

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

Jose Alejandro Mosquera Montero,

Petitioner,

-v-

Todd M. Lyons, Acting Director of US ICE;
Miguel Vergara, San Antonio Field Office
Director, US Immigration and Customs
Enforcement; Daren K. Margolin, Director of
the Executive Office for Immigration Review;
Warden, Karnes County Immigration
Processing Center,

Respondents.

Case No: 5:25-cv-1737

**Petition for Writ of Habeas Corpus
Under 28 U.S.C. § 2241**

INTRODUCTION

Petitioner Jose Alejandro Mosquera Montero is an asylum seeker from Venezuela who was unlawfully detained by Respondents on or around November 19, 2025. He is being held subject to mandatory detention without bond. Respondents detained him without a warrant and will deny him immigration bond based on current precedent of the Board of Immigration Appeals. Without intervention by this Court, Petitioner will be subject to indefinite detention without the possibility of release. For these reasons, he prays that this Court will grant him release from his unlawful detention.

JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
2. 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).
3. This Court has jurisdiction over the claims asserted in this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1361, and 28 U.S.C. § 1651 because Petitioner asks this Court to compel Respondents, officers of the United States, to perform their duties owed under 8 U.S.C. § 1226(a).
4. The jurisdiction of this Court is also invoked pursuant to 28 U.S.C. §§ 2201-02 which authorizes the issuance of declaratory judgments.
5. Petitioner seeks costs and fees pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412 et seq.
6. 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.

VENUE

7. Venue is proper in this District because Petitioner is detained at the Karnes County Immigration Processing Center located at 409 FM 1144, Karnes City, TX 78118, which is within the jurisdiction of this District.
8. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District.

PARTIES

9. Petitioner is an applicant for asylum who is being detained at the Karnes County Immigration Processing Center located at 409 FM 1144, Karnes City, TX 78118. He has been assigned alien number A  Petitioner is under the direct control and in the custody of Respondents and their agents.
10. Respondent Todd M. Lyons is the Acting Director of US ICE. Respondent is the legal custodian of Petitioner and has the direct authority to release Petitioner. Todd M. Lyons is sued in his official capacity.
11. Respondent Miguel Vergara is the San Antonio Field Office Director of US Immigration and Customs Enforcement. Respondent is the legal custodian of Petitioner and has the direct authority to release Petitioner. Miguel Vergara is sued in his official capacity.
12. Respondent Daren K. Margolin is the Acting Director of the Executive Office for Immigration Review (EOIR). He has the legal authority to order an immigration judge to provide Petitioner a fair and impartial bond hearing. He is sued in his official capacity.

13. The Warden of the Karnes County Immigration Processing Center is sued as the direct custodian of Petitioner. The Warden's name is not publicly listed on any materials that were available at the time of filing. The Warden is sued in his or her official capacity.

STATEMENT OF FACTS

14. Petitioner came to the United States seeking asylum. He entered the United States without inspection or admission on or around April 26, 2023, and was assigned alien number A .

15. Petitioner's immigration proceedings take place within the immigration courts administered by EOIR. Petitioner has requested relief in his removal proceedings where he is requesting asylum, withholding of removal, and protection under the Convention Against Torture.

16. Following Petitioner's entry to the United States, he was detained and later released from detention by Respondents. Petitioner was placed into full removal proceedings rather than being processed under expedited removal procedures pursuant to 8 U.S.C. § 1225. *See* Exhibit A.

17. After his release, Petitioner was free without bond and complied with all conditions of his release. He has attended all hearings in immigration court and all appointments with Respondents.

18. Petitioner was again detained by US Immigration and Customs Enforcement officers on or around November 19, 2025. He was not provided any reason for his detention, nor was he issued a warrant prior to his detention.

19. Petitioner continues to be unlawfully detained by Respondents. *See* Exhibit B.

CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Due Process

20. The above paragraphs are realleged and incorporated herein.
21. The Department of Homeland Security is detaining Petitioner under “mandatory detention” authority reserved for aliens who are in the process of entering the United States.
22. Respondents have determined that Petitioner is ineligible for bond and must be detained due to a recent change in policy. That policy states that he is subject to detention under a statute reserved for expedited removal proceedings, 8 U.S.C. § 1225. Respondents maintain this position even though Petitioner was not applying for admission to the United States at the time of his detention and is not currently in expedited removal proceedings.
23. The Executive Office for Immigration Review issued a precedential decision holding that immigration judges unequivocally have no jurisdiction to entertain granting bond in Petitioner’s exact circumstances, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This decision is contrary to the previous interpretation of the relevant statutes which has persisted for more than two decades and through various administrations.
24. Petitioner was not arriving in the United States or seeking admission at the time of his detention on November 19, 2025; he had been in the United States for more than two years. His detention is unlawful because he is being subjected to mandatory detention provisions which did not apply to him at the time of his detention.

25. But for Respondents' change in policy, Petitioner would be eligible for immigration bond under 8 U.S.C. § 1226(a) and release from detention because he is not properly subject to mandatory detention.

26. The unlawful detention of Petitioner is a violation of his rights under the Fifth Amendment of the US Constitution.

PRAYER FOR RELIEF

Petitioner respectfully asks that the Court:

- A. Assume jurisdiction over this matter;
- B. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- C. Issue an Order that Respondents not transfer Petitioner from the Western District of Texas;
- D. Order that Respondents not remove Petitioner from the United States until this matter has concluded;
- E. Order that Respondents immediately release Petitioner from detention under the same conditions that existed prior to his detention;
- F. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- G. Grant any further relief this Court deems just and proper.

VERIFICATION

On Petitioner's behalf, I, Joseph Krebs Muller, 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.

Respectfully submitted,

/s/ Joseph Krebs Muller

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