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2 UNITED STATES DISTRICT COURT  
3 COLORADO

4 WILSON RENE GARCIA-PEREZ,

5 Petitioner,

Case No. 25-CV-4069

6 v.

7 Robert Guadian, Field Office Director of  
8 Enforcement and Removal Operations, Denver  
9 Field Office, Immigration and Customs  
10 Enforcement; Todd Lyons, Acting Director  
11 Immigration and Customs Enforcement; U.S.  
12 IMMIGRATION AND CUSTOMS  
13 ENFORCEMENT; Juan Baltasar Warden of  
14 Denver Contract Detention Facility, Aurora,  
15 Colorado; Kristi NOEM, Secretary, U.S.  
16 Department of Homeland Security; U.S.  
17 DEPARTMENT OF HOMELAND  
18 SECURITY; Pamela BONDI, U.S. Attorney  
19 General; Sirce Owen, Acting Director of the  
20 Executive Office for Immigration Review;  
21 EXECUTIVE OFFICE FOR IMMIGRATION  
22 REVIEW,

23 Respondents.  
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PETITION FOR WRIT OF HABEAS CORPUS

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**INTRODUCTION**

1. Petitioner, Wilson Rene Garcia-Perez, is a now 18-year-old Guatemalan national who came to the United States seeking protection from violence in his home country.

2. The Petitioner presented himself at the United States border on or about August 2, 2021 at or near Sasabe, Arizona. The Petitioner was an unaccompanied minor who was only 14-years old at the time. On or about August 29, 2021 he was released into the United States, without posting a bond, to the custody of his father.

3. On November 22, 2025 the Petitioner appeared for an immigration appointment and was detained by Department of Homeland Security. He was transferred to the Denver Contract Facility in Aurora, Colorado where he is currently detained without bond. Although the Respondents initially released the Respondent, to the custody of his father and without the posting of a bond, they now seek to indefinitely detain Mr. Garcia-Perez and deny him the opportunity to be released from custody.

4. The Petitioner challenges his detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.

5. The Petitioner requests that this writ of habeas corpus be granted. He respectfully requests that this court order him released from custody. In the alternative the Petitioner requests that this court order the Executive Office of Immigration Review to conduct a custody redetermination hearing immediately within 7-days.

**JURISDICTION**

6. This petition arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. §1101 et. seq.

1 7. This court has subject matter jurisdiction under 28 U.S.C. §2241 (habeas corpus),  
2 28 U.S.C. §1331 (federal question), and Article I, §9, cl. 2 of the United States Constitution  
3 (Suspension Clause).

4 8. This court may grant relief pursuant to 28 U.S.C. §2241, the Declaratory Judgement  
5 Act, 28 U.S.C. §2201 et. seq., and the All Writs Act, 28 U.S.C. §1651.

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7 **VENUE**

8 9. Venue is proper because the Petitioner is in Respondents' custody in Denver,  
9 Colorado. Venue is also proper because substantial part of the events or omissions giving rise to  
10 the Petitioner's claim occurred in this District, where petitioner is now in Respondents' custody.  
11 28 U.S.C. 1391(e).

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13 **REQUIREMENTS OF 28 U.S.C. §2243**

14 10. The court must grant the petition for writ of habeas corpus or issue an order to show  
15 cause (OSC) to the Respondent's "forthwith," unless the petitioner is not entitled to relief. 28  
16 U.S.C. §2243. If an OSC is issued, the court must require Respondents to file a return "within  
17 three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

18 11. Courts have long recognized the significance of the habeas statute in protecting  
19 individuals from unlawful detention. Habeas corpus is "perhaps the most important writ known  
20 to the constitutional law...affording as it does a swift and imperative remedy in all cases of illegal  
21 restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

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23 **PARTIES**  
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1 12. Petitioner Wilson Rene Garcia-Perez is an 18-year-old citizen of Guatemala.  
2 Petitioner is presently detained in Aurora, Colorado.

3 13. Respondent Robert Guadian is the Director of the Denver Field office of  
4 Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations division.  
5 As such Robert Guadian is Petitioner's immediate custodian and is responsible for Petitioner's  
6 detention and removal.

7 14. Respondent Todd Lyons is the acting director of U.S. Immigration and Custom's  
8 Enforcement and has authority over the actions of Respondent Robert Guadian and ICE in general.

9 15. Respondent U.S. Immigration and Customs Enforcement is the federal agency  
10 responsible for custody decisions relating to non-citizens charged with being removable from the  
11 United States, including the arrest, detention, and custody status of non-citizens.

12 16. Respondent Juan Baltasar is employed by GEO Group as warden of the Denver  
13 Contract Detention Facility, where Petitioner is detained. He has immediate physical custody of  
14 the Petitioner.

15 17. Respondent Kristi Noem is the Secretary of the Department of Homeland Security  
16 (DHS). She is responsible for the implementation and enforcement of the Immigration and  
17 Nationality Act (INA) and oversees ICE, which is responsible for the Petitioner's detention. She  
18 has ultimate custodial authority over the Petitioner.

19 18. Respondent U.S. Department of Homeland Security is the federal agency that has  
20 authority over the actions of ICE and all other DHS respondents.

21 19. Respondent Pamela Bondi is the Attorney General of the United States. She has  
22 authority over the Department of Justice, of which the Executive Office for Immigration Review  
23 and the immigration court system is a component agency.  
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1 30. Petitioner was transferred to the Denver Contract Detention Facility in Aurora,  
2 Colorado and was incarcerated without bond. Also, on that date DHS issued a new NTA initiating  
3 removal proceedings against him.

4 31. On December 2, 2025 Petitioner requested a custody redetermination hearing  
5 before and immigration judge (IJ).

6 32. On December 11, 2025 the IJ denied Petitioner's request for a custody  
7 redetermination hearing, ruling that it lacked jurisdiction to conduct the hearing.

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9 **LEGAL FRAMEWORK**

10 33. In general, the authority to detain a non-citizen during removal proceedings is  
11 governed by 8 U.S.C. §1226 (INA §236) and 8 U.S.C. §1225 (INA §235).

12 34. 8 U.S.C. §1226 governs the detention of individuals apprehending inside the United  
13 States and placed in removal proceedings. Importantly, §1226(a)(2) grants immigration authorities  
14 discretion to release a non-citizen on bond during removal proceedings. In essence the statute  
15 allows an IJ to review the initial custody determination and release the non-citizen on bond pending  
16 removal proceedings.

17 35. 8 U.S.C. §1225 governs the procedures for inspection of an arriving non-citizen  
18 seeking admission into the United States. INA§1225(b)(2) directs the detention of arriving non-  
19 citizens apprehended at the border if it is determined that the person is inadmissible to the United  
20 States. Unlike §1226, §1225 does not allow review of detention by an IJ.

21 36. Petitioner was initially apprehended at the border in 2021. At that time, he would  
22 have been subject to the provisions of 8 U.S.C. §1225 as an arriving non-citizen. Petitioner was  
23 released into the United States and to the custody of his father.

1 37. Petitioner's current detention took place within the United States, after he lived in  
2 the United States for over 4-years. His current detention is pursuant to 8 U.S.C. §1226.

3 38. Petitioner was not detained because of a criminal conviction and/or failure to appear  
4 for immigration proceedings. He was detained at Respondents' whim, after a flimsy and illogical  
5 reinterpretation of the relevant detention statutes.

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7 **CLAIMS FOR RELIEF**

8 **COUNT 1: VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT**  
9 **8 U.S.C. §1226**

10 39. Petitioner repeats, re-alleges, and incorporates by reference each and every  
11 allegation in the preceding paragraphs as is fully set forth herein.

12 40. As someone whose current detention was within the United States, after 4-years  
13 inside of the country, Petitioner is entitled to consideration for release on bond under 8 U.S.C.  
14 §1226(a).

15 41. Respondents violated the INA by applying the mandatory detention statute at 8  
16 U.S.C. §1225(b)(2) and denying Petitioner the opportunity to request bond.

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18 **COUNT 2: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH**  
19 **AMENDMENT TO THE UNITED STATES CONSTITUTION**

20 42. Petitioner repeats, re-alleges, and incorporates by reference each and every  
21 allegation in the preceding paragraphs as if fully set forth herein.

22 43. The Due Process Clause of the Fifth Amendment to the United States Constitution  
23 prohibits the federal government from depriving any person of "life, liberty, or property, without  
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1 due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United  
2 States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.”  
3 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). “Challenges to immigration detention are properly  
4 brought directly through habeas.” *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10<sup>th</sup> Cir 2004)  
5 (Citing *Zadvydas* at 687-688)

6 44. Petitioners continued detention violates the Due Process Clause because it is not  
7 rationally related to any immigration purpose; because it is not the least restrictive method for  
8 accomplishing any legitimate government purpose; and because his detention is in violation of the  
9 law.

10 45. After initially releasing Petitioner, Respondents have chosen to re-detain him in  
11 an arbitrary manner and not based on a rational and individualized determination of whether he  
12 is a safety or flight risk, in violation of due process.

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14 **PRAYER FOR RELIEF**

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

- 16 1. Assume jurisdiction over this matter;
- 17 2. Issue a writ of habeas corpus requiring that within one day, Respondents release  
18 Petitioner;
- 19 3. Alternatively, issue a writ of habeas corpus requiring Respondents to release  
20 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within  
21 seven days;
- 22 4. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act  
23 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;  
24 and
5. Grant any other and further relief that this Court deems just and proper.

1 Dated at Denver, Colorado this 18<sup>th</sup> day of December 2025

2  
3 s/ Luis Jorge Castañeda

4 Jorge Castañeda

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