


UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

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<b>Kevin Jostin Terrones-Francia</b>		)
		)
Petitioner,		)
		)
v.		)
		)
<b>Pamela Bondi</b> , Attorney General of the United States	)	<b>PETITION FOR WRIT OF</b>
<b>Kristi Noem</b> , Secretary of the U.S. Department of Homeland Security;	)	<b>HABEAS CORPUS</b>
<b>Todd M. Lyons</b> , Acting Director of U.S. Immigration and Customs Enforcement	)	
<b>Dr Scarlet Grant</b> , Warden, Cimarron Correctional Facility;	)	
<b>Kelei Walker</b> , Director of Dallas Field office for U.S. Customs and Immigration Enforcement;	)	
in their official capacities,	)	
	)	
Respondents	)	
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**I. INTRODUCTION**

1. Kevin Jostin Terrones Francia, (“Petitioner”) was born in Peru on  and he entered the United States near Calexico, California on or about August 28, 2022, and expressed fear of being returned to his home country. At that time, Petitioner was taken into the custody of the U.S. Department of Homeland Security (“DHS”) where he was detained for four (4) days before being released on recognizance with supervised release conditions (“OSS”) given a Notice to Appear (“NTA”) with a court date of March 19, 2024.<sup>1</sup> This court date was changed a few times by EOIR but the Petitioner has not missed any court dates.

<sup>1</sup> This Court date was later changed a few times by EOIR for reasons unknown.

2. On September 7, 2024, the Petitioner filed an I-589 Application for Asylum and Withholding of Removal (“Application”) with the Executive office of Immigration Review (EOIR) which was still pending with EOIR as of the date of the filing of this Petition.
3. December 2, 2025, while attending one of the Petitioner’s required check-ins at the DHS Immigration and Customs Enforcement (ICE) field office in Oklahoma City, Oklahoma the Petitioner was taken into custody without notice or explanation. Petitioner was told by the officer who took him into custody that his case was “closed”. This is a false claim as the Petitioner’s case is open and pending before the EOIR with a future court date.
4. Petitioner was not provided a “Notice of Revocation of Release” (“Notice”) as required by 8 C.F.R. 241.13 for the re-detention of persons nor was he given any explanation except the false claim by the ICE officer that his case was “closed”.
5. Petitioner had complied with all requirements of his OOS since being released including keeping his address up-to date with DHS and EOIR, attending regular check-ins and obeying the local, State and Federal laws. However, the Petitioner was re-detained, without warning or cause, while he was complying with those requirements.
6. Petitioner has been kept in the Custody of DHS in Cimarron Correction Center since his re-detention at his regular OOS check-in on December 2, 2025, and remains there as of the date of the filing of this Petition.
7. Petitioner is requesting that this court vindicate his constitutional as well as regulatory rights and grant the instant Petition for a Writ of Habeas Corpus or order

the Respondents to show cause why the Petitioner should be detained. Petitioner asks this Court to find that the Petitioner's detention is unlawful and order his immediate release.

## II. JURISDICTION

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (Habeas Corpus), 28 U.S.C. § 1331 (Federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the “All Writs Act”, 28 U.S.C. § 1651.

## III. VENUE

9. Venue is proper because Petitioner is detained at Cimarron Correction Facility, in Cushing, Oklahoma, which is within the jurisdiction of this District.

## IV. REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
11. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to 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).

**V. PARTIES**

12. Petitioner is a Pending Asylee currently detained at Cimmaron Detention Center in Cushing, Oklahoma and he is in the custody of, and under the direct control, of Respondents and their agents.
13. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.
14. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement U.S. Customs and Border Protection, the component agency responsible for Petitioner’s detention. Respondent Noem is a legal custodian of Petitioner
15. Respondent Todd M. Lyons is sued in his official capacity as the Acting Director of the U.S. Immigration and Customs Enforcement. Respondent Lyons is responsible for the enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of the Petitioner.
16. Respondent Dr. Scarlet Grant is the Warden of Cimarron Correctional Facility, and

she has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Grant is a legal custodian of Petitioner.

17. Respondent Kelei Walker is sued in her official capacity as the Director of the Dallas Field Office of U.S. Immigration and Customs Enforcement. Respondent Walker is a legal custodian of Petitioner and has authority to release him.

## **VI. LEGAL ARGUMENT**

### **DHS Lacks Authority to Re-Detain a Respondent Previously Released on Bond Absent Materially Changed Circumstances**

18. Although 8 C.F.R. § 236.1(c) authorizes DHS to arrest and detain a noncitizen whose removal proceedings are pending, that authority is *not unlimited*. Detention under § 236.1(c) implements INA § 236(a), which is discretionary and constrained by fundamental due process principles. Once DHS has exercised that discretion to release a respondent on bond, or on recognizance, it may not re-detain the individual without a legitimate and materially changed custody basis.
19. Allowing re-detention in the absence of new facts would render the initial determination meaningless and permit indefinite, cyclical detention, a result inconsistent with the regulatory scheme and constitutional norms.

## **VII. CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **Violation of Fifth Amendment Right to Due Process**

20. The allegations in the above paragraphs are realleged and incorporated herein.

21. The Fifth Amendment's Due Process Clause protects all "persons" within the United States, including noncitizens, from arbitrary deprivation of liberty. Immigration detention is civil, not punitive, and therefore must be reasonably related to a legitimate governmental purpose and accompanied by fundamentally fair procedures.
22. Once the government has exercised its detention authority and released an individual from custody, the individual's liberty interest is reinvigorated and substantial. Any subsequent deprivation of that liberty requires heightened procedural and substantive justification.
23. The Fifth Amendment prohibits detention that is disconnected from its civil purpose. Civil detention is constitutional only when it is reasonably related to its stated purpose. Re-detention without notice or new justification bears no rational relationship to ensuring appearance at proceedings or protecting the community which it is alleged to accomplish. Instead, it operates as punishment for past conduct or procedural posture, which the Fifth Amendment categorically forbids in civil immigration enforcement.
24. To date, the Respondents have provided no legitimate basis to re-detain the Petitioner.
25. For these reasons, the Petitioner's detention violates the Due Process clause of the Fifth Amendment

**COUNT TWO**

**Re-detention absent materially changed circumstances violates 8 C.F.R. § 236.1(c)**

26. The allegations in the above paragraphs are realleged and incorporated herein.

27. Under 8 C.F.R. § 236.1 re-detention absent materially changed circumstances is a violation of this Federal Regulation.

28. For these reasons, Petitioner's detention violates 8 C.F.R. § 236.1(c)

VIII. **PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, and 8 C.F.R. § 236.1(c)
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: January 16, 2026

s/ Gina V. Pointon  
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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Osmany Alexander Recinos, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 16<sup>th</sup> day of January 2026.

s/ Gina V. Pointon