

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

GABRIEL JOSE CARRENO MENDEZ

Petitioner,

v.

Case No.:

**U.S. DEPARTMENT OF HOMELAND SECURITY;
KRISTI NOEM, SECRETARY OF DHS;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE);
TODD LYONS, SENIOR OFFICIAL PERFORMING THE DUTIES OF THE DIRECTOR,
GARRETT J. RIPA- ICE FIELD OFFICE DIRECTOR
MIAMI FIELD OFFICE,**

Respondents,

**PETITION FOR WRIT OF HABEAS CORPUS
AND EMERGENCY MOTION FOR STAY OF REMOVAL**

Petitioner, GABRIEL JOSE CARRENO MENDEZ, by and through the undersigned counsel hereby files his Petition for Habeas Corpus and Emergency Stay of Removal pursuant to 28 U.S.C. § 2241, 8 U.S.C. § 1252, and 8 U.S.C. § 1225 (b)(1)(A)(iii)(II), and states as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241, 8 U.S.C. § 1252, and the Suspension Clause of the U.S. Constitution (Article I, Section 9, Clause 2).
2. Petitioner is currently in the custody of U.S. Immigration and Customs Enforcement (ICE) within the Southern District of Florida at the Krome Detention Center.
3. Venue is proper under 28 U.S.C. § 1391(e) and § 2241(d).

II. PARTIES

4. Petitioner, GABRIEL JOSE CARRENO MENDEZ is a noncitizen currently detained by ICE.
5. Respondents are federal officers and agencies responsible for Petitioner's detention and removal.

III. STATEMENT OF FACTS

6. Petitioner entered the United States on June 27, 2022, at a location 15 miles south of Eagle Pass Texas. (See Exhibit A).
7. Petitioner was paroled into the United States at Del Rio Texas on August 26, 2022. (See Exhibit B).
8. Petitioner has remained physically present in the United States since that time.
9. On March 10, 2023, Petitioner affirmatively filed an application for asylum with United States Citizenship and Immigration Services- Department of Homeland Security. (See Exhibits C & D).
10. Petitioner has expressed a fear of persecution and harm if returned to his country of origin.
11. Despite Petitioner's parole, physical presence, and pending asylum application, ICE detained Petitioner and is attempting to process him under expedited removal pursuant to INA § 235.
12. Petitioner has not been afforded a full hearing before an Immigration Judge.
13. Removal without judicial review would result in irreparable harm, including refoulement to a country where Petitioner fears persecution.

IV. GROUNDS FOR HABEAS RELIEF

COUNT I
UNLAWFUL APPLICATION OF EXPEDITED REMOVAL
(INA §§ 208, 235; Due Process Clause)

14. Pursuant to INA § 235, (8 U.S.C. § 1225 (b)(1)(A)(iii)(II)), Expedited removal **does not apply** to individuals who:
- Were paroled into the United States, and
 - Have been continuously present in the United States for more than two years.
15. Petitioner has been both present in the United States since June 27, 2022, exceeding the statutory threshold, and was Paroled into the United States on Aug 26, 2023.
16. Respondents' attempt to subject Petitioner to expedited removal is **ultra vires** and unlawful.

COUNT II
DENIAL OF STATUTORY RIGHT TO SEEK ASYLUM

17. Under **INA § 208**, any noncitizen physically present in the United States may apply for asylum.
16. Petitioner has already filed an asylum application and expressed a fear of persecution.
17. Removal without an Immigration Judge hearing violates Petitioner's statutory rights.

COUNT III
VIOLATION OF DUE PROCESS (FIFTH AMENDMENT)

18. Petitioner has a protected liberty interest in remaining in the United States pending adjudication of his asylum claim.
19. Removal without notice, hearing, and judicial review violates fundamental due process protections.

V. EMERGENCY MOTION FOR STAY OF REMOVAL

21. Petitioner has been notified that he faces Expedited removal. (See Exhibit E)
22. Petitioner faces imminent removal.
23. Petitioner is likely to succeed on the merits because expedited removal is unlawful under these facts.
24. Petitioner will suffer irreparable harm if removed.
25. The balance of equities and public interest favor a stay.
26. This Court has authority to issue a stay under 28 U.S.C. § 2241, All Writs Act (28 U.S.C. § 1651), and its inherent equitable powers.

VI. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue a Writ of Habeas Corpus ordering Respondents to cease expedited removal proceedings;
- B. Grant an Emergency Stay of Removal pending final adjudication;
- C. Order Respondents to place Petitioner in INA § 240 removal proceedings before an Immigration Judge;
- D. Grant any other relief the Court deems just and proper.

Dated this 17th day of January 2026.

Respectfully Submitted,

/s/ Frank Bane

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Attorney for Petitioner

Exhibit List

Exhibit	Description	Page
A	U.S. Department of Homeland Security Record of Alien	6
B	Parole Stamp	7
C	U.S. Department of Homeland Security- United States Citizenship and Immigration Services Form I-589 Receipt Notice (Application for Asylum and for Withholding of Removal)	8
D	Application for Asylum and for Withholding of Removal	10
E	U.S. Department of Homeland Security determination of Expedited Removal	19

DEPARTMENT OF HOMELAND SECURITY Enforcement

CONTROL Name (Last, First, Middle) CARRERO-HERNANDEZ, GABRIEL JOSE						
Birthdate [REDACTED]		Age 30	Marital Status <input checked="" type="checkbox"/> Single <input type="checkbox"/> Separated		Widowed <input type="checkbox"/> Married <input type="checkbox"/> Divorced	
File Number [REDACTED]						
Sex M	Hair BLK	Eyes BRO	Complexion LBR	Height 72	Weight 180	Scars or Marks
U.S. Address/Mail (Number) (Street) (City) (State) (ZIP CODE) [REDACTED]						
Alien's Telephone # [REDACTED]			Date of Action 06/27/2022		Location Code EGT	
City, Province (State) and Country of Birth CARACAS, VENEZUELA				Country of Citizenship VENEZUELA		
Date, Place, Time, and Manner of Last Entry/Attempted Entry 06/27/2022, 1100, .15 mile(s) S of EGT, EWI				Status at Entry PWA Mexico		
Foreign Address/Residence (Number, Street, City, Province (State), Country) VENEZUELA						
Method of Location/Apprehension PB UNKNOWN			(A/Near) TABLE 1652 7x		Date & Hour 06/27/2022 1130	

U.S. DEPARTMENT OF HOMELAND SECURITY
PAROLED
 Until 8/26/2022
 Purpose: 212Cd) (5)
 6/27/2022 PRJ ZK
 (Date) (Location) (Order)
 U.S. DEPARTMENT OF HOMELAND SECURITY