

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ASAIN ROBERTO GONSALES-PEREZ,

PETITIONER,

v.

KRISTI NOEM, et al.,

RESPONDENTS.

Civil Case No. 5:26-cv-00049-FB

**PETITIONER'S STATEMENT IN SUPPORT OF HABEAS PETITION AND
MOTION FOR A PRELIMINARY INJUNCTION**

The central issue presented by this habeas petition, like countless others nationwide, is straightforward: Are noncitizens like Petitioner, who are placed in removal proceedings after being encountered in the U.S. based on being present after entering without inspection (EWI), entitled to a bond hearing before a neutral adjudicator under 8 U.S.C. § 1226? Or, as the government now claims, are they subject to mandatory detention without any possibility of a bond hearing?

The government's time for filing a response to the habeas petition in these proceedings has passed. As this Court's Show Cause Order issued in the above captioned proceedings on January 7, 2026, there have been several prior court orders issued in the San Antonio Division of the Western District of Texas addressing the precise issues presented by Mr. Gonzales-Perez Petition.¹ Petitioner believes that if the government had a filed a response it would acknowledge there is no material differences between the facts

¹ ECF No. 3 p. 2.

of this case and those they were directed to consider when filing it's response. Given there is no material factual differences between this case and those decided in favor of similarly situated petitioners, including this Court in *Jaimes v. Lyons*, No. SA-25-CV-1700-FB and *Cervantes Beltran v. Noem*, SA-25-CV-1802-FB, and the government's failure to file a timely response, Mr. Gonsales-Perez respectfully requests this Court grant his petition for the same reasons articulated in those cases and order his release no later than January 29, 2026.

For the above stated reasons and those stated in all his previous filings, Mr. Gonsales-Perez respectfully requests the Court find Respondent's detention of him without a bond hearing is contrary to the both the statutory scheme and the U.S. Constitution for the reasons set forth in her petition and above, and as a result order ICE to immediately release him no later than noon on January 29, 2026.

RESPECTFULLY SUBMITTED,

/s/ Dan Gividen

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served on the U.S. District Court and counsel for the government in accordance with the Federal Rules of Civil Procedure on January 27, 2026.

/s/ Dan Gividen
DAN GIVIDEN
Attorney for Defendant