

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Manuel Gustavo NAVOS MOROCHO,

Petitioner,

v.

KRISTI NOEM, in her capacity as Secretary of the United States Department of Homeland Security;

TODD M. LYONS, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement;

PAMELA BONDI, in their official capacity as Attorney General of the United States;

DAVID EASTERWOOD in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement;

Respondents.

Case No. 26-cv-224


**Petition for Writ of
Habeas Corpus Pursuant
to 28 U.S.C. § 2241**



INTRODUCTION

1. This case seeks the immediate release of Manuel Gustavo Navos Morocho (“Petitioner”) from his unlawful detention by the Department of Homeland Security’s (“DHS”) U.S. Immigration and Customs Enforcement (“ICE”) in light of the fact that he is in valid T Nonimmigrant Status and his detention is without lawful basis, or in the alternative seeks declaratory relief providing that Petitioner is subject to detention by the Department of Homeland Security’s (“DHS”) U.S. Immigration and Customs Enforcement (“ICE”) under 8 U.S.C. § 1226(a) and that an Immigration Judge must

therefore hold a custody redetermination hearing under 8 C.F.R. § 1236 to allow Petitioner the opportunity to seek a bond for his release from custody

2. ICE unlawfully detained Petitioner on January 12, 2026, in violation of his constitutional, statutory, and regulatory rights notwithstanding the fact that he is in T status. As of this filing Petitioner is being detained by ICE in Fort Snelling, Minnesota.
3. Petitioner brings this habeas action, first, for an order that Respondents immediately release him. Respondents' sudden arrest of Petitioner, while he is in lawful status, violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act ("INA") and implementing regulations, the Administrative Procedure Act ("APA").
4. Petitioner is a national of Ecuador who entered the United States in approximately 2004, applied for T Nonimmigrant Status (USCIS Receipt Number ) and was approved for T Nonimmigrant Status which is valid from 03/13/2023 to 03/12/2027. He should not have his freedom abruptly taken away without explanation, process or lawful authority.
5. In light of the information and belief that ICE has moved other petitioners for writs of habeas corpus out of the District of Minnesota after they filed petitions for writs of habeas corpus in the District of Minnesota, this petition also requests that the Court specifically enjoin Respondents from moving or transferring Petitioner outside of the District of Minnesota in the Order to Show Cause. For this injunction to be included in the Order to Show Cause would avoid the repetitive briefing and strain on the Court's resources presented by a motion for a temporary restraining order.

PARTIES

5. Petitioner has lived in the United States since approximately 2004. On 03/21/2023 USCIS approved his I-914 T Visa petition and he was issued an I-94 reflecting that he was admitted to T Nonimmigrant Status from 03/13/2023 to 03/12/2027. Prior to his detention on or about January 12, 2026, he was residing in Minneapolis, Minnesota with his wife and children. Petitioner is currently detained by ICE in Minnesota. Petitioner's last known whereabouts were at the ICE office at Fort Snelling, Minnesota on the morning of January 13, 2026.

6. Respondent Kristi Noem is named in her official capacity as the Secretary of the United States Department of Homeland Security. DHS is a department of the executive branch of the U.S. government that is tasked with administering and enforcing the federal immigration laws. Secretary Noem is ultimately responsible for ICE's actions; specifically, she is responsible for the administration and enforcement of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a). Secretary Noem is legally responsible for any effort to detain and remove Mr. Petitioner and as such is Petitioner's legal custodian.

7. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement. ICE is the agency within DHS that is specifically responsible for managing all aspects of the immigration enforcement process, including immigration detention. ICE is responsible for apprehension, incarceration, and removal of noncitizens from the United States, and as such Acting Director Lyons is Petitioner's legal custodian.

8. Respondent Pamela Bondi is named in her official capacity as the U.S. Attorney General. Attorney General Bondi is responsible for continuing a custody case against a noncitizen and as such is Petitioner's legal custodian.

9. Respondent David Easterwood is named in his official capacity as the Acting Director for the ICE St. Paul Field Office. Director Easterwood is responsible for the enforcement of the immigration laws within this district, and for ensuring that ICE officials follow the agency's policies and procedures.

JURISDICTION AND VENUE

12. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

13. Nothing in 8 U.S.C. § 1252 or FARRA deprives this Court of jurisdiction.

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, the Suspension Clause, and the Court's inherent equitable powers.

15. Venue lies in the U.S. District Court for the District of Minnesota because it is the judicial district in which Petitioner is currently detained. Venue is also proper in this Court under 28 U.S.C. § 1391(e)(1) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in this district.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* Moreover, a hearing is to be set within five days of the return on writ, and "[u]nless the application for the writ and the return present only

issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.” *Id.*

17. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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) (citation omitted). “The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time.” *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978).

18. Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice. Petitioner also seeks as part of this Court’s Show Cause Order an order to prevent (1) transfer out of the district (or his return to the district) and (2) his removal from the United States while these proceedings are ongoing.

LEGAL FRAMEWORK

19. T Nonimmigrant Status is a type of immigration relief available to victims of a severe form of trafficking in persons. *See* 22 U.S.C. Section 7101; Immigration and Nationality Act (“INA”) Section 101(a)(15)(T); 8 C.F.R. Section 214.11.

20. T nonimmigrant status is granted for four years. After three years, a nonimmigrant in T Status may apply for adjustment of status with USCIS. *Id.*

21. Those admitted in T nonimmigrant status have lawful status and are protected from removal unless and until the Department of Homeland Security proves their deportability in removal proceedings under 8 U.S.C. 1229a and a final order of removal is entered against them.

22. To secure a removal order against a non-citizen in lawful T nonimmigrant status pursuant to removal proceedings, DHS must establish by clear and convincing evidence that one or more

grounds of deportability under 8 U.S.C. 1227 apply. *See* 8 U.S.C. 1227 (applying to those “Admitted to the United States”).

Detention Under the Immigration and Nationality Act

41. The INA prescribes essentially three forms of detention for noncitizens in removal proceedings.

42. First, noncitizens detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a custody-redetermination hearing—also known as a bond hearing—unless they have been arrested, charged with, or convicted of certain crimes that subject them to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (providing that Immigration Judges may review custody determinations made by DHS), 1236.1(d) (providing the same).

43. Second, the INA provides for mandatory detention of noncitizens who are subject to expedited removal under 8 U.S.C. § 1225(b)(1), in addition to other recent arrivals who are deemed to be “seeking admission” to the United States under 8 U.S.C. § 1225(b)(2).

44. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. 8 U.S.C. § 1231(a)–(b).

45. The detention provisions of the INA at 8 U.S.C. §§ 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Division C of Pub. L. No. 104-208, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Section 1226 of the INA was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

46. Following enactment of the IIRIRA, the U.S. Department of Justice's Executive Office for Immigration Review ("EOIR") drafted new regulations explaining that, in general, individuals who entered the United States without inspection were not considered detained pursuant to § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.")

47. In the decades that followed the enactment of the IIRIRA, most noncitizens who entered the United States without inspection and were thereafter detained and placed in standard removal proceedings were considered eligible to seek release on bond and also received bond hearings before an IJ unless their criminal history rendered them statutorily ineligible. This practice was consistent with many decades of prior practice, in which noncitizens who entered the United States, even without inspection, were entitled to a custody determination hearing before an IJ. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that 8 U.S.C. § 1226(a) simply "restates" the detention authority previously found at 8 U.S.C. § 1252(a)).

48. For decades, noncitizens who have entered the United States without inspection and then resided long-term within the country have been deemed to be detained pursuant to

§ 1226 and have therefore been deemed entitled to bond hearings before IJs, absent a criminal history that would bar them from such a hearing.

49. In July 2025, however, ICE contravened this longstanding legal framework by beginning to assert that all individuals who entered the country without inspection should be considered to be “seeking admission” and therefore subject to the mandatory-detention provision of 8 U.S.C. § 1225(b)(2)(A).

50. On September 5, 2025, the BIA issued a precedential decision adopting ICE’s new interpretation of the detention provisions of the INA, departing from the plain language of the text of the INA, federal precedent, and long-standing regulations. *See Yajure Hurtado*, 29 I&N Dec. 216.

51. Respondents’ new legal interpretation of the custody provisions of the INA is plainly contrary to the statutory framework of the INA and its implementing regulations. For decades, Respondents applied § 1226(a) to individuals similarly situated to Petitioner. Respondents’ new policies regarding custody determinations are therefore not only contrary to law, but also arbitrary and capricious in violation of the Administrative Procedure Act (“APA”). This new interpretation of the statutes was also adopted without following the procedural requirements of the APA. *See* 5 U.S.C. § 553.

52. In recent months, numerous federal courts have rejected Respondents’ new interpretation of the custody statutes and have instead consistently found that § 1226—not § 1225(b)(2)—authorizes detention of noncitizens who entered without inspection and who were later apprehended in the interior of the country. *See e.g., Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in

Yajure Hurtado); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025).

53. Under *Loper Bright v. Raimondo*, “the role of the reviewing court under the APA is . . . to independently interpret the statute and effectuate the will of Congress subject to constitutional limits.” 603 U.S. 369, 395 (2024). Applying *Loper Bright*, this Court should independently interpret the pertinent statutes and give no weight to the BIA’s expansive and unprecedented interpretation of § 1225(b)(2), as that interpretation conflicts with the plain text of the statute, is contrary to the regulations, and contravenes precedent on the question of jurisdiction for bond proceedings.

54. As discussed in ¶ 29, the detention provisions at issue in this case were enacted as part of the IIRIRA in 1996. Division C of Pub. L. No. 104-208, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. After the enactment of the IIRIRA, EOIR issued regulations clarifying that individuals who entered the country without inspection were not considered to be detained under § 1225, but rather under § 1226(a). *See* 62 Fed. Reg. 10312, 10323 (Mar. 6 1997).

55. In 1997, after Congress amended the INA through the IIRIRA, EOIR and USCIS’s predecessor agency, Immigration and Naturalization Services, issued an interim rule guiding interpretation and application of the IIRIRA. Specifically, under the heading “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that

“[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

56. The overall statutory framework of the INA also clearly supports that § 1226 applies to individuals who have not been admitted and who entered without inspection. In 2025, Congress added new mandatory-detention grounds to § 1226(c) that apply only to noncitizens who have not been admitted. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025) (codified in relevant part at 8 U.S.C. § 1226(c)(1)(E)).

57. By specifically referencing inadmissibility for entry without inspection as falling within 8 U.S.C. § 1182(6)(A), Congress clearly expressed its will that such individuals are covered by § 1226(a) if they do not have the sort of criminal history identified in the Laken Riley Act. Accordingly, § 1226 plainly applies to noncitizens who entered without inspection and are later charged as inadmissible within the interior of the country, including those who never received an admission or parole.

58. The Supreme Court has explained that 8 U.S.C. § 1225(b) “applies primarily to aliens seeking entry into the United States,” and is generally imposed “at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287, 297 (2018).

In contrast, § 1226 “authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings.” *Id.* at 289 (emphasis added).

59. Further, § 1225(b)(2) specifically applies only to those “seeking admission,” and the definitions provided at the implementing regulations state that an “[a]rriving alien” is one who is “coming or attempting to come into the United States at a port-of-entry.” 8 C.F.R. § 1.2. The use of the present progressive tense would exclude noncitizens like Petitioner who are initially apprehended in the interior of the country almost two decades after they had entered the country, as they cannot reasonably be considered to be actively “seeking admission” or “coming . . . into the United States” after years spent building a life and raising a family within the interior of the country, as is the case for Petitioner. *Id.*; see *Martinez v. Hyde*, 792 F. Supp. 3d (D. Mass. July 24, 2025) (citing the use of the present and present-progressive tenses to conclude that 8 U.S.C. § 1225(b)(2) does not apply to individuals apprehended in the interior); see also *Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (interpreting the language “is arriving” in 8 U.S.C. § 235(b)(1)(A)(i) and concluding that “[t]he use of the present progressive, like use of the present participle, denotes an ongoing process”).

60. Because Petitioner is in lawful status, none of the detention provisions of the INA apply to him.

61. Even if ICE asserts for some unknown reason that Petitioner is removable under the INA, the mandatory detention provision of 8 U.S.C. § 1225(b)(2) does not apply to Petitioner, who entered the U.S. 22 years ago, was not initially detained near the border, and was only ever detained recently well within the interior of the country.

FACTUAL ALLEGATIONS

45. Petitioner is a citizen of Ecuador.
46. Petitioner has resided in the United States since 2004. He was living with his wife and child before his sudden arrest by ICE on January 12, 2026.
47. Petitioner has not been arrested by the police or charged with or convicted of any significant crime.
48. Petitioner was granted T nonimmigrant status from March 13, 2023 to March 12, 2027. He is currently in lawful T status.
49. Petitioner is now detained by ICE at Fort Snelling, Minnesota.

COUNT ONE

Substantive Due Process

50. Petitioner realleges all paragraphs above as if fully set forth here. When Respondents arrested Petitioner, he was a lawfully admitted to T nonimmigrant status. No law, facts or other circumstances warranted Petitioner's arrest and detention.
51. Petitioner's detention does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92 (discussing constitutional limitations on civil detention).
52. Because Respondents had no legitimate, non-punitive objective in arresting Petitioner, his detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

COUNT TWO

**Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process**

53. Petitioner realleges all paragraphs above as if fully set forth here.

54. *Mathews v. Eldridge*, 424 U.S. 319, 333, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government’s interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

55. The first factor, the private interest at issue, favors Petitioner. “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 [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690.

56. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner, who is unlawfully detained. Respondents have not satisfied any of the legal requirements or standards for taking a person into custody.

57. The third factor, the government’s interest, also favors Petitioner. Arresting people in lawful status that are not removable or a danger to the community is a waste of limited financial and administrative resources. This waste drags down the efficiency of the entire immigration system.

58. For these reasons, arresting and detaining Petitioner without providing any explanation, notice or meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

COUNT THREE

Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B), & (D)

59. Petitioner realleges all paragraphs above as if fully set forth here.

60. Under the APA, a court shall “hold unlawful and set aside agency action . . . found to be . . . not in accordance with law” or “contrary to constitutional right, power, privilege, or immunity.” 5 U.S.C. § 706(2)(A), (B). The APA also requires a court to set aside and hold unlawful agency action that is “without observance of procedure required by law.” *Id.* § 706(2)(D).

61. The APA’s reference to “law” in the phrase “not in accordance with law,” “means, of course, *any* law, and not merely those laws that the agency itself is charged with administering.” *FCC v. NextWave Pers. Commc’ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

62. Respondents’ detention of Petitioner while he was lawfully admitted to T nonimmigrant status, as explained above.

63. His detention was also not in accordance with the INA and implementing regulations governing detention insofar as none of the statutes that authorize Respondents to detain non-citizens are implicated by the facts and circumstances of Petitioner’s case.

64. An agency decision that “runs counter to the evidence before the agency” is arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983). Respondents’ decision to detain Petitioner ran counter to the evidence before the agency that Petitioner was a lawfully admitted refugee who had applied for adjustment of status to become a lawful permanent resident of the United States.

65. Accordingly, Petitioner’s detention should be held unlawful and set aside because it was (1) arbitrary, capricious, and not otherwise in accordance with law, *see* 5 U.S.C. § 706(2)(A); (2) contrary to the agency’s constitutional authority, *see id.* § 706(2)(B); and (3) not in accordance with the INA and implementing regulations, *see id.* § 706(2)(D).

COUNT FOUR

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Bond Hearing

66. Petitioner restates and realleges all paragraphs as if fully set forth herein.
67. In light of his manner of entry and the timing and location of his arrest and detention, Petitioner may only be detained, if at all, pursuant to 8 U.S.C. § 1226(a).
68. Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a) and associated regulations. *See* 8 C.F.R. §§ 236.1(d) & 1003.19(a)-(f).
69. Petitioner has not been, and absent relief from this Court, will not be provided with a bond hearing as required by law.
70. Petitioner's ongoing detention is therefore unlawful.

COUNT FIVE

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1003.19, 1236.1 and Unlawful Denial of Access to Release on Bond

71. Petitioner restates and realleges all paragraphs as if fully set forth herein.
72. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention in violation of 8 C.F.R. §§ 236.1, 1003.19, and 1236.1.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. In the order to show cause, enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
- c. Declare that Petitioner's detention is unlawful

- d. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, and the APA;
- e. Order Petitioner's immediate release;
- f. Alternatively, to the extent that Petitioner is being charged as removable, issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) or the Due Process Clause within seven days;
- g. Enjoin Petitioner's removal from the United States until Respondents provide him access to his statutory rights to protection and due process of law;
- h. 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
- i. Grant any other and further relief that this Court deems just and proper.

DATED: January 13, 2026

Respectfully submitted,
/s/ Graham Ojala-Barbour
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VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Writ of Habeas Corpus are true and correct.

Executed this 13th day of January, 2026

/s/ Graham Ojala-Barbour

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