

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

FILED

FEB 19 2026

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *[Signature]*
DEPUTY CLERK

**DAVID FETUS,
Petitioner**

v.

CASE #SA-26-CV-00218-OLG

**WARDEN,
South Texas ICE Processing Center**

**DIRECTOR,
Immigration and Customs Enforcement**

**KRISTI NOEM,
Secretary,
Department of Homeland Security;
Respondents**

RESPONSE TO GOVERNMENT

I. INTRODUCTION

After the Government Received the Court's service Order

Immigration and Customs Enforcement (ICE) agent sent a GEO group INC officer to ask if he wanted voluntary departure the same week after he sent the Habeas Corpus. Before the Petitioner sent the Habeas Corpus, ICE asked Petitioner if he wanted voluntary departure 3 times. Petitioner neither was served nor received the Government response for the *pro se*.

II. LEGAL ARGUMENTS

A- Unlawful Detention:

On September 7, 2025. CBP agents arrested petitioner because his paroled-based work permit had expired.

DHS charged Petitioner as an alien who arrived in the United-States at or near unknown place and as an 'arriving alien'. *See Docs of notice to appear attach*

Petitioner and his previous lawyer asked to drop the charges because he came in the United States via Humanitarian Parole Program. On December 23, 2025. DHS issued Petitioner another notice to appear which they charged him under 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act. *See second Docs of notice to appear attach.*

The DHS is detaining Petitioner under "Mandatory detention" authority reserved for aliens who are in the process of entering the United-States, 8 U.S.C. § 1225. Petitioner has remained continuously in the United-States for over two (2) years and never left the country. *See Acevedo v. Noem, 2026 U.S. Dist. LEXIS 4497 (Pro se)*

B- Administrative Exhaustion:

The Government routinely argues in similar cases that Habeas relief is improper because the Petitioner failed to exhaust administrative remedies by seeking a bond hearing an appealing to the Board of Immigration appeals (BIA). That argument is anticipated here fails. *See Cervantes- Garcia v. Bondi, 2026 U.S. Dist. LEXIS 13511*

This Habeas, Petitioner does not challenge a discretionary bond determination. It challenges detention that is unlawful as a matter of law. Where detention is based on an improper charge, miss-classification or legal status, or lack of statutory authority, exhaustion of administrative remedies is not required because such remedies are inadequate and futile.

The Government, who initially treated petitioner as someone who entered legally, issued him an I-94 and later reclassified him as an arriving alien, despite undisputed evidence of lawful parole entry.

Because administrative proceedings cannot cure the legal defects underlying Petitioner's detention, requiring exhaustion would only prolong unlawful detention and violate due process clause under the fifth amendment. Habeas Corpus is the proper and only effective remedy, and immediate release is warranted. *See Silvestre-Mendoza v. Noem, 2025 U.S. Dist. LEXIS 253317*

C- The renewal of his Commercial Driver License (CDL):

Petitioner went to the New England Tractor Trailer Training School (NETTTS) to pass his CDL test. The Register of Motor Vehicle (RMV) in Massachusetts issued petitioner a CDL valid until March 10, 2025 under his I-94. After the expiring date, Petitioner was not able to renew his CDL because his I-94 had expired. Petitioner went to the RMV to try to renew it again, the RMV had to verify his status through the USCIS/DHS process called "SAVE VERIFICATION" because Petitioner was trying to renew his CDL with his pending work permit under Temporary Protect Status (TPS) which is still pending. After a few days, Petitioner received 2 mails from the RMV each one as a case number. saying he can come and renew his CDL because they were able to verify his status with USCIS/DHS. The RMV issued him the CDL valid until April 1st, 2026. *See RMV Doc attach.*

D- Pending Temporary Protect Status (TPS):

Haiti was designated for TPS for individuals who arrived prior to June 2024. All individuals who file an application that establish a *prima facie* case of eligibility for TPS are entitled to the benefits of removal protection and work authorization until USCIS issues a final decision granting or denying the application. *See Salad v. Dep't of Corr., 769 F. Supp. 3D 913.* The TPS was set to expire on February 3, 2026. The Government wanted to cancel the TPS. But on February 2, 2026. A Federal Judge in Washington D.C decided to continue the TPS and blocked the Government decision.

Detaining Petitioner as an arriving alien while his TPS application is pending violates the statutory TPS framework and exceeds the government's detention authority and while in ICE custody, petitioner applied for asylum, invoking additional statutory protection.

E- Irreparable Harm :

The Petitioner has no criminal history and therefore does not pose a threat to the community. Petitioner follows every single U.S. Law and never been arrested or never been handcuffed in United State before. Petitioner is suffering mentally and Petitioner is getting sick. He starts having Acne on his face by thinking maybe it's the water from the shower or the stress.

F- Hardship:

Petitioner is deprived of supporting his family (his dad) in the United States for over 5 months especially his mother, his sister and other relatives in Haiti rely fully on his support. The present

detention is unlawful which impedes the Petitioner's fundamental right to liberty on a daily basis. Petitioner awaiting the Immigration Judge's decision deprives him of his liberties.

III. CONCLUSION

Because Petitioner's detention is based on an invalid charge improper legal classification, and pending humanitarian protection, administrative remedies are inadequate and futile. Detaining Petitioner indefinitely is punitive, arbitrary, and unconstitutional. Petitioner respectfully requests immediate release. See *Vega-Vega v. Bondi*, 2026 U.S. Dis. LEXIS 1601.

Guerrero v. Bondi, 2026 U.S. Dist. LEXIS 4496.

Montero v. Lyons, 2026 U.S. Dist LEXIS 1620.

Khadka v. Lyons, 2026 U.S Dis. LEXIS 6704 (all are in the 5th Circuit SAN ANTONIO DIVISION.)

I affirm to the best of my knowledge and belief that the foregoing is true and correct.

Respectfully Submitted

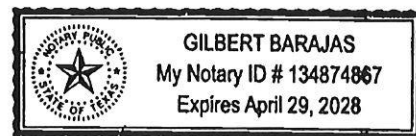
ACKNOWLEDGMENT

SUBSCRIBED TO AND SWORN before me this 14 day of February 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.

A handwritten signature in black ink, appearing to read 'David Fetus', is written over a horizontal line.

DAVID FETUS

Petitioner



NOTARY