

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

M.S.V.I., a minor child, by and through
his parent and next friend J.M.V.M.,

Petitioner,

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S. Department
of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

David Easterwood, Acting Director, St.
Paul Field Office Immigration and
Customs Enforcement, and

Angie Salazar, Acting Director of the
Office of Refugee Resettlement.

Respondents.

Case No. 0:26-cv-419

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

Expedited Handling Requested

INTRODUCTION

1. Petitioner M.S.V.I., a minor child, by and through his parent and next friend J.M.V.M., hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require the United States Office of Refugee Resettlement to release Petitioner from detention, return him to Minnesota, and enjoin his further detention and/or transfer to a facility outside of Minnesota.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Petitioner seeks to challenge Petitioner’s custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Demore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner was initially detained within the District of Minnesota, was presumed to be detained in Minnesota at the time of initial filing, and previously was ordered returned to the District of Minnesota by this Court.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

PARTIES

7. Petitioner is a sixteen-year-old minor child. He is a citizen of Ecuador and a resident of Minneapolis, Minnesota. Petitioner is currently detained by and under the direct control of Respondents.

8. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Petitioner.

9. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Petitioner's detention and removal. As such, Respondent Noem is a legal custodian of Petitioner.

10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

11. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

12. Respondent Angie Salazar is being sued in her official capacity as the Acting Director of the Office of Refugee Resettlement. In this capacity, Director Salazar is legally responsible for Petitioner's ongoing detention through the Office of Refugee Resettlement.

NEXT FRIEND

13. J.M.V.M. is Petitioner's parent who brings this habeas corpus action as next friend of Petitioner, who is currently detained by U.S. Immigration and Customs Enforcement.

14. A next friend does not become a party to the habeas action but instead prosecutes the case on behalf of the detained individual, who remains the real party in interest. *Whitmore v. Arkansas*, 495 U.S. 149, 163 (1990).

15. Next-friend standing is appropriate where the detainee cannot prosecute the action on their own, due to lack of access to the courts or a similar disability. *Id.* at 163–64. Additionally, a next friend may bring a petition “only if the litigation actually involves the concerns of the real party in interest, and not simply the grievances of the next friend.” *Amerson v. Iowa, Dep't of Hum. Servs. by Palmer*, 59 F.3d 92, 93 (8th Cir. 1995) (citing 28 U.S.C. §§ 2242, 2254(a); *Whitmore*, 495 U.S. at 163–64).

16. Here, Petitioner is a minor child. In addition, Petitioner is unable to prepare, sign, or file this petition because they are detained at an undisclosed location without reliable access to legal materials or translation services, facing pending removal. These conditions justify the next friend's intervention.

17. As Petitioner's parent, next friend J.M.V.M. has a significant relationship with the Petitioner, and is acting solely in the Petitioner's best interests, not to assert Next Friend's own personal rights or interests. J.M.V.M. therefore satisfies the requirements for next-friend standing under *Whitmore* and *Amerson*, and this Court has jurisdiction to consider the petition.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

1. Petitioner is a resident of Minneapolis, Minnesota and a citizen of Ecuador. He has lived in the United States since approximately August 2023, when Petitioner entered the United States with his parent and minor child sibling after fleeing gang violence in Ecuador.

2. The family moved to Minneapolis, where they have significant community and family ties, including uncles, aunts, and cousins who live in the area.

3. Petitioner attends [REDACTED], where he is [REDACTED] athlete
[REDACTED]

4. Petitioner has never had any criminal or delinquency contacts.

5. Petitioner's family has faithfully attended Immigration Court proceedings, never missing a hearing date, and is scheduled to return to Immigration Court in May 2026.

6. On Friday, January 16, 2026, at approximately 5:30 P.M., Petitioner left his home to go pick up dinner for his family and was detained by ICE agents.

7. Petitioner was abducted and taken to an undisclosed location by ICE. Thereafter, ICE deemed Petitioner an "unaccompanied minor," assigned him a new

A-number and name, and transferred him to the custody of the Office of Refugee Resettlement (ORR).

8. As a result of ICE's actions, Petitioner was effectively lost in the system for nearly a week—as Respondents' initial response indicates, they had been unable to locate Petitioner for several days.

9. Petitioner was eventually located at a Christian shelter in Grand Rapids, Michigan. Upon information and belief, ORR transported Petitioner to the immediate custody of this Christian shelter in Michigan after he was deemed an "unaccompanied minor."

10. To date, Petitioner remains detained at the Christian shelter in Michigan, despite a previously issued order of this Court directing his immediate return to Minnesota.

11. To date, this Christian shelter has refused counsel access to communicate with her client, despite undersigned counsel providing her attorney registration information and copies of the Petition and court orders in this case and making repeated requests since Peitioner was located at the facility on Thursday, January 22, 2026.

12. Petitioner's arrest is part of an operation in Hennepin and Ramsey counties 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. (D. Minn. 12/17/2025).

13. Since the operation began on December 1, 2025, the number of immigration officials in the twin city metro area has increased fourfold, and with them these new agents have brought a similarly massive increase in unconstitutional, unlawful, and downright violent behavior towards citizens and non-citizens alike. The people of Minnesota—of all races, nationalities, and citizenship status—are united in their shock and fear at the events of the past six weeks, and are begging for the attacks on their community to stop. Most notably, ICE appears to be detaining immigrant children and arbitrarily and capriciously deeming them unaccompanied in order to transfer them to ORR custody.

14. Detaining Petitioner is an expensive, cruel, and pointless endeavor. Petitioner respectfully seeks the opportunity to return home to his family and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

15. Pending resolution of this matter, Petitioner further seeks an order restraining the Respondents from transferring Petitioner to a location outside of the State of Minnesota, so that the jurisdiction of this Court is not impeded, and so that Petitioner remains accessible to legal counsel and loved ones.

STANDARD OF LAW

16. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by US Courts 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). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 22441(c)(3), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

17. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties’ disagreement is based on a legal conclusion. *Id.* at 967-68.

18. Other courts in the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained immigrant’s habeas corpus petition under similar circumstances—to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *Giron Reyes v. Lyons*, 2025 WL 2712427 at *3 (N.D. Iowa Sept. 23, 2025).

19. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

20. In July of 2025, Respondent DHS began ignoring the decades-long consensus of how 8 U.S.C. § 1225(b)(2) should be interpreted, which the Board of Immigration Appeals (“BIA”) articulated in a subsequent ruling. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025). Respondents suddenly claim that individuals who have been residing within the United States for more than two years are somehow metaphorically “seeking admission,” simply because they may have pending claims for asylum or other forms of status.

21. However, this Court and the majority around the country have made clear that 8 U.S.C. § 1225(b)(2) only authorizes detention for noncitizens who are at the border seeking physical entry at the time of detention, not those who have lived within the United States for more than two years, and whose detention is discretionary and governed by 8 U.S.C. § 1226(a). *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

22. Here, Petitioner has been in the United States for well over two years and was apprehended within the United States, not at a border while seeking entry. Respondents wrongly assert 8 U.S.C. 1225(b)(2) as a basis for detaining Petitioner without a hearing, when instead any detention could only be pursuant to 8 U.S.C. 1226(a), which here the Respondents are not purporting to invoke.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Respondents Deprive Petitioner of an adequate and meaningful process to challenge Petitioner's ongoing confinement.

23. Petitioner realleges and incorporates by reference the allegations contained above.

24. Petitioner has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

25. Federal courts use the three-part test in *Mathews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

26. Here, all three factors favor the petitioner.

27. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 ("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 protects."). Petitioner is wrongfully confined, a direct attack on Petitioner's liberty interests.

28. Second, Petitioner will continue to be deprived of this interest if the current procedure (detaining Petitioner without a legal basis) is followed. There is no rational explanation for detaining Petitioner.

29. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or at a minimum holding a bond hearing, would in fact *save* the government the resources and expense of continued imprisonment.

30. The placement of Petitioner in detention pending the resolution of ongoing immigration proceedings violates Petitioner's constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Fourth Amendment Illegal Seizure

Petitioner's detention is the directly result of his unlawful, unreasonable, and warrantless seizure.

31. Petitioner's present indefinite detention is a direct result of his seizure by Respondents, which was unlawful and unreasonable.

32. Respondents lacked a warrant or any other legal authority to justify Petitioner's initial detention.

33. Respondents lacked a warrant or any other legal authority to justify Petitioner's ongoing indefinite detention.

REMEDY

34. An available remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be released.

35. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 687, 690 (2001) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

36. A noncitizen seeking only to challenge the legality of their detention, not the substance of their removal proceedings in immigration court, may properly ask a federal court to find jurisdiction over such a request pursuant to 28 U.S.C. § 2241. *See, e.g., Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1154–55 (D. Minn. 2025).

37. Since Section 1225 does not apply to noncitizens who are in Petitioner's situation—who have been detained while residing within the United States for more than two years, as opposed to those who are detained while in the process of physically entering the United States, the law that Respondents are using to detain Petitioner simply does not apply so as to authorize Petitioner's detention. *See Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8,

2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

38. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

39. Respondents will no doubt argue, as they have in similar cases before this Court, that if the Court rules that Petitioner should have been detained pursuant to § 1226, instead of § 1225, then the remedy is a bond hearing as opposed to outright release. *See, e.g., Ahmed A.* Civ. No. 25-4776, Doc. No. 9. at 9-10. However, this Court rejected this argument, saying that:

[A] bond hearing presupposes lawful detention authority under § 1226. Where that authority has not been invoked or established, ordering a bond hearing would treat the absence of statutory authority as a mere procedural irregularity rather than a substantive defect ... Where the record shows Respondents have not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings.

Id. at Doc. No. 10 at 6.

40. Here, where detention is unlawfully based on 8 U.S.C. 1225(b)(2), which does not apply to Petitioner, release is an appropriate remedy.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings, and ;
- (3) Direct Respondents to immediately afford Petitioner, a minor child, access to his counsel;
- (4) Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately;
- (5) Grant any other and further relief that this Court may deem just and proper.

Date: January 24, 2026

//s//Claire Nicole Glenn

Claire Nicole Glenn (she/her)

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Attorney for Petitioner

Verification
Pursuant to 28 U.S.C. § 2242

I am Petitioner's attorney and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, which knowledge comes from conversations via interpreter with Petitioner's family, as well as my review of Respondent's publicly available websites, and my experience involving this and other habeas corpus petitions stemming from "Operation Metro Surge."

Date: January 24, 2026

_____/s//Claire Nicole Glenn_____

Claire Nicole Glenn (she/her)

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