

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

Ahmed Guma Eltayeb Hussien,

Petitioner,

v.

**Respondent Warden of Cimarron
Correctional Facility, *in their official capacity
as Warden of Cimarron Correction Facility,***

**Todd Lyons, *in his official capacity as Acting
Director of Immigration and Custom
Enforcement;***

**Kristi Noem, *in her official capacity as
Secretary of the United States Department of
Homeland Security;***

**Pamela Bondi, *in her official capacity as
Attorney General of the United States.***

Respondents.

Civil Action No.:

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Introduction

1. Petitioner Ahmed Guma Eltayeb Hussien is a Sudanese national who came to the United States fleeing persecution and seeking safety.
2. He entered the U.S. without inspection on or about June 10, 2024, near the southern border, and was apprehended by Department of Homeland Security (“DHS”) officials.
3. Upon entry to the United States, DHS elected to release Petitioner pursuant to its parole authority on his own recognizance pending immigration proceedings rather than keep him in custody.

4. Petitioner thereafter lived in the community for over a year while his removal case was ongoing, during which time he diligently complied with all requirements imposed by Immigration and Customs Enforcement (“ICE”), including attending scheduled immigration court hearings and periodic ICE check-ins.
5. He has no criminal history.
6. On December 9, 2025, during a routine check-in at the ICE Field Office in Oklahoma City, Oklahoma, Petitioner was abruptly arrested and taken into ICE custody.
7. He is now detained by ICE in Oklahoma (presently held at Cimarron Correctional Facility in Cushing, Oklahoma) under the authority of ICE’s Enforcement and Removal Operations.
8. Petitioner’s continued detention is unlawful: DHS is holding him under the wrong statutory authority – purporting to treat him as an “arriving alien” detained under 8 U.S.C. § 1225 – and has failed to provide the individualized bond hearing that both Congress and the Constitution require.
9. Petitioner’s circumstances place him under 8 U.S.C. § 1226, not § 1225, meaning he is entitled to an individualized custody redetermination during his removal proceedings.
10. By denying him that hearing and categorically deeming him ineligible for bond, Respondents are violating federal law as well as Petitioner’s Fifth Amendment due process rights.
11. Accordingly, Petitioner files this Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241, along with this Complaint for Declaratory and Injunctive Relief.

12. He respectfully requests that this Court declare his current detention unlawful and order Respondents to provide an immediate individualized bond hearing at which the government must justify any further detention.
13. If Respondents do not promptly provide such a hearing, Petitioner asks that the Court order his immediate release. Petitioner also seeks any further relief the Court deems just and proper to remedy the ongoing violations of his rights.

Jurisdiction

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody in violation of the Constitution and laws of the United States.
15. Habeas corpus is the appropriate vehicle to challenge the legality of immigration detention, as the central question in a § 2241 habeas action is whether the detention is lawful.
16. Here, Petitioner's detention squarely violates federal statute and the Fifth Amendment. This Court also has federal question jurisdiction under 28 U.S.C. § 1331, since Petitioner's claims arise under federal law, including the Immigration and Nationality Act and the U.S. Constitution.
17. In addition, the Court is authorized to grant declaratory relief pursuant to 28 U.S.C. §§ 2201–2202.

Venue

18. Venue is proper in the Western District of Oklahoma because Petitioner is currently detained within this District.
19. He was taken into ICE custody at an ICE facility in Cushing, Oklahoma, and his immediate custodian, the Warden of Cimarron Correctional Facility or any facility to which he is

transferred in this region, is within this Court's territorial jurisdiction. Accordingly, the Western District of Oklahoma is the appropriate venue for this action.

Exhaustion of Remedies

20. Petitioner has exhausted any available administrative remedies to the extent required.
21. There are no adequate or available administrative avenues for him to challenge the legality of his detention.
22. Petitioner cannot seek a bond hearing through the immigration court system because DHS and the EOIR has categorized him as an "arriving alien," which by regulation means he is not entitled to a bond redetermination by an Immigration Judge.
23. He requested release or at least a custody review from ICE after his detention, but those requests have been ignored or denied. In these circumstances, any further administrative efforts would be futile.
24. Petitioner therefore may seek habeas relief from this Court without additional delay.

Parties

25. **Petitioner Ahmed Guma Eltayeb Hussien** is a native and citizen of Sudan who came to the United States fleeing oppression and seeking safety. He entered the U.S. without inspection on or about June 10, 2024, near the southern border. Upon apprehension, Petitioner was processed by DHS and, on June 11, 2024, was released on his own recognizance pending further immigration proceedings. This discretionary release allowed Petitioner to reside freely in the community while his removal case was pending. Petitioner has no criminal history and has complied with all requirements imposed on him, including attending all immigration court hearings and reporting for all scheduled ICE check-ins. He has developed significant ties in the United States, including close friends and community

support in Oklahoma, and he is pursuing relief from removal – for example, he has applied for asylum based on his fear of persecution in Sudan, and that application is in progress. Petitioner remains in ongoing removal proceedings under 8 U.S.C. § 1229a. He is currently detained in ICE custody (held at Cimarron Correctional Facility in Cushing, Oklahoma) and, despite posing no danger or flight risk, is now enduring detention without any bond hearing .

26. **Respondent Warden of Cimarron Correctional Facility** (name currently unknown) is sued in his official capacity. The Warden is the immediate custodian of Petitioner and is the person with direct physical custody over Petitioner at Cimarron Correctional Facility, where Petitioner is being held.
27. **Respondent Todd M. Lyons**, Acting Director of U.S. Immigration and Customs Enforcement, is sued in his official capacity. Respondent Lyons is the top official overseeing ICE nationwide. In that role, he has ultimate responsibility for the enforcement and detention actions taken by ICE, including Petitioner’s detention. Respondent Lyons has the authority to release Petitioner or to ensure that Petitioner receives a bond hearing. He is therefore an appropriate respondent in this action.
28. **Respondent Kristi Noem**, Secretary of the U.S. Department of Homeland Security, is sued in her official capacity. Respondent Noem is responsible for the enforcement of federal immigration laws and oversees DHS agencies including ICE. As DHS Secretary, Respondent Noem has supervisory authority over Petitioner’s custody and detention.
29. **Respondent Pamela Bondi**, Attorney General of the United States, is sued in her official capacity. Respondent Bondi is the head of the U.S. Department of Justice and the chief legal officer of the federal government. The Attorney General has ultimate authority over

the interpretation and application of the immigration laws, and oversees the Executive Office for Immigration Review (which includes the immigration courts). Respondent Bondi is named in her official capacity given the claims of violations of the Immigration and Nationality Act and the Constitution raised herein.

Factual Background

Entry into the United States and Initial Release

30. Petitioner entered the United States in 2024 without inspection by crossing the U.S.–Mexico border.
31. Upon encountering U.S. immigration officials on or about June 10, 2024, Petitioner was briefly taken into custody and underwent initial processing.
32. Rather than keep him detained at that time, DHS exercised its discretionary authority to release Petitioner pending the outcome of his immigration proceedings.
33. On June 11, 2024, Petitioner received a Notice of Custody Determination reflecting an Order of Release on Recognizance, allowing him to live at liberty while his case was being adjudicated. In practical effect, this constituted a parole or similar humanitarian release under the immigration laws.
34. This release allowed Petitioner to reside in the community while his removal case commenced, subject to conditions such as regular check-ins with ICE. DHS issued Petitioner a Notice to Appear (“NTA”), placing him in removal proceedings under 8 U.S.C. § 1229a on charges of being inadmissible to the United States.
35. Petitioner’s removal case was initiated and remains pending.
36. Petitioner has been pursuing relief from removal: given conditions in Sudan, he has applied for asylum, and that application is currently in progress.

37. Throughout 2024 and 2025, Petitioner scrupulously complied with all conditions of his release.

38. He appeared for every required immigration court hearing and attended every scheduled check-in with ICE.

39. Petitioner's exemplary compliance and lack of any criminal record demonstrated that he was neither a flight risk nor a danger to the community.

Abrupt Arrest and Detention on December 9, 2025

40. On December 9, 2025, without warning, ICE officers abruptly terminated Petitioner's release and arrested him, taking him back into custody.

41. Petitioner was not informed of any new misconduct, incident, or change in circumstance that precipitated this drastic action.

42. In fact, ICE provided no explanation at all – Petitioner was simply told that he was being detained, and agents proceeded to place him in immigration custody, preparing to transfer him to a detention center.

43. Petitioner's re-detention was not based on any new criminal behavior or any violation by Petitioner; it occurred despite Petitioner's consistent compliance with all government instructions and his extensive ties to the community.

44. After more than a year of allowing him to live freely, ICE suddenly chose to jail Petitioner with no advance notice and no stated justification.

45. DHS offered no substantive explanation for why – after such a long period of successful compliance – it was now deemed necessary to incarcerate Petitioner.

46. Petitioner was subsequently transferred to Cimarron Correctional Facility in Cushing, Oklahoma, where he remains detained.

47. Petitioner's sudden and unexplained detention has caused him significant distress, as he has been torn from his community and support network without any warning.

No Bond Hearing or Custody Determination Provided

48. Since being taken into custody on December 9, 2025, Petitioner has never been given any opportunity to challenge his detention.

49. ICE's decision to re-detain him was made unilaterally, without prior notice and without any post-arrest hearing or review by a neutral decision-maker.

50. Petitioner was not informed of any specific reasons that would justify his renewed detention (for example, any evidence that he poses a flight risk or a danger to the community), nor was he allowed to present any information in his favor.

51. In short, Petitioner has had no chance to contest the necessity of his detention, and no Immigration Judge or other neutral official has reviewed whether his continued imprisonment is warranted.

52. Under the normal course of proceedings established by the Immigration and Nationality Act, when ICE detains a noncitizen or revokes a prior release, the detainee is entitled to seek a custody redetermination – *i.e.*, a bond hearing – before an Immigration Judge. *See* 8 U.S.C. § 1226(a); 8 C.F.R. § 1003.19.

53. Specifically, 8 U.S.C. § 1226(a) governs the detention of noncitizens already in the United States: it authorizes DHS to arrest and detain such individuals pending a decision on their removal, but it expressly authorizes their release on bond or conditional parole by the Attorney General (now, by delegation, by an Immigration Judge) while those proceedings are pending.

54. The governing regulations likewise provide that if ICE initially sets no bond or, as here, withdraws a prior release, the detainee “may, at any time before an order of removal becomes final, request amelioration of the conditions under which he or she may be released” – in other words, the person may request a bond hearing. *See* 8 C.F.R. § 1003.19(a), (c); 8 C.F.R. § 1236.1(d).
55. Indeed, 8 C.F.R. § 1003.19(d) specifically anticipates scenarios like Petitioner’s: if DHS had released an individual but later re-detains them, that person ordinarily has a right to a bond hearing before an Immigration Judge to determine if continued detention is necessary.
56. In Petitioner’s case, however, the Department of Justice and DHS have bypassed and effectively nullified this usual process.
57. By classifying Petitioner as an “arriving alien,” the government asserts that the immigration court has no jurisdiction to conduct a bond hearing for him.
58. Under 8 C.F.R. § 1003.19(h)(2)(i), Immigration Judges lack authority to set bond for individuals who are labeled “arriving aliens” seeking admission to the U.S.
59. The government is treating Petitioner as if he were an arriving alien subject to mandatory detention under 8 U.S.C. § 1225(b) – a provision that provides for detention without bond hearings for certain applicants for admission.
60. As a result, Petitioner has been categorically denied any custody hearing whatsoever.
61. Since December 9, 2025, he has languished in detention with no opportunity for any neutral decision-maker to review whether his imprisonment is justified.
62. Petitioner (through counsel) has attempted every possible avenue to secure his release or at least a review of his custody.

63. He has asked ICE officials to reconsider and recognize Petitioner's eligibility for a bond hearing or, alternatively, to grant his release, but those requests have been ignored or summarily rejected.
64. Because DHS maintains that Petitioner is not entitled to any bond hearing at all, he has no administrative remedy available to contest his detention.
65. His only recourse now is to turn to this Court and seek habeas corpus relief. Every additional day that Petitioner remains jailed without a hearing compounds the violation of his rights.

Grounds for Relief

Count I: Unlawful Detention Under the Immigration and Nationality Act (8 U.S.C. § 1226) Petitioner's Detention Is Governed by 8 U.S.C. § 1226, Not § 1225, and the Denial of a Bond Hearing Violates the INA.

66. Petitioner's continued detention is not authorized by law because Respondents are detaining him under the wrong statutory provision.
67. The government purports to hold Petitioner under 8 U.S.C. § 1225(b) – the detention authority for certain “applicants for admission” (i.e. arriving aliens) – which mandates detention and provides no opportunity for a bond hearing.
68. However, Petitioner's detention is governed by 8 U.S.C. § 1226, the statute applicable to noncitizens who are already physically present inside the United States pending their removal proceedings.
69. Under § 1226(a), DHS has discretionary authority to arrest and detain a noncitizen during removal proceedings, but critically, § 1226(a) also expressly authorizes release on bond (or conditional parole) pending those proceedings.
70. In other words, § 1226 permits individualized custody determinations and bond hearings, whereas § 1225(b) does not.

71. Thus, if § 1226 applies to Petitioner’s case, he is entitled by law to an individualized bond hearing – and by denying him any such hearing, Respondents are violating the INA.
72. The statutory framework is clear.
73. The Immigration and Nationality Act delineates two distinct detention regimes for noncitizens facing removal.
74. Title 8 U.S.C. § 1225(b) applies to “applicants for admission” – generally individuals who are encountered at the border or a port of entry, or who otherwise present themselves seeking entry into the United States.
75. This provision requires that certain such arriving aliens (for example, those who do not credibly establish a valid asylum claim or who are placed in expedited removal proceedings) be detained while their admissibility or claims are being resolved.
76. Section 1225(b) is often referred to as a system of “mandatory detention” for arriving aliens: it does not permit release on bond at all. The only avenue for an arriving alien’s release is parole under 8 U.S.C. § 1182(d)(5), which is discretionary and granted only case-by-case for urgent humanitarian reasons or significant public benefit.
77. By contrast, 8 U.S.C. § 1226 governs the arrest and detention of noncitizens who are already inside the United States pending their removal proceedings.
78. Section 1226 covers any noncitizen “pending a decision on whether the alien is to be removed,” which by its terms encompasses those who entered without inspection as well as those who were paroled into the country.
79. Importantly, § 1226(a) explicitly provides that such individuals may be detained or released on bond (or conditional parole) while their proceedings are ongoing.

80. In other words, under § 1226 Congress granted the Executive broad discretion over custody, including the authority – and implicitly, the obligation – to conduct individualized determinations and release the person on bond if detention is not warranted.
81. Put simply, § 1226 allows for bond hearings; § 1225(b) does not.
82. Petitioner’s circumstances squarely fall under § 1226, not § 1225.
83. Although Petitioner was never formally “admitted” at a port of entry (because he entered without inspection), he has been physically present inside the United States since 2024 under DHS’s supervision and with the government’s permission to reside here while his case is pending.
84. He is not an “arriving” outsider at the border – he is an individual who has lived in the U.S. for an extended period and is in the midst of standard removal proceedings.
85. Therefore, § 1226 governs Petitioner’s custody, and under § 1226 he must be afforded a bond hearing.
86. Respondents cannot unilaterally strip Petitioner of the statutory right to seek bond by artificially labeling him an “arriving alien” after having allowed him to live freely in the country for a substantial period.
87. By refusing to provide any bond hearing, Respondents are acting in contravention of the INA and are exceeding their authority.
88. The denial of a hearing in Petitioner’s case is exactly the sort of conduct that the INA forbids.
89. Respondents’ attempt to continue detaining Petitioner under 8 U.S.C. § 1225(b) – a provision that simply does not apply to someone in Petitioner’s posture – is *ultra vires* and unlawful.

90. Petitioner's ongoing detention without bond consideration violates the INA on its face.

91. The appropriate remedy is for this Court to order that Petitioner be provided the individualized custody redetermination hearing to which he is entitled under the law.

**Count II: Violation of the Fifth Amendment (Due Process)
Detention of Petitioner Without Any Bond Hearing or Opportunity to Be Heard Violates
Due Process.**

92. By detaining Petitioner for a prolonged period without affording him any meaningful opportunity to challenge his confinement, Respondents have violated Petitioner's rights under the Due Process Clause of the Fifth Amendment.

93. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law.

94. This constitutional protection extends to all persons on U.S. soil – noncitizens, no less than citizens, are entitled to due process when the government restrains their liberty. Freedom from bodily restraint lies at the core of the liberty interests that due process safeguards.

95. Procedural due process requires, at minimum, that the government follow fair procedures before depriving an individual of significant liberty interests.

96. In the context of immigration detention, this generally means that a noncitizen must have a fair opportunity to contest the necessity of their detention – typically through an individualized hearing where the government's reasons for detention (such as alleged risk of flight or danger to the community) can be evaluated by a neutral adjudicator.

97. In Petitioner's case, no process at all has been provided. ICE officers unilaterally arrested him at his check-in and jailed him, without any prior notice and without any post-arrest hearing.

98. Petitioner was never informed why this sudden detention was supposedly needed, nor was he given any chance to rebut whatever undisclosed concerns ICE might have had.

99. To date, he has never appeared before any judge or neutral official to test whether his detention is actually necessary.

100. This total denial of any hearing or neutral review is a plain violation of due process.

101. The substantive component of due process is also implicated here. Substantive due process protects against government actions that are so unjustifiable that they violate fundamental rights regardless of the procedures used.

102. Detaining Petitioner without any individualized determination of necessity – despite his lack of any criminal record, his consistent compliance with all requirements, and the availability of less restrictive alternatives to jail – is an excessive and arbitrary infringement on his liberty.

103. Such an action is so unreasonable and punitive that it violates Petitioner’s right to be free from unwarranted governmental restraint.

104. There is no legitimate governmental interest served by continuing to detain Petitioner without at least a hearing to assess the necessity of that detention.

105. Absent any demonstrated flight risk or danger – which Petitioner was never even given an opportunity to contest – the ongoing deprivation of his freedom cannot be justified.

106. In sum, by locking up Petitioner and refusing to afford him any meaningful process to challenge his confinement, Respondents have acted in a manner that shocks the conscience and offends the Fifth Amendment’s guarantee of due process of law.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Ahmed Guma Eltayeb Hussien prays that this Court grant the following relief:

- A. Declaratory Relief:** Enter a judgment declaring that Petitioner's ongoing detention without an individualized bond hearing violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. In particular, declare that Petitioner's detention is governed by 8 U.S.C. § 1226 (and not 8 U.S.C. § 1225); that Petitioner is entitled to a prompt custody redetermination hearing under the law; and that Respondents' failure to provide such a hearing to date is unlawful.
- B. Injunctive / Habeas Relief:** Issue a writ of habeas corpus (or corresponding injunctive relief) directing Respondents to immediately provide Petitioner with a lawful custody redetermination hearing. This hearing should be conducted by an Immigration Judge (or other neutral adjudicator) no later than 7 days from the Court's order. At that hearing, the government must bear the burden of justifying Petitioner's continued detention. If Respondents do not provide such a hearing within the timeframe set by the Court, or if they fail to carry their burden to demonstrate that Petitioner's detention is necessary, then the Court should order Petitioner's prompt release under appropriate conditions of supervision.
- C. Further Relief as the Court Deems Just:** Grant any other and further relief that the Court deems just and proper, including, if appropriate, an order for Petitioner's immediate release from custody pending the resolution of his removal proceedings, and/or any other orders necessary to ensure compliance with the above.

Dated: January 2, 2026.

Respectfully submitted,

/s/ Rafael Ureña

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VERIFICATION

I, the undersigned counsel, hereby certify and declare, pursuant to 28 U.S.C. § 2242, that I am counsel for Petitioner. Because Petitioner is incarcerated and unable to sign this petition at present, I am verifying the petition on his behalf. I verify that the factual statements made in the above petition are true and correct to the best of my knowledge and belief. I declare under penalty of perjury that the foregoing is true and correct.

Date: January 2, 2026.

/s/ Rafael Ureña
Rafael Ureña