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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SALCEDO MARTINEZ, Adrian
Petitioner,

v.

NOEM, Kristi, Secretary of the Department
of Homeland Security;
MCBRIDE, Paul, ICE Houston Field Office
Director;
Department of Homeland Security;
and **VENEGAS, Francisco**, Warden of the El
Valle Detention Facility
Defendants.

Civil Case No.: 25-6170

**PETITION FOR WRIT OF
HABEAS CORPUS
28 U.S.C. § 2241**

**DETAINED AT EL VALLE
DETENTION FACILITY**

I. INTRODUCTION

Petitioner Adrian Salcedo Martinez (“Petitioner”) is a long-term resident of the United States who is currently detained by the Department of Homeland Security (“DHS”) based on the Government’s erroneous determination that he is subject to mandatory detention under INA § 1225.

Petitioner is not an applicant for admission, was not apprehended at entry, has no final order of removal, and is, therefore, not lawfully subject to mandatory detention. Nevertheless, DHS continues to restrain Petitioner’s liberty without statutory authority and without affording

him a constitutionally adequate custody determination, in violation of the Fifth Amendment's Due Process Clause. Petitioner seeks a writ of habeas corpus ordering his immediate release, or at a minimum, a prompt and lawful bond hearing under INA § 236(a).

II. JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in federal custody at the El Valle Detention Center in Raymondville, Texas, and challenges the legality of that custody.
2. Venue is proper in the Southern District of Texas because Petitioner is detained within this District and his immediate custodian is located here.

III. PARTIES

3. Petitioner Adrian Salcedo Martinez is a 40-year-old Mexican national detained by ICE at the El Valle Detention Center in Raymondville, Texas. Petitioner is in federal custody and seeks relief from unlawful detention pursuant to 28 U.S.C. § 2241.
4. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS") and is sued in her official capacity. Secretary Noem is responsible for the administration and enforcement of the immigration detention statutes under which Petitioner is detained and has ultimate legal authority over DHS detention policies.
5. Respondent Paul McBride is the Director of Enforcement and Removal Operations ("ERO") for the Houston Field Office and is sued in his official capacity. Director McBride is responsible for ICE detention decisions within the Houston Area of Responsibility, including the Petitioner's continued detention and custody classification.

6. Respondent Francisco Venegas is the Warden of the El Valle Detention Facility and is sued in his official capacity. Warden Venegas is Petitioner's immediate physical custodian and exercises day-to-day control over Petitioner's confinement.
7. The Department of Homeland Security is the federal agency with statutory authority over immigration enforcement and detention and is responsible for the policies and practices that resulted in Petitioner's unlawful detention.
8. The Executive Office for Immigration Review, an agency within the U.S. Department of Justice, is responsible for the adjudication of immigration custody determinations, including the December 17, 2025, bond denial that forms part of the basis for Petitioner's unlawful detention.
9. All Respondents are sued solely in their official capacities for purposes of obtaining declaratory and injunctive relief from unlawful detention.

IV. FACTUAL AND PROCEDURAL BACKGROUND

10. Petitioner entered the United States in 1998 as a child and was not apprehended upon entry.
11. Petitioner has lived continuously in the United States for nearly three decades and has deep family, employment, and community ties.
12. Petitioner holds valid, unrevoked Deferred Action for Childhood Arrivals (DACA) status.
13. Petitioner's father is a lawful permanent resident of the United States and suffers from multiple serious and chronic medical conditions, including diabetes with complications, alcohol use disorder, asbestos exposure, and precancerous colon polyps. His health has significantly deteriorated in recent years.

14. Petitioner is the sole and primary caregiver for his father, providing daily assistance with medical coordination, transportation, and basic care. Petitioner's father depends on him for access to treatment and continuity of care.
15. Petitioner's father was the qualifying relative ("QR") for Petitioner's application for cancellation of removal under INA § 240A(b).
16. On or about June 5, 2025, ICE arrested Petitioner during a routine commute to work, abruptly removing him from his caregiving role.
17. Following Petitioner's detention, his father's health has declined further, resulting in repeated medical crises, missed appointments, and increased reliance on emergency services.
18. Petitioner was placed in removal proceedings and applied for cancellation of removal based on exceptional and extremely unusual hardship to his LPR father.
19. On September 4, 2025, the Immigration Judge denied cancellation solely on hardship grounds and made no adverse findings regarding credibility, moral character, or dangerousness.
20. Petitioner timely appealed the denial to the Board of Immigration Appeals and therefore does not have a final order of removal.
21. Petitioner remains detained by ICE during the pendency of his appeal.
22. On December 17, 2025, the Immigration Judge denied Petitioner's bond request, stating in its entirety: "No jurisdiction since Respondent entered EWI. In the alternative, Respondent is a flight risk since his application for 42B relief was denied. Respondent is a danger to the community as he was convicted of a DWI and has a second DWI matter pending."

V. CLAIMS FOR RELIEF

COUNT I – Detention Without Statutory Authority and Denial of Due Process

(Fifth Amendment – Procedural and Substantive Due Process)

23. Petitioner incorporates by reference all preceding paragraphs.
24. Civil immigration detention is lawful only where expressly authorized by statute and accompanied by constitutionally adequate procedures. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
25. INA § 1225 applies only to “applicants for admission.”
26. Petitioner is not an applicant for admission because he entered the United States decades ago and was not apprehended at or near the time of entry.
27. DHS nevertheless classifies Petitioner as subject to mandatory detention under INA § 1225.
28. The Immigration Judge concluded she lacked jurisdiction to consider bond solely because Petitioner “entered EWI.”
29. Entry without inspection, standing alone, does not trigger mandatory detention under INA § 1225 and does not divest Immigration Judges of bond jurisdiction.
30. Detention based on an erroneous interpretation of statutory authority exceeds DHS’s power and violates due process. *See Zadvydas*, 533 U.S. at 690; *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

COUNT II – Failure to Provide an Individualized Custody Determination

(Procedural Due Process)

31. Petitioner incorporates by reference all preceding paragraphs.
32. At most, Petitioner is subject to discretionary detention under INA § 236(a).

33. Detention under INA § 236(a) requires an individualized custody determination, including assessment of flight risk and danger. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006).
34. Procedural due process requires notice and a meaningful opportunity to be heard. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).
35. The Immigration Judge denied bond primarily on jurisdictional grounds and failed to conduct a lawful individualized analysis, as she took no arguments regarding flight risk or dangerousness but issued alternative findings.
36. Petitioner was therefore denied a meaningful opportunity to contest his detention.
37. This failure violates procedural due process. *See Zadvydas*, 533 U.S. at 690.

COUNT III – Arbitrary and Unsupported Flight Risk Determination

(Procedural and Substantive Due Process)

38. Petitioner incorporates by reference all preceding paragraphs.
39. The Immigration Judge concluded Petitioner was a flight risk solely because his cancellation application was denied.
40. Denial of relief does not establish flight risk as a matter of law, particularly where the respondent has a pending BIA appeal.
41. The Immigration Judge failed to consider Petitioner’s length of residence, family ties, employment history, caregiving responsibilities, or compliance with proceedings.
42. A custody determination based on categorical assumptions rather than individualized evidence is arbitrary. *See Mathews*, 424 U.S. at 333.

COUNT IV – Erroneous and Constitutionally Defective Dangerousness Finding

(Substantive Due Process)

43. Petitioner incorporates by reference all preceding paragraphs.
44. The Immigration Judge found Petitioner dangerous based on one DWI conviction and a pending DWI charge.
45. A non-violent DWI conviction does not establish dangerousness per se. *See Leocal v. Ashcroft*, 543 U.S. 1, 11 (2004).
46. A pending charge does not constitute a conviction and may not be treated as proof of guilt. *See Bell v. Wolfish*, 441 U.S. 520, 535–36 (1979).
47. The Immigration Judge identified no violent conduct or individualized evidence of danger.
48. Civil detention based on unsupported assumptions violates substantive due process. *See United States v. Salerno*, 481 U.S. 739, 750 (1987).

COUNT V – Prolonged Civil Detention That is Arbitrary and Punitive in Effect

(Substantive Due Process)

49. Petitioner incorporates by reference all preceding paragraphs.
50. Petitioner has no final order of removal and is lawfully pursuing appellate review.
51. There is no definite end date to his detention.
52. Prolonged civil detention without adequate procedural safeguards becomes punitive in effect. *See Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 532 (2003).
53. Petitioner’s continued detention, therefore, violates due process.

COUNT VI – Detention That Shocks the Conscience

54. Petitioner incorporates by reference all preceding paragraphs.

55. Petitioner is the sole caregiver for his elderly lawful permanent resident father, who suffers from severe chronic medical conditions and imminent risk of permanent harm.

56. The Government is aware that Petitioner's detention has caused repeated medical emergencies and loss of continuity of care.

57. Continued detention without lawful authority or individualized justification under these circumstances is grossly disproportionate.

58. Executive action that is arbitrary and causes extreme human harm shocks the conscience. *See County of Sacramento v. Lewis*, 523 U.S. 833, 846–47 (1998).

VI. EXHAUSTION OF REMEDIES AND FUTILITY

59. Petitioner has exhausted all administrative remedies capable of providing relief.

60. The Immigration Judge denied bond based on a categorical jurisdictional ruling that foreclosed meaningful review.

61. No administrative mechanism exists to cure the constitutional defects while the Government maintains that INA § 1225 applies.

62. Further exhaustion would therefore be futile.

63. Exhaustion is not required where a petitioner raises pure questions of law and constitutional claims. *See Rosales v. ICE*, 426 F.3d 733, 736 (5th Cir. 2005).

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Grant the petition for writ of habeas corpus;
- B. Declare that Respondents lack authority to detain Petitioner under INA § 1225;
- C. Order Petitioner's immediate release, or alternatively,
- D. Order a prompt, constitutionally adequate bond hearing under INA § 236(a); and

E. Grant all other relief the Court deems just and proper.

VIII. CONCLUSION

The petitioner's continued detention rests on a clear legal error and a denial of the constitutionally required process. The Government has no statutory authority to detain Petitioner under INA § 1225, and the Immigration Judge's refusal to exercise bond jurisdiction—combined with unsupported findings of flight risk and dangerousness—has resulted in prolonged civil detention without lawful justification.

Habeas corpus exists to remedy precisely this kind of unlawful restraint. Each additional day of detention compounds the constitutional injury and inflicts irreparable harm, not only on the Petitioner but also on his elderly lawful permanent resident father, for whom the Petitioner is the sole caregiver.

Because Petitioner's detention is unauthorized, arbitrary, and inconsistent with due process, this Court should grant the writ and order Petitioner's immediate release, or at a minimum, a prompt and constitutionally adequate bond hearing under INA § 236(a).

Respectfully submitted,
Adrian Salcedo Martinez,
By and through counsel:

//s//ElizabethShaw

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Date: 12/19/2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Adrian Salcedo Martinez, and submit this verification on his behalf.

I hereby 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.

//s// Elizabeth Shaw, Esq.

Date: 12/19/2025 _____

CERTIFICATE OF SERVICE

I hereby certify that on this day, I electronically filed the foregoing Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 with the Clerk of the Court using the CM/ECF system. I further certify that service was accomplished on all counsel of record through the Court's CM/ECF system, which will send notification of such filing to all registered CM/ECF users.

//s// Elizabeth Shaw, Esq.

Date: _12/19/2025_____