

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

FILED

JAN 16 2025

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

Douglas Santana Coutinho
Petitioner

v.

Mary De-Anda-Ybarra, Acting Director of El Paso
Field Office, U.S. Immigration and Customs
Enforcement;
Todd Lyons, Acting Director, U.S. Immigration and
Customs Enforcement;
Kristi Noem, Secretary of the U.S. Department of
Homeland Security;
Marisa Flores, Warden of the Ero El Paso Camp
East Montana;
Respondents

PETITION FOR WRIT OF
HABEAS CORPUS

1:26 CV 00136 RP

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DISTRICT OF WESTERN TEXAS**

Douglas Santana Coutinho
Petitioner

V.

Mary De-Anda-Ybarra, Acting Director of El Paso	)
Field Office, U.S. Immigration and Customs	)
Enforcement;	)
Todd Lyons, Acting Director, U.S. Immigration and	)
Customs Enforcement;	)
Kristi Noem, Secretary of the U.S. Department of	)
Homeland Security;	)
Marisa Flores, Warden of the Ero El Paso Camp	)
East Montana;	)
Respondents	)

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Douglas Santana Coutinho (Mr. Santana Coutinho) is a fifty-two-year-old Ecuadorian citizen who is eligible for Asylum and or Withholding of Removal.
2. Mr. Santana Coutinho entered the United States through Arizona on July 19, 2021. On September 9 of 2025, he was detained.
3. Mr. Santana Coutinho has no criminal background.
4. He had been at liberty in the United States for more than four years prior to his detention.
5. In order to vindicate Petitioner's constitutional, statutory and regulatory rights, this Honorable Court should grant this instant petition for a writ of habeas corpus to ensure his continued freedom. Petitioner humbly asks this Honorable Court to find that his detention to

be unlawful and to order ICE to release him.

JURISDICTION

6. This instant action is rooted in the United States Constitution and the Immigration and Nationality Act (INA).
7. This Honorable court has jurisdiction over this matter 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)

VENUE

8. Venue is proper because the petitioner is currently detained at the Ero El Paso Camp East Montana Detention Facility, located at 6920 Digital Road, El Paso, TX 79936, therefore, the Petitioner remains detained in the District of Western Texas.

REQUIREMENTS SET FORTH ON 28 U.S. U.S.C. § 2243

9. The Honorable Court must grant this instant petition for writ of habeas corpus or issue an order to show-cause 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 Honorable Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed”

PARTIES AND FACTS ALLEGED

10. The Petitioner, Mr. Santana Coutinho, upon information provided by ICE, is currently detained at the Ero El Paso Camp East Montana Detention Center.
11. Respondent **Mary De-Anda-Ybarra**, is sued in her official capacity as the Acting Director of the El Paso Field Office, U.S. Immigration and Customs Enforcement (ICE).
12. Respondent **Todd Lyons**, is sued in his capacity as the Acting Director for the U.S. Immigration and Customs Enforcement (ICE).
13. Respondent **Kristi Noem**, is sued in her capacity as the Secretary of the U.S. Department of Homeland Security (DHS).
14. Respondent **Marisa Flores**, is sued in her official capacity as the Warden of the Ero El Paso Camp East Montana Detention Center.
15. All respondents are named in their official capacities.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process Clause

16. The Fifth Amendment provided that “no person shall be deprived of life, liberty, or property without due process of law”
17. “[t]he Due Process clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary or permanent” *Zadvydas v. Davis*, 533 U.S. 693 (2001)
18. Respondent mandatory detention without consideration for release on bond or access to a bond hearing violates his due process rights.

COUNT TWO

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

19. Mandatory detention as set forth on 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States whom are subject to the ground of inadmissibility, most relevant, it does not apply to those who previously entered the country and have been residing in the U.S. prior to being detained by Defendants, historically, such noncitizens would be detained under § 1226(a), and therefore, eligible for release on bond.
20. Nonetheless, the Department of Justice has issued a decision on September 5th, binding to all IJs, thus rendering the Petitioner ineligible for release on Bond, *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025).

COUNT THREE

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19 Unlawful

Denial of Release on Bond

21. In 1997, following enactment of IIRIRA, EOIR and the Immigration and Naturalization Service issued an interim rule interpreting its detention provisions. Under the heading “Apprehension, Custody, and Detention of [Noncitizens],” the agencies clarified that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination.*” 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Thus, individuals who entered without inspection are eligible for custody redetermination hearings under 8 U.S.C. § 1226 and its implementing regulations.

22. Application of 8 U.S.C. § 1225(b)(2) to Petitioner, who is bond-eligible, unlawfully mandates his continued detention in contravention of 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT FOUR

Violation of the Administrative Procedure Act Contrary to Law and Arbitrary and Capricious Agency Policy

23. The Administrative Procedure Act (“APA”) requires that a “reviewing court shall...hold unlawful and set aside agency action, findings, and conclusions found to be...arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).
24. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens physically present in the United States who are subject to grounds of inadmissibility. Critically, it does not apply to those who have already entered the country and resided here prior to being apprehended and placed into removal proceedings. Such individuals fall under 8 U.S.C. § 1226(a), which provides for release on bond absent applicability of § 1225(b)(1), § 1226(c), or § 1231.
25. Nevertheless, DHS and the Immigration Court have applied § 1225(b)(2) to Petitioner.
26. This application is arbitrary, capricious, and contrary to law, and therefore violates the APA. See 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

- 1) Wherefore, Petitioner respectfully requests this Court to grant the following:
- 2) Assume jurisdiction over this matter;
- 3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- 4) Order that Defendants not remove Petitioner from the State of Western Texas;
- 5) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment as well as the relevant statute and regulations governing detention of noncitizens;
- 6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- 7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- 8) Grant any further relief this Court deems just and proper.

Respectfully Submitted,

Douglas Santana Coutinho
Petitioner

By and through undersigned counsel.

/s/ Stephen A. Lagana

Dated: January 14, 2026

Stephen A. Lagana, Esq.
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145 Essex Street
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VERIFICATION PURSUANT TO 28 U.S.C. §. 2242

I represent Petitioner, **Douglas Santana Coutinho** 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.

/s/ Stephen A. Lagana,

Dated: January 14, 2026

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