

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

JAN 12 2026

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

DAVID FETUS;
Petitioner

v.

WARDEN,
South Texas ICE Processing Center

DIRECTOR,
Immigration and Customs Enforcement

KRISTI NOEM,
Secretary,
Department of Homeland Security;
Respondents

SA 26 CA 0218
OG

WRIT OF HABEAS CORPUS

I. INTRODUCTION

Petitioner, David Fetus, comes *pro se* seeking a **WRIT OF HABEAS CORPUS** relief from this Court pursuant to 28 U.S.C. § 2241. Petitioner is challenging the legality of his immigration detention.

David Fetus, A#  was born in Haiti on October 13, 2000. The Petitioner was lawfully paroled into the United States on March 12, 2023 at Miami International Airport on a Humanitarian Parole, which expired on March 10, 2025. He was inspected by an immigration official and was lawfully admitted.

Petitioner is including all parties relevant to this petition as Petitioner does not have access to the information to the parties involved.

II. JURISDICTION

Petitioner is filing this petition under 28 U.S.C. §2241. Petitioner is currently detained by Immigration and Customs Enforcement (ICE) at the South Texas ICE Processing Center (STIPC) in Pearsall, Texas. Petitioner is challenging the legality and constitutionality of his detention which the Federal Courts have the authority to review. Federal Courts retain jurisdiction to review constitutional claims and questions of law related to immigration detention. *See INS v. St. Cyr, 533 U.S. 289 (2001)*

III. BACKGROUND

Petitioner has remained continuously in the United States for over two years and has never left the country. Haiti was designated for Temporary Protected Status (TPS) for individuals who arrived prior to June 2024 and the TPS is scheduled to expire February 2026. Petitioner applied for TPS on October 2024, before his parole expired. His application is still pending.

Petitioner holds a valid commercial driver's license (CDL) which expires on April 1, 2026. On September 7, 2025 while driving an 18-wheeler truck northbound from Laredo, Texas, Petitioner was detained by Customs and Border Patrol (CBP) at a secondary checkpoint. CBP stated that he was detained because his parole-based work permit had expired. Despite his pending TPS work permit application.

Department of Homeland Security (DHS) has charged the Petitioner under INA §212(a)(7)(A)(i)(I), claiming he lacks valid entry documents. While in ICE custody, the Petitioner applied for asylum in December 2025.

Petitioner was not seeking admission when he made contact with CBP agents. In fact, he was at a secondary checkpoint well within the boundary of the United States. Petitioner was present in the United States when he was detained.

IV. LEGAL ARGUMENTS

A. DHS Lacks Authority to Detain Petitioner

Petitioner is not an arriving alien. He entered the United States lawfully in March 12, 2023 and has maintained continuous presences. DHS cannot apply INA §212(a)(7)(A)(i)(I) to justify his detention because that section applies only to arriving aliens, not to individuals already present in the United States.

The charge used against him applies to people who are seeking admission at a port of entry or attempting to enter the United States without valid documents. It does not apply to people who have already been admitted or paroled and are physically present inside the United States. Simply being stopped by Border Patrol agents in Texas does not transform Petitioner into an arriving alien. *See Walizada v. Trump, 2025 U.S. Dist Lexis 256630*, the Petitioner is not an arriving alien nor is seeking admission, as he is already present in the U.S.

B. Lawful Presence while TPS is Pending

Under 8 U.S.C. §1254(a) and 8 C.F.R. §244.10, TPS applicants are authorized to remain in the U.S. while applications are pending. Petitioner filed for TPS before his parole expired which makes him lawfully present. Continued detention during a pending TPS application violates statutory protections.

C. Denying of a Bond Hearing Violates the Due Process Clause

The Fifth Amendment guarantees Due Process to all persons in the United States, including non-citizens. See *Zadvydas v. Davis*, 533 U.S. 678, (2001)

Petitioner has strong community and work ties. He holds a job as a commercial truck driver. Mandatory detention is unnecessary because the Petitioner has no criminal history and therefore does not pose a threat to the community. Denying a bond hearing violates his constitutional rights.

Automatic or prolonged detention without an individualized assessment violates the Due Process Clause of the Fifth Amendment, See *Jennings v. Rodriguez*, 583 U.S. 281 (SCOTUS), (constitutional claims preserved).

Even in the Fifth Circuit, detention becomes unconstitutional where it is unreasonably prolonged and procedural unfair. See *Covarrubias v. Vergara*, 2025 U.S. Dist. LEXIS 206523

D. Detention is Arbitrary, Prolonged, and Punitive

Petitioner's detention is arbitrary and punitive because:

1. Petitioner applied for TPS on time.
2. Petitioner applied for a work permit while TPS was pending
3. Petitioner applied for asylum while in ICE custody.

Holding the Petitioner despite his lawful presence and compliance with U.S. law is unjust and violates substantive due process.

V. HARDSHIP ON PETITIONER

Petitioner is deprived of supporting his family in the United States especially his mother in Haiti, who relies fully on his support. Petitioner awaiting the immigration judge's decision deprives him of his liberties which equates to hardship.

VI. CONCLUSION

Petitioner's detention is unlawful, arbitrary, and violates the U.S. Constitution. He is currently detained in STIPC and an urgent judicial review is necessary. The Petitioner respectfully asks the Court to grant this petition, release him from custody, or order a bond hearing.

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a **WRIT OF HABEAS CORPUS** directing the Respondents to immediately release Petitioner from custody, or order a bond hearing;
- 3) Enter a preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner, or order a Temporary Restraining Order;
- 4) Grant any other and further relief that this Court deems just and proper.

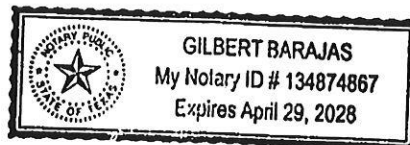
ACKNOWLEDGMENT

SUBSCRIBED TO AND SWORN before me this 8th day of January 2026 that **DAVID FETUS** personally appeared and known to me to be the person whose name subscribed to within instrument and acknowledge to be the same.



DAVID FETUS;

Petitioner



NOTARY