

43. Respondents did not adjudicate Romero's parole termination on an individualized basis and did not determine that the purpose of parole had been served in his case. They detained Romero without any consideration regarding his parole or that he had a pending asylum application in immigration court.

44. Defendants' termination of Romero's parole violated 8 U.S.C. §1182(d)(5)(A). Any detention pursuant to the termination of parole therefore violates the APA.

**SECOND CLAIM FOR RELIEF
VIOLATION OF DUE PROCESS
FIFTH AMENDMENT OF THE US CONSTITUTION**

45. Petitioners reallege the foregoing paragraphs as if set forth fully herein.

46. The Fifth Amendment of the Constitution guarantees that civil detainees, including all immigrant detainees, may not be subjected to punishment. The federal government also violates substantive due process when it subjects civil detainees to cruel treatment and conditions of confinement that amount to punishment.

47. 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)

48. The Supreme Court has long made clear that when the government seeks to deprive an individual of a “particularly important individual interest[],” it must bear the burden of justifying this deprivation by clear and convincing evidence. *Addington v. Texas*, 441 U.S. 418, 424 (1979). Romero was suddenly detained without explanation after being paroled into the United States and having a pending application before the immigration court. He has a significant interest at stake, and a “clear and convincing” evidence standard provides the appropriate level of procedural protection. *Id.* at 423.

49. Petitioner is not “deportable” insofar as he has a pending asylum application before the immigration court. Due Process Clause requires that any deprivation of Petitioner’s liberty be narrowly tailored to serve a compelling government interest. See *Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”). Petitioner’s on-going imprisonment obviously cannot satisfy that rigorous standard.

50. To comport with substantive due process, civil immigration detention must bear a reasonable relationship with its two regulatory purposes— (1) to ensure the appearance of noncitizens at future hearings and (2) to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-91.

51. Where federal law explicitly prohibits an individual's detention, their detention also violates the Due Process Clause.

52. Petitioner's detention violates the Due Process Clause because it is not rationally related to any immigration purpose; because it is not the least restrictive mechanism for accomplishing any legitimate purpose the government could have in imprisoning Petitioner; and because it lacks any statutory authorization. There is no reason why he has been detained and the Respondent's cannot meet the high burden to show compelling state interest.

THIRD CLAIM FOR RELIEF VIOLATION OF FOURTH AMENDMENT

53. Petitioner realleges the foregoing paragraphs as if set forth fully herein.

54. The Fourth Amendment protection against “unreasonable searches and seizures” is a protection against “arrest without probable cause.” *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968);

55. In this case, the Respondents have detained Romero without probable cause and in violation of the Fourth Amendment of the U.S. Constitution. By breaking

his car windows and forcibly removing him from his vehicle without explanation, the Respondents have engaged in an unreasonable seizure.

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

- A. 1. Assume jurisdiction over this matter;
- B. Grant the writ of habeas corpus upon the Respondents directing them to release the Petitioner forthwith;
- B. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- C. Order any other further relief this Court deems just and reasonable.

Respectfully submitted:

s/Caridad Pastor
Caridad Pastor (P43551)
Pastor and Associates, P.C.
Attorneys for Petitioner
11 Broadway Suite 1005
New York, New York 10004
(248) 619-0065
carrie@pastorandassociates.com

Dated: November 24, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ERIKSEN HERNAN VENTURA
ROMERO,

Petitioner,

Case No.

v.

Hon. Judge

KRISTI NOEM, Secretary of the
Department of Homeland Security,
TODD LYONS, Acting Field Office
Director, Immigration and Customs
Enforcement, Warden of the ERO El
Paso Camp East Montana,
MARY DE ANDA-YBARRA,
El Paso Field Officer Director for
United States Immigration and Customs
Enforcement.

Respondents.

/

DECLARATION OF ROSALIA SUAREZ

Pursuant to 28 U.S.C. §1746, I, Rosalia Suarez, declare that the facts alleged in the foregoing complaint are true and correct.

Executed on November 24, 2025

By: 
Rosalia Suarez

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition for Writ of Habeas Corpus was sent by first class mail postage prepaid to all Respondents and to Pam Bondi, the US Attorney General and Justin R Simmons, U.S. Attorney for the Western District of Texas. A copy has also been emailed to Attorney Simmons.

Respectfully submitted:

/s/ Caridad Pastor

Caridad Pastor
Pastor & Associates, P.C.
575 E. Big Beaver Road Suite 185
Troy, Michigan 48083
(248) 619-0065
carrie@pastorandassociates.com

Dated: November 25, 2025