

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS**

JHONNY JESUS PRADA OLLARVES,

Petitioner,

v.

WARDEN, ERO EL PASO CAMP EAST MONTANA; MARY DE ANDA-YBARRA, in her official capacity as Field Office Director, El Paso Field Office, U.S. Immigration and Customs Enforcement; TODD M. LYONS, in his official capacity as Director of Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; and U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,

Respondents.

Case No. 3:26-cv-00037

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS**

INTRODUCTION

1. Jhonny Jesus Prada Ollarves is an 18-year-old Venezuelan refugee who is seeking Lawful Permanent Residency the United States after arriving in the United States in July 2024. On January 6, 2026, Mr. Prada Ollarves was forcibly and erroneously arrested by the Department of Homeland Security (DHS) during a raid in Saint Paul, Minneapolis. Currently a high school student, Mr. Prada Ollarves has resided in the United States as a refugee, without incident since his entry, and having timely-filed his application for a green card.

2. The only lawful justifications under which DHS may detain a non-citizen are: (1) to ensure their appearance at future removal proceedings; or (2) effectuate a removal order. Neither of these rationales apply to Petitioner. He is not, and has never been, in any sort of removal proceeding. And he has never been issued a removal order.

3. Nor is Mr. Prada Ollarves's detention authorized under any applicable statute. Under 8 U.S.C. § 1226, he could be detained if placed into removal proceedings under 8 U.S.C. § 1229a. But, upon information and belief, he has not been placed in removal proceedings or served a Notice to Appear (NTA).

4. Petitioner could also be detained if he were subjected to some other type of removal proceeding, such as expedited removal under 8 U.S.C. § 1225(b)(1)(A). But he has not been placed into expedited removal either. Indeed, Mr. Prada Ollarves is clearly and unmistakably not subject to expedited removal because was inspected and admitted when he entered the United States as a refugee.

5. At present, Mr. Prada Ollarves is entirely unaware of the basis for his detention. Accordingly, it appears that Mr. Prada Ollarves' detention is entirely *ultra vires*. Respondents are either misusing their authorities against someone to whom they are plainly inapplicable or detaining him with no basis at all.

6. As a result, Petitioner has been deprived of his liberty without any justification. Petitioner's continuing unlawful detention has caused immense and ongoing harm to Petitioner, his family, and his community. Mr. Prada Ollarves brings this petition to seek immediate release.

PARTIES

7. Petitioner, Mr. Prada Ollarves is a refugee from Venezuela who has lived in the United States since July 2024. Prior to Petitioner's detention on January 6, 2026, he was residing in Saint Paul, Minnesota. He was transferred from Minnesota and now is detained under at ERO El Paso Camp East Montana at 6920 Digital Road, El Paso, TX 79936. This facility is within the jurisdiction of the ICE Field Office for El Paso, Texas.

8. Respondent Warden, ERO El Paso Camp East Montana is the warden of the detention center located at 6920 Digital Road, El Paso, TX 79936, where Petitioner is detained, and Petitioner's immediate custodian.

9. Respondent Mary De Anda-Ybarra is the Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division. As such, Ms. Anda-Ybarra is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity. Respondent Anda-Ybarra's address is El Paso ICE Field Office Director, 11541 Montana Ave., Suite E, El Paso, TX 79936.

10. Respondent Todd Lyons, is the Director of Immigration and Customs Enforcement and is responsible for the custody and revocation decisions of the Agency including for the Petitioner. He is sued in his official capacity. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

11. Respondent Kristi Noem is the Secretary of Homeland Security and is ultimately responsible for setting policy and directs the officers of all of the Department of Homeland Security including the custody and revocation decisions that includes the Petitioner's custody. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

12. Respondent U.S. Department of Homeland Security ("DHS") is a federal agency headquartered in Washington, D.C. and the parent agency of ICE.

13. Respondent U.S. Immigration and Customs Enforcement ("ICE") is a component agency of DHS.

JURISDICTION

14. Petitioner is in the physical custody of Respondents. Petitioner is detained at ERO El Paso Camp East Montana, 6920 Digital Road, El Paso, TX 79936.

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

16. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Under 8 U.S.C. § 1252(e)(2), this Court has habeas authority to determine whether Petitioner was properly ordered removed under 8 U.S.C. § 1225(b)(1).

17. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

18. Venue is proper because at the time of filing, Petitioner was detained at ERO El Paso Camp East Montana at 6920 Digital Road, El Paso, TX 79936, which is within the jurisdiction of this District. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004) (citing *Ex Parte Endo*, 323 U.S. 283 (1944)).

19. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to his claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

20. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) 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.* (emphasis added).

21. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to 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).

STATEMENT OF FACTS

22. Petitioner is an 18-year-old citizen of Venezuela and a high school student at 
 n St. Paul, Minnesota.

23. Petitioner and his family applied for and were granted refugee status by the U.S. Department of State. In July 2024, he subsequently lawfully entered the United States as a refugee, and was inspected and admitted.

24. Petitioner currently maintains refugee status and was never provided any notice regarding any termination of his refugee status under 8 C.F.R. § 207.9 or any other statute or regulation.

25. Upon information and belief, DHS never gave Petitioner or filed a Notice to Appear (“NTA”) with any immigration court, that would commence removal proceedings against him, nor is there any known basis for commencing such proceedings.

26. As of the date of this filing, no immigration court case appears associated with Petitioner in the Executive Office of Immigration Review’s Automated Case Information Center.

27. Petitioner timely applied for Lawful Permanent Residence with U.S. Citizenship and Immigration Services (“USCIS”), which had jurisdiction over his application because no removal proceedings were pending against him, on or about February 11, 2025.

28. After submitting his application for adjustment, Petitioner applied for and was granted an employment authorization document (“EAD”) by USCIS.

29. To the best knowledge of counsel, given the exigent circumstances of his detention, he does not have criminal history, and is neither a flight risk or a danger to the community.

30. Upon information and belief, Petitioner was arrested by several DHS officers as a result of a raid. He was not informed why he was being arrested, nor told anything about his refugee status.

31. Shortly after his arrest in Minnesota, Petitioner was transferred over a thousand miles away from his family to ERO El Paso Camp East Montana, in El Paso, Texas.

32. Petitioner currently remains at ERO El Paso Camp East Montana, detained under the authority of ICE’s El Paso Field Office.

33. As a result, Petitioner, a young high school student, remains in detention and is separated from his family and community with no articulable basis whatsoever, and is suffering severe harm as a result of the deprivation of his liberty without due process.

STATUTORY FRAMEWORK

Detention Framework

34. The Immigration & Nationality Act (“INA”) does not provide Respondents with a free-floating right to detain any non-citizen lawfully residing in the United States, solely on the basis of their alienage or non-citizen status. Nor would such a scheme be consistent with due process or the Constitution.

35. Instead, the INA prescribes three basic forms of detention that may be applicable for the vast majority of noncitizens.

36. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

37. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

38. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

39. All of these statutory-authorized forms of detention apply to individuals who are either in active removal proceedings, or have already been ordered removed following a removal proceeding (whether standard or expedited).

40. Petitioner does not fall into any of these categories. Mr. Prada Ollarves entered the United States lawfully, as a refugee, is not in removal proceedings, and does not have a final order of removal.

41. Instead, Mr. Prada Ollarves' detention appears to be a lawless excess of an ICE operation in Minnesota 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. (filed D. Minn. Dec. 17, 2025).

Framework for Termination of Refugee Status

42. Refugee status cannot be terminated at Respondents' whims by detaining Petitioner.

43. According to the INA, "refugee status . . . may be terminated . . . pursuant to such regulations as the Attorney General may prescribe," but only where "the Attorney General determines that the alien was not in fact a refugee . . . at the time of the alien's admission." 8 U.S.C. § 1157(c)(4).

44. According to the relevant regulations, refugee status may only be terminated after "USCIS . . . notif[ies] the alien in writing of its intent to terminate the alien's refugee status," during which time the non-citizen has 30 days "to present written or oral evidence to show why the alien's refugee status should not be terminated." 8 .C.F.R. § 207.9.

45. Insofar as Petitioner has never received any notice by USCIS, he remains a refugee regardless of any actions taken by Respondents to detain him.

CLAIMS FOR RELIEF

COUNT ONE

**VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION
SUBSTANTIVE DUE PROCESS**

46. The allegations in the above paragraphs are re-alleged and incorporated herein.

47. Petitioner is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.

48. The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified).

49. The Fifth Amendment's Due Process Clause forbids the Government to “depriv[e]” any “person ... of ... liberty ... without due process of law.” Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects. See *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

50. In all cases, the Fifth Amendment requires that detention be “reasonabl[y] relat[ed]” to a valid governmental purpose. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). In the immigration context; see also *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997) (civil confinement only permissible when it serves a “legitimate nonpunitive objective”). The Supreme Court has only recognized two legitimate objectives of immigration detention: “preventing danger to the community” and “ensuring the appearance of aliens at future immigration proceedings.” See *Zadvydas*, 533 U.S. at 690–92 (discussing constitutional limitations on civil detention).

51. These objectives do not apply merely by virtue of someone being a non-citizen. Instead, “[d]etention *during removal proceedings* is a constitutionally permissible part of that process.” *Demore v. Kim*, 538 U.S. 510, 531 (2003) (emphasis added).

52. Petitioner is not in any removal proceeding at which his appearance might be required. Nor is he subject to any order of removal with which he may have to comply.

53. Instead, Petitioner was inspected and admitted into the United States as a refugee, continues to be a refugee, and has not had removal proceedings initiated against him or been provided any reason for his ongoing detention.

54. The deprivation of Petitioner's liberty is thus not "reasonably related" to a valid governmental objective," nor does it serve a "legitimate nonpunitive objective," as the Constitution requires. Indeed, Petitioner's detention appears to be wholly lawless.

55. Petitioner has no adequate remedy at law, as he seeks immediate release and has no other mechanism to effectuate it.

56. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION PROCEDURAL DUE PROCESS

57. The allegations in the above paragraphs are realleged and incorporated herein.

58. Petitioner is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.

59. The Procedural Due Process Clause of the Fifth Amendment prohibits the government from depriving an individual of a protected interest without notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

60. Under *Mathews*, courts balance: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government's interest, including the fiscal and administrative burdens that additional or substitute procedures would entail. 424 U.S. at 335.

61. First, the private interest at stake for Petitioner is colossal; indeed it is "the most elemental of liberty interests—the interest in being free from physical detention." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (citing *Foucha*, 504 U.S. at 80).

62. Second, the risk of erroneous deprivation of Petitioner's liberty interest is enormous. Respondents provided Petitioner with no notice or opportunity to be heard prior to arresting and detaining him or thereafter, and, upon information and belief, failed to provide him with any lawful rationale or justification for his detention. He has been provided with no pre-deprivation or post-deprivation process whatsoever, and Respondents have made no showing that he is even subject to detention.

63. Third, the Government's interest is wholly absent. The Government can have no legitimate interest in detaining Petitioner absent a valid purpose or reasonable relationship to preventing danger to the community or ensuring his appearance at future hearings.

64. Petitioner has no adequate remedy at law, as he seeks immediate release and has no other mechanism to effectuate it. There is no mechanism except for the writ of habeas corpus to compel Respondents to release a Petitioner who alleges that his detention is wholly *ultra vires*.

65. Petitioner's detention thereby deprives him of his rights to Due Process under the Fifth Amendment of the United States Constitution.

COUNT THREE

VIOLATION OF THE INA

66. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

67. As noted above, the INA prescribes three basic forms of detention that may be applicable for the vast majority of noncitizens. These are: (a) 8 U.S.C. § 1226, which authorized the detention of noncitizens in standard removal proceedings before an IJ; (b) 8 U.S.C. § 1225(b), which provides for mandatory detention of noncitizens subject to expedited removal and for other recent arrivals; and (c) 8 U.S.C. § 1231(a)–(b), which provides for detention of noncitizens who have been ordered removed.

68. All of these statutory-authorized forms of detention apply to individuals who are either in active removal proceedings, or have already been ordered removed following a removal proceeding (whether standard or expedited).

69. Petitioner does not fall into any of these categories. Mr. Prada Ollvares entered the United States lawfully, as a refugee, is not in removal proceedings, and does not have a final order of removal. Respondents have not terminated Petitioner's refugee status and he therefore remains a refugee in lawful status.

70. Therefore, Petitioner's detention violates the INA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court grant the following:

Assume jurisdiction over this matter;

- 1) Assume jurisdiction over this matter;
- 2) Order that Petitioner shall not be transferred outside the Western District of Texas while this habeas petition is pending;
- 3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- 4) Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner;
- 5) Declare that Petitioner's detention is unlawful;
- 6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- 7) Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

Dated: January 12, 2026

/s/E. Michelle Drake
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Jhonny Jesus Prada Ollarves because his current detention makes him unable to submit one on his own behalf. On information and belief, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

Dated: January 12, 2026

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