



## **I. PARTIES & CUSTODY**

1. Petitioner Maicol Josue Moran-Suazo is currently detained at the Immigration and Customs Enforcement (“ICE”) El Valle Detention Facility, located at 1800 Industrial Dr., Raymondville, Texas 78580. He has been detained continuously at that location since November 22, 2025.
2. Respondent Francisco Venegas, in his official capacity as Warden of the El Valle Detention Facility, currently holds Petitioner in custody as unlawfully ordered by the Field office of ICE Enforcement and Removal Operations. The Warden’s detention facility is located within this Honorable Court's judicial district.
3. Respondent Miguel Vergara, in his official capacity as Director of the San Antonio Field Office of ICE Enforcement and Removal Operations, has refused to effect Petitioner’s release from the unlawful custody of the Warden of El Valle Detention Facility.
4. Respondent Kristi Noem, in her official capacity as Secretary of the United States Department of Homeland Security, has refused to exercise her authority to oversee her department’s ICE Enforcement and Removal Operations and thereby effect Petitioner’s release from the unlawful custody of the Warden of El Valle Detention Facility.
5. Respondent Pam Bondi, in her official capacity as Attorney General of the United States, has refused to exercise her authority to oversee her department’s ICE

Enforcement and Removal Operations and thereby effect Petitioner's release from the unlawful custody of the Warden of El Valle Detention Facility.

## **II. JURISDICTION & VENUE**

6. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 to issue writs of habeas corpus when the petitioner is in custody in violation of the Constitution or laws of the United States.
7. Venue is proper in this district because Petitioner is detained within this district.

## **III. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

8. Petitioner has exhausted all administrative remedies to the extent required by law. No further administrative relief is available to challenge his ongoing detention, as immigration courts lack jurisdiction to review custody when a case is pending before the Board of Immigration Appeals ("BIA").
9. Petitioner has fully complied with all directives from Respondents and has never delayed or obstructed the government's efforts in his case.
10. Given that Petitioner is detained solely under federal immigration authority and has no other legal avenue to challenge the legality of his custody, habeas corpus is his only available remedy.

**IV. FACTUAL AND PROCEDURAL BACKGROUND**

11. Petitioner is a thirty-eight year old male native and citizen of Nicaragua. *See attached*, Exhibit A: Petitioner's Identification. He fled Nicaragua on or about March 24, 2022 as a result of persecution and threats of violence against him by members of the Nicaraguan government due to [REDACTED]  
[REDACTED]  
[REDACTED]. *See attached*, Exhibit B: Petitioner's Form I-589 Application for Asylum and for Withholding of Removal.
12. Petitioner entered the United States through the Texas border, on or about April 19, 2022, without first being admitted or paroled. *See attached*, Exhibit C: Notice to Appear.
13. On July 5, 2022, Petitioner underwent a Credible Fear Interview with an Immigration Officer, which resulted in a positive determination. He was placed in removal proceedings the following day, July 6, 2022.
14. On April 17, 2023, *Petitioner timely filed* a Form I-589 Application for Asylum and for Withholding of Removal under the Convention Against Torture. *See attached*, Exhibit B, Petitioner's Form I-589 Application for Asylum and for Withholding of Removal.
15. On June 18, 2024, Petitioner appeared before the Immigration Judge for an individual hearing on his applications for relief, asylum, withholding of removal,

and protection under the Convention Against Torture, based on persecution due to his political opinion. At the close of that hearing, the Immigration Judge denied all forms of protection and ordered his removal to Nicaragua.

16. That same day, June 18, 2024, Petitioner timely filed a Form EOIR-26 Notice of Appeal with the Board of Immigration Appeals (“BIA”), challenging the Immigration Judge’s decision. *See attached*, Exhibit D: Petitioner’s Filing Receipt for Appeal.

**17. Petitioner’s BIA appeal remains pending, and no final decision has been issued.**

18. On November 22, 2025, Petitioner was taken into ICE custody, where he remains detained without the possibility of a bond hearing or an appearance before an Immigration Judge, as his case is currently pending on appeal.

19. Petitioner has been employed in the United States and has complied with federal tax filing obligations. *See attached* Exhibit E: 2023 Tax Filings

**20. Petitioner has no criminal history**, and has demonstrated no conduct indicating that he is a threat to the United States or otherwise eligible for deportation.

21. Petitioner is the primary financial provider for his three minor children, who remain in Nicaragua and rely on him for their support.

22. Petitioner has complied with all requirements throughout his immigration proceedings, including obtaining necessary identification documents. *See attached* Exhibit F: Petitioner’s Texas Identification Card.

## **V. LEGAL FRAMEWORK FOR RELIEF SOUGHT**

23. Under U.S. Code 28 § 2241, writs of habeas corpus may be granted by the district courts on behalf of a prisoner in several instances, including when they are (1) “in custody under or by the authority of the United States or is committed for trial before some court thereof,” (3) “in custody in violation of the Constitution or laws and treaties of the United States,” and (4) when they, “being a citizen of a foreign state and domiciled therein [are] in custody for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, order or sanction of any foreign state, or under color thereof, the validity and effect of which depend upon the law of nations[.]”

24. Federal courts have consistently recognized “habeas corpus as an appropriate vehicle through which noncitizens may challenge the fact of their civil immigration detention.” *Vazquez Barrera v. Wolf*, 455 F. Supp. 3d 330, 336 (S.D. Tex. 2020) (citing *Zadvydas v. Davis*, 533 U.S. at 688 (ruling on merits of habeas petition challenging validity of indefinite mandatory detention)).

25. Because Petitioner challenges the government’s authority to detain him, not the merits of his removal case, § 2241 jurisdiction is proper and not barred

## **VI. CLAIMS FOR RELIEF**

### **COUNT ONE:**

RESPONDENTS HAVE UNLAWFULLY DETAINED PETITIONER IN VIOLATION OF THE IMMIGRATION AND NATURALIZATION ACT.

26. Petitioner alleges and incorporates by reference paragraphs 1 through 25 above.
27. Petitioner's detention lacks statutory authority while his BIA appeal is pending, as the removal order is automatically stayed under 8 C.F.R. § 1003.6;
28. Under 8 C.F.R. § 1003.6, the timely filing of a BIA appeal that challenges an IJ's decision to order the removal of non-citizen *creates an automatic stay* that renders the removal order non-final.
29. Because the appeal was timely filed, **the Immigration Judge's removal order is not final and cannot be executed pursuant to 8 C.F.R. § 1003.6.**
30. As stated above, **Petitioner has no criminal history**, and has demonstrated no conduct indicating that he is a threat to the United States or otherwise eligible for deportation.
31. Continued detention pending appeal serves no legitimate governmental purpose.
32. The government cannot remove Petitioner while the BIA appeal is pending, and no legal authority allows indefinite civil detention without a final removal order. Therefore, Petitioner is being detained without statutory authority, and immediate release is required.

**COUNT TWO:**

**RESPONDENTS HAVE UNLAWFULLY DETAINED PETITIONER  
IN VIOLATION OF CONSTITUTIONAL DUE PROCESS**

33. Petitioner alleges and incorporates by reference paragraphs 1 through 32 above.
34. Petitioner's detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution. Due process prohibits civil immigration detention absent (1) statutory authority and (2) adequate procedural safeguards. Here, neither exists.
35. Petitioner is unlawfully in custody pursuant to INA § 241(a)(6), 8 U.S.C. § 1231(a)(6) (2018) ("Section 241"). Under *Zadvydas*, that provision prohibits the indefinite detention of noncitizens who (i) cannot be repatriated in the reasonably foreseeable future, and (ii) pose no threat to the community. Any such detention is unconstitutional. *See Zadvydas*, 533 U.S. at 689, emphasis added ("In our view, the statute [Section 241], read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. It does not permit indefinite detention.").
36. Petitioner's removal is not reasonably foreseeable because the BIA has not issued a decision, so the government cannot remove Petitioner while the automatic stay is in place.
37. The Fifth Amendment's Due Process Clause prohibits the government from detaining individuals without legal authority.

38. Under 8 U.S.C. § 1231(a)(1), detention during the removal period is only authorized after a removal order becomes "final."

39. A removal order does not become final while an appeal is pending before the BIA. 8 C.F.R. § 1003.6.

40. As stated above, Petitioner's BIA appeal remains pending, the removal order is not final and cannot serve as a basis for continued detention.

41. Furthermore, under *Zadvydas*, a non-citizen petitioner is not barred from seeking a writ of habeas corpus as relief for indefinite detention when there has been no final order issued. *See Zadvydas*, 533 U.S. at 688 (“The aliens here, however, do not seek review of the Attorney General's exercise of discretion; rather, they challenge the extent of the Attorney General's authority under the post-removal-period detention statute. And the extent of that authority is not a matter of discretion . . . [therefore we] conclude habeas corpus proceedings remain available. . . .”).

42. Petitioner has been detained since November 22, 2025, with no end in sight. This detention is prolonged, indefinite, and non-reviewable, placing it squarely within the circumstances found unconstitutional in *Zadvydas*.

43. This petition is not barred, as the Petitioner is not seeking to collaterally attack the final removal order, because there is no final order yet issued by the BIA.

44. Moreover, continued detention without an individualized determination violates due process under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

45. Due process requires a neutral decision-maker to evaluate whether continued detention is necessary. Petitioner has never been afforded this opportunity because § 236 bond hearings are not available for individuals detained post-order but pre-finality while their appeal is pending.

46. **Petitioner poses no flight risk or danger to the community**, as evidenced by his lack of criminal record, history of compliance with immigration proceedings, positive credible fear finding, and a pending good-faith BIA appeal.

47. Because the government cannot articulate a legitimate interest in continued detention, and because removal is not reasonably foreseeable, continued detention violates due process. Therefore, he should be immediately released from custody.

## V. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from immigration detention, as his continued custody is not authorized by statute and violates the United States Constitution; or in the alternative issue an order directing Respondents to show cause why Petitioner should not be released from custody and schedule a hearing if necessary. Petitioner requests

that this Court award reasonable attorney's fees and costs; and grant such other relief as this Court deems just and proper.

Respectfully submitted,

/s/ Matthew Mendez \_\_\_\_\_  
Matthew Mendez  
Attorney for Petitioner  
State Bar No. 24098092  
6300 Gulfon Street  
Houston, Texas 77081  
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**PETITIONER VERIFICATION**

Petitioner, Maicol Josue Moran-Suazo, 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  
Maicol Josue Moran-Suazo

12/03/2025 \_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

On December 3, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Francisco Venegas, in his Official Capacity as Warden of EL Valle Detention Facility** at 1800 Industrial Drive. Raymondville, TX 78580.

/s/ Matthew Mendez  
Matthew Mendez  
Attorney for Respondent

12/03/2025  
Date

On December 3, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Miguel Vergara, in his Official Capacity as Field Office Director, of ICE Enforcement and Removal Operations San Antonio Field Office**, at the Office of the Field Office Director, Enforcement and Removal Operations, 1777 NE Loop 410 Floor 15 San Antonio, TX 78217.

/s/ Matthew Mendez  
Matthew Mendez  
Attorney for Respondent

12/03/2025  
Date

**CERTIFICATE OF SERVICE**

On December 3, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Kristi Noem, in her Official Capacity as Director of U.S. Department of Homeland Security**, at the Office of General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, D.C. 20530.

/s/ Matthew Mendez \_\_\_\_\_  
Matthew Mendez  
Attorney for Respondent

12/03/2025 \_\_\_\_\_  
Date

On December 3, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Pam Bondi, in her Official Capacity as Attorney General of the United States**, at U.S. Attorney General email, [USATXS.CivilNotice@usdoj.gov](mailto:USATXS.CivilNotice@usdoj.gov).

/s/ Matthew Mendez \_\_\_\_\_  
Matthew Mendez  
Attorney for Respondent

12/03/2025 \_\_\_\_\_  
Date