

I. INTRODUCTION

1. This case challenges the ongoing, unnecessary, and unconstitutional civil immigration detention of Petitioner, a long-time resident of the United States with no criminal history, who is pursuing a non-frivolous application for cancellation of removal under 8 U.S.C. § 1229b(b) (“42B Cancellation”).
3. Petitioner now languishes in custody in an ICE detention facility within this District, despite (a) the absence of any individualized finding that his continued incarceration is necessary to serve any legitimate governmental interest.
4. Petitioner’s detention has become arbitrary and punitive, in violation of the Due Process Clause of the Fifth Amendment and governing statutory and constitutional principles articulated by the Supreme Court and the U.S. Court of Appeals for the Fifth Circuit. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018); *Demore v. Kim*, 538 U.S. 510 (2003); *Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579 (5th Cir. 2013).
5. Petitioner seeks a writ of habeas corpus ordering his immediate release from ICE custody under reasonable conditions of supervision, on the grounds that his continued detention has become arbitrary, punitive, and unconstitutional.
6. Petitioner also seeks a temporary restraining order and preliminary injunction preventing

Respondents from continuing his unlawful detention while this action is pending.

II. JURISDICTION, VENUE, AND CUSTODY

7. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331, 1361, and 2241, and the Suspension Clause of the United States Constitution, art. I, § 9, cl. 2. This action arises under the Constitution, laws, and treaties of the United States, including the Immigration and Nationality Act (“INA”), 8 U.S.C. §§ 1101 et seq., and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706.

8. Petitioner is “in custody” within the meaning of 28 U.S.C. § 2241(c), as he is detained by ICE under color of federal immigration authority.

9. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is detained within the Southern District of Texas, at the Port Isabel Service Detention Center, located in Los Fresnos, Texas, and because a substantial part of the events or omissions giving rise to this action occurred in this District.

10. The detention challenged herein is not a “final order of removal” and therefore is not subject to 8 U.S.C. § 1252(b)(9) or § 1252(a)(5). Petitioner challenges only the legality of his ongoing detention, not the merits of any removal order.

11. To the extent any provisions of 8 U.S.C. § 1252 purport to limit the Court’s jurisdiction to grant habeas relief from unlawful executive detention, such limits would raise serious

constitutional questions under the Suspension Clause and must be construed narrowly.

III. PARTIES

12. Petitioner Mario Anguiano Reyes is a native and citizen of Mexico who has lived in the United States for more than ten years. He has no criminal history. He is the father and primary provider for two U.S. citizen children who reside in this District. He is currently detained by ICE at Port Isabel Service Detention Center, in Los Fresnos, Texas, within the Southern District of Texas. He has been in ICE custody since November 20, 2025.

13. Respondent Pam Bondi is the Attorney General of the United States and has ultimate responsibility for enforcement of the immigration laws. She is sued in her official capacity.

14. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security (“DHS”), the agency responsible for the administration and enforcement of the INA. She is sued in her official capacity.

15. Respondent Bret Bradford is the Field Office Director for Enforcement and Removal Operations for ICE’s Houston Field Office. He is sued in his official capacity.

16. Respondent Michael J Pitts, in his official capacity as Warden of the Port Isabel Service Detention Center, has refused to effect Petitioner’s release from unlawful custody at that facility. He is Petitioner’s immediate custodian and is sued in his official capacity.

IV. FACTUAL BACKGROUND

17. Petitioner entered the United States in or about 2006. Since that time, he has resided continuously in the United States, establishing deep family and community ties, working and

supporting his family, and paying taxes. *See*, Exhibit A, Petitioners Tax Returns.

18. Petitioner has never been convicted of any crime. He has no history of violence, gang activity, or substance abuse. He has consistently complied with all laws and has been an upstanding member of his community, primarily through service and membership at his local church in Harris County. *See*, Exhibit B, Letter of Support from Alberto Omar Garza. ‘

18. Petitioner has worked arduously to support his family over the years he's resided in the United States. *See*, Exhibit C, Letters of Support from David Bohorquez.

19. On November 20, 2025 he was detained by ICE and DHS initiated removal proceedings against Petitioner by filing a Notice to Appear (“NTA”) under 8 U.S.C. § 1229, charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (presence without admission or parole). Removal proceedings are currently pending before the Port Isabel Immigration Court, located within the jurisdiction of the Fifth Circuit. *See*, Exhibit D, Petitioners Notice to Appear.

20. Petitioner is statutorily eligible for, and will be filing, an application for cancellation of removal for nonpermanent residents pursuant to 8 U.S.C. § 1229b(b). His application will present substantial evidence that he meets all statutory requirements, including ten years’ continuous physical presence, good moral character, and “exceptional and extremely unusual hardship” to his U.S. citizen or lawful permanent resident qualifying relatives. *See*, Exhibit E, Children's Birth Certificates.

21. Because he will have a pending application for relief and no criminal record, Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c) or 8 U.S.C. § 1225(b).

22. Petitioner’s detention is now prolonged and indefinite. His 42B cancellation case remains

pending, for a Master Calendar hearing date scheduled for December 10, 2025.

23. Furthermore, Petitioner's prolonged detention has caused severe hardship to his U.S. citizen children, who are suffering emotionally and financially in his absence. As such, Petitioner's continued detention is causing immediate, severe, and irreparable hardship to his U.S.C. children along with his wife. *Id.*

24. Moreover, Petitioner's son, M [REDACTED] was encountered and assaulted by ICE agents hours after his father's arrest. *See*, Exhibit F, M [REDACTED] Medical Report. This experience exhibits the negative after-effects Petitioner's arrest had on his family. Petitioner's son, M [REDACTED] was assaulted by ICE Officers while trying to recuperate his father's car in a parking lot after his detention. Petitioner's detention also impedes his ability to assist counsel in preparing his cancellation application and defending against removal.

25. Petitioner has exhausted any administrative remedies that might arguably be available. No administrative procedure exists for Petitioner to challenge the constitutionality of his continued detention.

V. LEGAL BACKGROUND

26. The Constitution's Due Process Clause applies to "all persons within the United States," including noncitizens, regardless of immigration status. *Zadvydas*, 533 U.S. at 693.

27. Although Congress has broad power over immigration, the Supreme Court has repeatedly held that civil immigration detention must be reasonably related to its purposes and cannot be punitive or indefinite. *Id.* at 690–92; *Demore*, 538 U.S. at 527–31.

28. In *Zadvydas*, the Supreme Court construed 8 U.S.C. § 1231(a)(6) to avoid serious constitutional concerns, holding that post-order detention is limited to a “period reasonably necessary to bring about that alien’s removal,” subject to a presumptive limit of six months. 533 U.S. at 689, 701.

29. In *Demore v. Kim*, the Court upheld mandatory detention under 8 U.S.C. § 1226(c) for certain criminal noncitizens based on Congress’s assumption that detention would be “brief” and “limited,” typically lasting “roughly a month and a half” and, in the minority of cases involving appeals, about five months. 538 U.S. at 529–31.

30. In *Jennings v. Rodriguez*, the Court held that the text of 8 U.S.C. §§ 1225(b) and 1226(c) does not itself require bond hearings after six months of detention, but expressly left open whether prolonged detention without an individualized hearing violates the Due Process Clause. 138 S. Ct. at 851. The Court remanded for consideration of the constitutional claims in the first instance. *Id.*

31. More recently, in *Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022), and *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022), the Court again emphasized that the constitutionality of prolonged immigration detention raises distinct and unresolved constitutional questions, which remain cognizable through individual habeas petitions brought by detainees.

32. The Fifth Circuit has recognized that noncitizens may seek habeas relief from unlawful

immigration detention under 28 U.S.C. § 2241, subject to the limits articulated in *Zadvydas* and related cases. See, e.g., *Zadvydas v. Underdown*, 185 F.3d 279 (5th Cir. 1999), rev'd on other grounds sub nom. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

33. Federal courts have long held that civil detention violates due process when it becomes excessive in relation to its nonpunitive purpose, particularly where the government fails to provide adequate procedural safeguards such as an individualized bond hearing with the government bearing the burden to justify continued confinement.

VI. CLAIMS FOR RELIEF (COUNTS)

COUNT I

(Fifth Amendment Due Process – Substantive: Prolonged, Unnecessary, and Punitive Civil Detention Pending 42B Proceedings)

34. Petitioner re-alleges and incorporates by reference paragraphs 1–33 above.
35. Petitioner's ongoing detention is not reasonably related to the government's legitimate interests in ensuring his presence at removal proceedings or protecting the community.
36. Petitioner's detention has already extended far beyond the "brief" period contemplated in *Demore* and is effectively indefinite, hinging on the severely backlogged immigration courts and the BIA, not on any conduct by Petitioner. See *Demore*, 538 U.S. at 529–31.
37. Petitioner's strong equities, including his lack of any criminal record, long-term residence,

and U.S. citizen family members, together with his to-be pending statutory application for 42B cancellation, will demonstrate a significant likelihood that he will ultimately obtain relief from removal and remain lawfully present in the United States.

38. Under these circumstances, Petitioner's continued incarceration serves no legitimate regulatory purpose and is excessive in relation to any such purpose. It has become punitive, violating the Fifth Amendment's guarantee of substantive due process.

39. By redetaining Petitioner and refusing to provide him a meaningful opportunity to secure release, Respondents are violating Petitioner's substantive due process rights.

COUNT II

(Fifth Amendment Due Process – Procedural: Prolonged and Unreasonable Civil Detention Without Meaningful Review)

40. Petitioner re-alleges and incorporates by reference paragraphs 1–39 above.

41. The Due Process Clause prohibits the Government from subjecting individuals in civil immigration custody to prolonged detention without a legitimate and individualized justification.

42. Civil detention under the immigration laws is constitutionally permissible only for the limited purpose of ensuring appearance at removal proceedings or protecting the community from danger. It may not serve as punishment or indefinite preventive custody.

43. Petitioner has now been detained for over a week, despite having a pending 42B cancellation application, strong family and community ties, and no disqualifying criminal record,

and a previous bond grant. His removal proceedings have been repeatedly delayed for reasons beyond his control, and no final adjudication is imminent.

44. Respondents' reliance on Matter of Yajure Hurtado to categorically bar consideration of release renders Petitioner's detention effectively mandatory and indefinite, in violation of the Constitution's guarantee of due process.

45. The Government has provided no meaningful mechanism to review whether continued detention remains necessary to serve its stated purpose. As such, Petitioner's detention has become arbitrary, punitive, and excessive in relation to any legitimate governmental interest.

46. Given the duration of custody, the absence of any realistic prospect of imminent removal, and Petitioner's compelling equities, due process requires his immediate release under appropriate supervision conditions, not merely another bond hearing that the agency is barred from conducting.

47. By maintaining Petitioner's detention without individualized justification, meaningful review, or consideration of less restrictive alternatives, Respondents are violating Petitioner's rights under the Fifth Amendment to the United States Constitution.

COUNT III

(Unlawful Retroactive Application and Misinterpretation of the INA – 8 U.S.C. §§ 1225 & 1226; Constitutional Avoidance; Ultra Vires and APA Violations)

48. Petitioner re-alleges and incorporates by reference paragraphs 1–47 above.

49. To avoid grave questions under the Due Process Clause and the Suspension Clause, the

Court should construe the INA and Matter of Yajure Hurtado not to bar immigration judges or this Court from ordering Petitioner's release where, as here, his prolonged detention is unnecessary and punitive.

VII. IRREPARABLE HARM

50. Petitioner's ongoing detention inflicts irreparable harm on him and his family, particularly his two children, who depend on him. Each day he spends in civil immigration custody is a day of liberty he can never recover and threatens the stability of the family unit, which the government has a recognized interest in preserving.

51. Petitioner's U.S. citizen children suffer severe emotional distress, instability, and financial hardship due to his absence. These harms cannot be remedied by money damages.

52. Petitioner's detention also hinders his ability to prepare and present his 42B cancellation application, thereby jeopardizing his ability to obtain lawful status and remain with his family.

53. The balance of equities and the public interest favor Petitioner's release. The government has no legitimate interest in needlessly incarcerating a non-dangerous, non-flight-risk father of U.S. citizen children who are pursuing congressionally created relief from removal.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this matter;

- B. Issue a writ of habeas corpus under 28 U.S.C. § 2241 and order Respondents to immediately release Petitioner from ICE custody under appropriate conditions of supervision, or, in the alternative, order a prompt, constitutionally adequate, de novo custody hearing before this Court at which the Government bears the burden of proof by clear and convincing evidence;
- C. Declare that Petitioner's prolonged civil immigration detention without such a constitutionally adequate determination violates the Fifth Amendment's Due Process Clause;
- E. Issue a temporary restraining order and preliminary injunction prohibiting Respondents from transferring Petitioner outside this Court's jurisdiction and from continuing to detain him unlawfully, and ordering his immediate release pending final resolution of this action;
- F. Award Petitioner his reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
- G. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/S/ Matthew Mendez

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PETITIONER VERIFICATION

Petitioner, Mario Anguiano Reyes, is currently detained in ICE custody, and has authorized Counsel, Matthew Mendez, to verify, on her behalf, that the facts stated therein are true and correct to the best of her knowledge and belief.

/s/ Matthew Mendez _____
Matthew Mendez

Attorney for Petitioner
Jennifer Taina Rodriguez Castellon

12/9/2025 _____
Date