

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

**Luis Fernando GONZALEZ,**

Petitioner,

v.

**Kristi NOEM**, Secretary, Department of  
Homeland Security;

**Todd M. LYONS**, Acting Director,  
Immigration and Customs Enforcement; and

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

Respondents.

Civil No.: 26-cv-\_\_\_\_\_

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**8 U.S.C. § 1226**

**28 U.S.C. § 2241**

**I. INTRODUCTION**

1. Petitioner, Luis Fernando Gonzalez, was detained yesterday, January 27, 2026, by federal agents at a scheduled check-in appointment.
2. Mr. Gonzalez is an asylum-seeker from Venezuela who entered the United States without inspection more than two years ago. He filed a timely asylum application, has a hearing at the Fort Snelling Immigration Court in Minnesota later this year, and has been compliant with the Intensive Supervision Appearance Program (ISAP). He has no criminal record. No other change has occurred to justify his detention.

3. When Mr. Gonzalez was taken into custody, he had all of his family's immigration documents on his person, and those documents have been confiscated by immigration officials with no intention of returning them to the family.
4. On information and belief, ICE intends to transfer Mr. Gonzalez out of the District of Minnesota within the next several hours.
5. On information and belief, the arrest of Mr. Gonzalez serves no legitimate purpose. The only purposes that the arrest serve are to register another arrest toward ICE's quotas and reported "criminal illegal alien" arrests under Operation Metro Surge, venue-shop Mr. Gonzalez to a less-favorable court, frustrate his access to counsel and due process, and separate him from his family.
6. Petitioner does not yet know what detention authority Respondents have invoked, but suspects Respondents will claim he is subject to mandatory detention under 8 U.S.C. § 1225(b). But Petitioner was not an applicant for admission, and instead entered without inspection and was apprehended by immigration agents inside the United States, so his detention must fall under § 1226(a).
7. Even if his detention was authorized by § 1225(b), there is no change in circumstances or any other lawful basis to detain him pursuant to that statute *now*.
8. Petitioner hereby seeks immediate relief in the form of a writ of habeas corpus requiring that he be released from immigration custody. Alternatively, Petitioner respectfully requests that this Court order Respondents to show cause why this Petition should not be granted within three days.
9. Further, Petitioner respectfully requests that this Court issue an order enjoining

Respondents from moving Petitioner outside of Minnesota so that Petitioner may consult with counsel while the Court is considering the petition, and so that there is no risk that removal of Petitioner from Minnesota will deprive this Court of jurisdiction over the petition, and ordering Respondents to immediately return Petitioner to Minnesota if he has been moved prior to issuance of such order.

## II. JURISDICTION AND VENUE

10. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 2241 (habeas corpus) and § 1331 (federal question), and Art. I, § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”). Because Petitioner seeks to challenge his custody as a violation of the Constitution, laws, or treaties of the United States, jurisdiction is proper in this court. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1154–55 (D. Minn. 2025).
11. 8 U.S.C. § 1252 does not bar review of “the narrow question whether a noncitizen is subject to discretionary detention under 8 U.S.C. § 1226 or mandatory detention under § 1225(b)(2).” *Belsai D.S. v. Bondi*, — F. Supp. 3d —, No. 25-cv-3682 (KMM/EMB), 2025 WL 2802947, at \*5 (D. Minn. Oct. 1, 2025).
12. This Court may grant relief under 28 U.S.C. § 2241 et seq. (habeas corpus), § 1361 (mandamus), § 1651 (All Writs Act), and § 2201 (Declaratory Judgment Act); 5 U.S.C. § 702 (Administrative Procedure Act); and 29 U.S.C. § 794

(Rehabilitation Act § 504).

13. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is in the physical custody of Respondents within this District. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because some of the Respondents are headquartered within this District.

### **III. PARTIES**

14. Petitioner Luis Fernando Gonzalez is a native and citizen of Venezuela who entered the United States without inspection in 2023. He lives in the State of Minnesota. He has an asylum application pending in immigration court and a pretrial hearing later this year. He was arrested on January 27, 2026, by federal agents at a scheduled check-in. He is currently detained at the Whipple Federal Building in Fort Snelling, Minnesota.
15. 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 and implementation of federal immigration policies, including those that resulted in the arrest and detention of Petitioner.
16. Respondent Todd Lyons is being sued in his official capacity as the Acting Director of Immigration and Customs Enforcement, a sub-unit of the Department of Homeland Security. In that capacity, Acting Director Lyons is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner.

17. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS. In that capacity, Acting Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The St. Paul Field Office is located in Fort Snelling, Minnesota.

#### **IV. EXHAUSTION**

18. No statutory requirement of administrative exhaustion applies to Petitioner's challenge to the unlawfulness of his detention. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

#### **V. FACTUAL ALLEGATIONS & PROCEDURAL HISTORY**

19. Petitioner Luis Fernando Gonzalez is a 40-year-old native and citizen of Venezuela.
20. He entered the United States on December 29, 2023, with his family, without inspection, near Eagle Pass, Texas. He was apprehended by immigration officials inside the United States.
21. Mr. Gonzalez filed a timely asylum application with the immigration court. His case

has been pending in immigration court since April 12, 2024. He has a master calendar (pretrial) hearing at the Fort Snelling Immigration Court in Minnesota on September 8, 2026.

22. Mr. Gonzalez has been on the Intensive Supervision Appearance Program (ISAP) for some time. He has been compliant with ISAP and attended his check-ins, including the appointment on January 27, 2026, at which he was arrested by federal agents. He has no criminal record.
23. At the time of his arrest, he had on his person his family's immigration paperwork. Those documents were confiscated by immigration officials and have not been returned.
24. It is currently unknown to Petitioner what authority for detention Respondents have invoked. Mr. Gonzalez has not been provided with a reason or authority for his arrest and detention.
25. Mr. Gonzalez has been informed by federal agents that he will be flown to Texas around 12:00 p.m. TODAY, January 28, 2026.
26. Because Mr. Gonzalez entered without inspection over two years ago, he could only be subject to detention under 8 U.S.C. § 1226(a). However, given that there are no facts to even plausibly assert that he is a danger to the community or a flight risk, there is no legitimate basis to arrest and detain him under § 1226(a) *now*. He lived in the community under ISAP without issue, and nothing has changed.
27. This arrest was carried out as a part of Operation Metro Surge.
28. On information and belief, the only purposes ICE could have for arresting and

detaining Mr. Gonzalez are: to boost apprehension numbers; to change venue to an immigration court perceived as more favorable to the government and with different U.S. Court of Appeals caselaw; to prevent Mr. Gonzalez from obtaining and working with counsel on his asylum claim; or to deliberately separate his family. Each of these purposes is plainly unlawful.

## VI. LEGAL FRAMEWORK

29. “[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).
30. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.* at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). At a minimum, detention in the context of immigration must “bear[] a reasonable relation to the purpose for which the individual [was] committed.” *Id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). If “detention’s goal is no longer practically attainable,” detention becomes unreasonable and therefore violates the Fifth Amendment right to due process. *Id.*
31. The arrest and detention of all persons by immigration authorities is authorized only as described in the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.
32. Under 8 U.S.C. § 1357(a)(2), an agent may make an immigration arrest without a warrant only if they have “reason to believe” that (1) the individual “is in the

United States in violation of any [immigration] law or regulation,” and (2) the individual “is likely to escape before a warrant can be obtained for his arrest.” *See also* 8 C.F.R. § 287.8(c)(2)(i), (ii) (same). “Reason to believe” is “considered the equivalent of probable cause,” *Lau v. U.S. Immigr. & Naturalization Serv.*, 445 F.2d 217, 222 (D.C. Cir. 1971), which “must be particularized with respect to the person to be searched or seized,” *Barham v. Ramsey*, 434 F.3d 565, 573 (D.C. Cir. 2006) (quoting *Maryland v. Pringle*, 540 U.S. 366 (2003)).

33. “[A]pparent ethnicity alone cannot furnish reasonable suspicion.” *Noem v. Vasquez Perdomo*, 606 U.S. —, — S. Ct. —, 2025 WL 2585637, Slip Op. at \*5 (U.S. Sept. 8, 2025) (Kavanaugh, J., concurring).
34. Noncitizens may ordinarily be detained under one of four authorities: 8 U.S.C. § 1225, which governs the detention of arriving aliens and noncitizens attempting to enter the United States; § 1226(a), which governs the detention of noncitizens who have entered the United States and are apprehended in the interior; § 1226(c), which allows for the detention of noncitizens with certain criminal convictions; and § 1231, which governs the detention of noncitizens with final orders of removal who are awaiting deportation. Only § 1226(a) allows for a bond hearing before an immigration judge.
35. 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.

36. 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).
37. 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 cannot assert 8 U.S.C. § 1225(b)(2) as a basis for detaining Mr. Gonzalez without a hearing. If Respondents assert § 1226(a) as the detention authority, transferring Mr. Gonzalez 1,300 miles away from his family, his attorney, and any relevant evidence serves no legitimate purpose, and indeed the detention itself serves no legitimate purpose.

**VII. CAUSES OF ACTION**

**COUNT ONE: FIFTH AMENDMENT SUBSTANTIVE DUE PROCESS**

38. Petitioner re-alleges and incorporates by reference the paragraphs above.
39. The Fifth Amendment Due Process Clause protects against arbitrary and indefinite detention by the executive branch, regardless of a person's citizenship or immigration status. *Zadvydas*, 533 U.S. at 699.
40. Petitioner has a fundamental interest in liberty and being free from official restraint.
41. Due process requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.
42. Mr. Gonzalez's detention violates substantive due process under the Fifth Amendment because agents had no reasonable suspicion that Mr. Gonzalez was present in violation of the immigration laws apart from the color of his skin, his perceived ethnicity, and the language he was speaking.

**COUNT TWO: FIFTH AMENDMENT PROCEDURAL DUE PROCESS**

43. Petitioner re-alleges and incorporates by reference the paragraphs above.
44. *Mathews v. Eldridge* instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest,

including fiscal and administrative burdens that additional or substitute procedural requirements entail. 424 U.S. 319, 333 (1976). All three factors favor Petitioner.

45. The first factor, the private interest at issue, favors Mr. Gonzalez. “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 [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690.
46. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Mr. Gonzalez. There simply was no process in place that allowed for the possibility that Mr. Gonzalez’s detention could be found to be unwarranted or unnecessary prior to the actual detention. The Respondents have not satisfied any of the normal requirements or standards before taking a person into custody such as probable cause or reasonable suspicion. The deprivation will continue if Respondents transfer Petitioner out of this District.
47. The third factor, the government’s interest, also favors Mr. Gonzalez. The government has no legitimate interest detaining an individual based on their race or ethnicity, or where the individual is not a flight risk or danger to the community. Further, no legitimate interest is served by transferring an individual 1,300 miles from their home, their family, their counsel, and any evidence relevant to their detention.
48. For these reasons, arresting and detaining Mr. Gonzalez violated procedural due process under the Fifth Amendment to the U.S. Constitution.

**PRAYER FOR RELIEF**

WHEREFORE, the Petitioner asks this Court for the following relief:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's current detention is unlawful;
3. Issue a writ of habeas corpus ordering Respondents to release Petitioner from custody;
4. Prohibit Respondents from transferring Petitioner from this District pending resolution of this petition and without the Court's approval;
5. Award reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A), upon such application; and
6. Grant any and all further relief this Court deems just and proper.

DATED: January 28, 2026

Respectfully submitted,

/s John Bruning

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