

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

OSCAR FLORES,

Petitioner,

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S. Department of
Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement, and

David Easterwood, Acting Director, St. Paul
Field Office Immigration and Customs
Enforcement.

Respondents.

Case No. 26-cv-165

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

Expedited Handling Requested

INTRODUCTION

1. Petitioner, OSCAR FLORES, by and through counsel, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement (“ICE”) to release Mr. FLORES from ICE detention, or in the alternative to enjoin his transfer to a facility outside of Minnesota pending the completion of his immigration proceedings, and to provide Mr. Flores with a bond hearing within seven days.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Mr. FLORES seeks to challenge his custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Denmore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Mr. FLORES is detained within the District of Minnesota.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

PARTIES

7. Petitioner is a citizen of Mexico and a resident of Minneapolis, Hennepin County, Minnesota, who is currently being held in immigration custody and his

location is presently unknown. Petitioner is under the direct control of the respondents and has no scheduled release date.

8. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Mr. FLORES.

9. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Mr. FLORES's detention and removal. As such, Respondent Noem is a legal custodian of Mr. FLORES.

10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

11. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Mr. FLORES. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

12. Petitioner is a resident of Minneapolis, Minnesota and a citizen of Mexico.

Mr. FLORES has lived in the United States for 21 years.

13. Mr. FLORES entered without inspection, and has had no contact with immigration authorities prior to this time.

14. Mr. FLORES lives with two family members in Richfield, Minnesota.

15. Mr. FLORES has strong connections to the community in Minnesota.

16. Mr. FLORES has no criminal record.

17. While Mr. FLORES was cleaning snow and ice off of his windshield in a public area where his vehicle was parked, masked men swarmed and detained him. These men are believed to be agents of Respondent ICE.

18. Mr. FLORES complied, and was taken into custody; his present location is unknown.

19. This arrest is part of an operation in Hennepin and Ramsey counties called “Operation Metro Surge.” This operation has involved hundreds of masked, unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting pedestrians, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody regardless of the constitutionality of their actions. *See, e.g., Compl., Tincher et. al. v. Noem*, No. 0:25-cv-04669. (D. Minn. 12/17/2025).

20. Since the operation began on December 1, 2025, the number of immigration officials in the twin city metro area has increased fourfold, and with them these new agents have brought a similarly massive increase in unconstitutional, unlawful, and downright violent behavior towards citizens and non-citizens alike. The people of Minnesota—of all races, nationalities, and citizenship status—are united in their shock and fear at the events of the past six weeks, and are begging for the attacks on their community to stop.

21. Given the massive volume of perceived non-citizens being taken off the streets, Respondents are running out of physical space to continue detaining people. Detainees are being held in cramped quarters at the federal building, before being quickly sent to remote locations across Minnesota or to facilities as far away as El Paso, Texas.

22. Mr. FLORES' location is currently unknown. Attempts to locate Petitioner have been unsuccessful. Attorneys and Mr. FLORES' friends have attempted to locate him by calling the Minnesota ICE Field Office and checking <https://locator.ice.gov/odls/#/search>. *See* Affidavit of Karmen McQuitty. Upon information and belief, he was taken to the Bishop Henry Whipple Federal Building, 1 Federal Drive, Suite 1850, Fort Snelling, MN 55111 where detained noncitizens are brought after their arrest in Minnesota. The undersigned attorney went to the Whipple on the evening of January 10, 2026, in an attempt to perform in-custody jail visits, but was denied access to the facility without being permitted to speak to anyone who was detained there.

23. Mr. FLORES poses no risk to society and has strong connections to his community in Hennepin County, including family and friends. He has no criminal record.

24. Detaining Mr. FLORES is an expensive and pointless endeavor. Mr. FLORES respectfully seeks the opportunity to return to his home in Richfield, Minneapolis.

25. Pending the adjudication of his Petition, Mr. FLORES further seeks an order restraining the Respondents from transferring him to a location outside of the State of Minnesota, so that he may remain within the jurisdiction of this Court and accessible to his legal counsel and family support networks.

STANDARD OF LAW

26. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by US Courts as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 22441(c)(3), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

27. The Court must grant a petition for writ of habeas corpus or issue an order to show cause to the respondents “forthwith,” unless the petitioner is not entitled to

relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

28. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties’ disagreement is based on a legal conclusion. *Id.* at 967-68.

29. Other courts in the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained immigrant’s habeas corpus petition under similar circumstances—to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *Giron Reyes v. Lyons*, 2025 WL 2712427 at *3 (N.D. Iowa Sept. 23, 2025).

30. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

31. Respondents have been attempting for the past several months to completely alter the previously well-settled interpretation of 8 U.S.C. § 1225(b)(2), claiming that all of a sudden this statute means that individuals who have been residing within the United States for more than two years are “seeking admission” and are “applicants for admission,” simply because they may have pending claims for

asylum or other forms of status. However, this Court and the majority around the country have made clear that 8 U.S.C. § 1225(b)(2) only authorizes detention for noncitizens who are at the border seeking physical entry at the time of detention, not those who have lived within the United States for more than two years, and whose detention is discretionary and governed by 8 U.S.C. § 1226. *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

32. Only under certain circumstances are immigrants subject to ongoing detention without a bond hearing. *See, e.g.*, 8 U.S.C. § 1226(c) (individuals with certain criminal convictions may be detained without a bond hearing for the pendency of removal proceedings¹) and 8 U.S.C. § 1225(b)(2) (authorizing mandatory detention of immigrants seeking admission from outside the United States, who are “not clearly and beyond a doubt entitled to be admitted.”).

33. Otherwise, the “default rule” is that 8 U.S.C. § 1226(a) and its implementing regulations apply to immigrants “already present in the United States”

¹ Even when detained under 1226(c), immigrants retain due process rights and are entitled to a hearing if the period of detention becomes unreasonable. *See, e.g., Pedro O v. Garland*, 543 F.Supp.3d 733 (D. Minn. 2021) (finding a year-long mandatory detention pursuant to 8 U.S.C. § 1226(c) without an individualized hearing to violate an immigrant’s due process rights).

and subject to pending removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Under this default rule, detained immigrants are constitutionally entitled to a bond hearing. *R.E. v. Bondi*, No. 25-CV-3946 (NEB/DLM), 2025 WL 3146312 (D. Minn. Nov. 4, 2025). *See also Mayamu K. v. Bondi*, No. 25-3035 (JWB/LIB), 2025 U.S. Dist. LEXIS 260661 (D. Minn. Oct. 20, 2025) (holding that an immigrant detained after entry while in asylum proceedings is held pursuant to 8 U.S.C. § 1226(a), and that the recent DHS policy attempting to reclassify interior arrests under 8 U.S.C. § 1225 so as to hold asylum seekers without a bond hearing is unlawful and unconstitutional.).

34. Petitioner has no criminal record, has been in the United States for well over two years, and was apprehended within the United States, not at a border while seeking entry. Respondents wrongly assert 8 U.S.C. 1225(b) as a basis for detaining him without a hearing, when instead his detention could only be pursuant to 8 U.S.C. 1226.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Petitioner is being deprived of an adequate and meaningful process to challenge his ongoing confinement.

35. Petitioner realleges and incorporates by reference the allegations contained above.

36. Mr. FLORES has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

37. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

38. Here, all three factors favor the petitioner.

39. First, he has a significant private interest at stake. A person's interest in freedom from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”). Mr. FLORES currently experiences the gambit of deprivations that come with physical detention, including separation from his family and his community and inhibitions to participate fully in his pending immigration proceedings.

40. Second, Mr. FLORES will continue to be deprived of this interest if the current procedure (detaining Mr. FLORES without a hearing) is followed. With his lack of criminal record and his demonstrated pattern of following instructions and appearing for court proceedings, Mr. FLORES has a strong likelihood of meeting the

criteria for being released on bond. 8 CFR §§236.1(c)(8), 1236.1(c)(8) (2020); *In re Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999). Even if he is not subsequently released, Mr. FLORES still has a legal and constitutional interest in the hearing itself, in being heard.

41. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Mr. FLORES poses no safety threats to the community. Releasing him, or holding a hearing to release him on bond, would in fact *save* the government the resources and expense of continuing to imprison him.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

Petitioner's Ongoing Detention, without the Opportunity for a Bond Hearing, Violates his Statutory Right to a Hearing as Guaranteed by 8 U.S.C. § 1226

42. Petitioner realleges and incorporates by reference each and every allegation contained above.

43. When a person is residing within the United States and has been for more than two years, without a criminal record, that person's subsequent detention should be pursuant to 8 U.S.C. § 1226(a), which would entitle that immigrant to a bond hearing pursuant to 8 CFR §§236.1(c). Respondents violate the Immigration and Nationality Act by attempting to apply mandatory detention, presumably through a subsection of statute 8 U.S.C. § 1225(b), to Petitioner.

44. Mr. FLORES is detained, notwithstanding his continuous presence in the United States for more than 21 years and lack of criminal record, without being

afforded an opportunity to advocate for his release back into his community as the law requires.

REMEDY

45. An available remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be released.

46. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 687, 690 (2001) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

47. A noncitizen seeking only to challenge the legality of their detention, not the substance of their removal proceedings in immigration court, may properly ask a federal court to find jurisdiction over such a request pursuant to 28 U.S.C. § 2241. *See, e.g., Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1154–55 (D. Minn. 2025).

48. Since Section 1225 does not apply to noncitizens who are in Petitioner's situation—who have been detained while residing within the United States for more than two years, as opposed to those who are detained while in the process of physically entering the United States, the law that Respondents are using to detain Petitioner simply does not apply so as to authorize Petitioner's detention. *See Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc.

No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

49. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

50. Respondents will no doubt argue, as they have in similar cases before this Court, that if the Court rules that Petitioner should have been detained pursuant to § 1226, instead of § 1225, then the remedy is a bond hearing as opposed to outright release. *See, e.g., Ahmed A.* Civ. No. 25-4776, Doc. No. 9. at 9-10. However, this Court rejected this argument, saying that:

[A] bond hearing presupposes lawful detention authority under § 1226. Where that authority has not been invoked or established, ordering a bond hearing would treat the absence of statutory authority as a mere procedural irregularity rather than a substantive defect ... Where the record shows Respondents have not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings.

Id. at Doc. No. 10 at 6.

51. Here, where detention is unlawfully based on 8 U.S.C. § 1225, which does not apply to Petitioner, release is an appropriate remedy.

52. In the alternative, Petitioner would request that this Court order a bond hearing per 8 U.S.C. § 1226(a).

REQUEST FOR ORDER TO SHOW CAUSE

53. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or

issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

54. Petitioner respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court’s order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

WHEREFORE, Mr. FLORES prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately, or in the alternative afforded a bond hearing;
- (3) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days; and
- (4) Grant any other and further relief that this Court may deem just and proper.

Date: Jan. 11, 2026

/s/ Kira A. Kelley

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**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. My colleague Karmen McQuitty under my direct supervision has discussed the factual assertions in this petition with Petitioner's family and friends, as well as done her own research as outlined in her affidavit. She and Petitioner's consulted loved ones are also acting on Petitioner's behalf and I understand them to have personal knowledge of the facts alleged herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: Jan. 11, 2025

/s/ Kira A. Kelley

Kira A. Kelley, Esq.