

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

Roberto Gregorio Castelo Andino,

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

Respondents.

Case No. \_\_\_\_\_

**VERIFIED PETITION  
FOR WRIT OF  
HABEAS CORPUS**

Expedited Handling Requested

**INTRODUCTION**

1. Petitioner ROBERTO GREGORIO CATELO ANDINO by and through the undersigned attorney hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement (“ICE”) to enjoin Petitioner’s transfer to a facility outside of Minnesota and release ROBERTO GREGORIO CATELO ANDINO from ICE detention, or in the alternative to provide a bond hearing pending the completion of any immigration proceedings.

**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 ROBERTO GREGORIO CATELO ANDINO seeks to challenge this 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); *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 ROBERTO GREGORIO CATELO ANDINO is detained within the District of Minnesota.

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 citizen of Ecuador and a resident of Minneapolis, Minnesota who is currently being held in ICE detention. On information and belief, he is currently being held at the Kandiyohi County Jail at 2201 23<sup>rd</sup> St. NE, Wilmar, MN 56201. Petitioner is under the direct control of Respondents and has no scheduled release date.

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 ROBERTO GREGORIO CATELO ANDINO.

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 ROBERTO GREGORIO CASTELO ANDINO.

10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is being 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 ROBERTO GREGORIO CATELO ANDINO. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

**FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY**

12. Petitioner is a resident of Minneapolis, Minnesota and a citizen of Ecuador, and he has lived in the United States continuously since 2023.

13. ROBERTO GREGORIO CATELO ANDINO has a pending I-589 asylum application with the Fort Snelling Immigration Court. He has valid employment authorization and a valid social security number. He does not have a final order of removal. Petitioner does have immigration counsel.

14. ROBERTO GREGORIO CATELO ANDINO lives with his family in Minneapolis, Minnesota. He lives with his wife and his daughter who are derivative beneficiaries on his asylum application.

15. ICE arrested ROBERTO GREGORIO CATELO ANDINO on December 27, 2025. Petitioner was not provided with or shown a warrant for his arrest. On information and belief, there was no warrant for Petitioner's arrest. Petitioner was arrested while eating lunch in his brother's car.

16. This 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 and observers, pepper spraying and arresting observers, hitting passersby with vehicles at times, and generally attempting to take as many immigrants as possible into custody regardless of the constitutionality of their actions. *See generally Order, Tincher, et. al. v. Noem, et al.*, Case No. 25-cv-4669 (D. Minn. Jan. 16, 2026). ICE agents have also killed two civilian observers.

17. Since the operation began on December 1, 2025, the number of immigration officials in the Twin Cities 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 and nationalities—are united in their shock and fear at the events of the past several weeks, and are begging for the attacks on their communities to stop.

18. Given the massive volume of perceived non-citizens being taken off the streets, Respondents are running out of physical space to continue detaining people. Some detainees are being held in cramped quarters at the federal building, before being quickly sent to remote locations across Minnesota or to facilities as far away as El Paso, Texas.

19. On information and belief, ROBERTO GREGORIO CATELO ANDINO is being held at the Kandiyohi County Jail at 2201 23<sup>rd</sup> St. NE, Wilmar, MN 56201.

20. Detaining ROBERTO GREGORIO CATELO ANDINO is an expensive and pointless endeavor. ROBERTO GREGORIO CATELO ANDINO respectfully seeks the opportunity to return home and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

21. Pending the adjudication of this Petition, ROBERTO GREGORIO CATELO ANDINO 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**

22. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by U.S. 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). A petitioner may seek a writ of habeas corpus when their custody violates the U.S. 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).

23. 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, the facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Id.* at 967-68.

24. 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).

25. “[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).

26. 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.

27. 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 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).

28. Here, Petitioner was apprehended within the United States, not at a border while seeking entry.

29. Respondents wrongly assert 8 U.S.C. 1225(b)(2) as a basis for detaining ROBERTO GREGORIO CATELO ANDINO without a hearing, when instead any detention could only be pursuant to 8 U.S.C. 1226(a), which would also require a warrant and which here the Respondents are not purporting to invoke.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

##### **Fifth Amendment Due Process**

*Respondents are Confining Petitioner without a Valid Legal Basis or any Semblance of Due Process.*

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

31. ROBERTO GREGORIO CATELO ANDINO has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

32. 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. *Id.* at 335.

33. Here, all three factors favor Petitioner.

34. First, ROBERTO GREGORIO CATELO ANDINO 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."). ROBERTO GREGORIO CATELO ANDINO is wrongfully confined, a direct attack on his liberty interests.

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

Respondents' purported basis for detaining Petitioner under 8 U.S.C. 1225(b)(2) has been rejected time and time again in this court. *Ahmed A v. Bondi*, Case No. 25-4776 (JWB/DJF) (January 6, 2026); *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1142–48, 1150–52 (D. Minn. 2025); *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 968–970 (D. Minn. 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819, at \*7–8 (D. Minn. Oct. 20, 2025); *R.E. v. Bondi*, No. 0:25-cv-3946-NEB, 2025 WL 3146312 (D. Minn. Nov. 4, 2025); *Herrera Avila v. Bondi*, No. 0:25-cv-3741 (JRT), 2025 WL 2976539 (D. Minn. Oct. 21, 2025).

36. Lastly, the Government has no legitimate interest in refusing to follow its own rules. ROBERTO GREGORIO CATELO ANDINO 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.

37. The placement of ROBERTO GREGORIO CATELO ANDINO in detention pending the resolution of ongoing immigration proceedings violates his constitutional rights to due process guaranteed in the Fifth Amendment.

## COUNT TWO

### **Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)**

*Petitioner's Ongoing Detention Pursuant to 8 U.S.C. § 1225(b)(2) is Unlawful because Petitioner is not Seeking Admission and therefore cannot be held under that Authority*

38. Petitioner realleges and incorporates by reference each and every allegation contained above.

39. Respondents are in violation of the Immigration and Nationality Act by attempting to apply mandatory detention through 8 U.S.C. § 1225(b)(2) to Petitioner.

When Petitioner was detained he was nowhere near the border and was not “seeking admission.”

### COUNT THREE

#### **Violation of the Administrative Procedure Act, 5 U.S.C. § 706**

*Detaining Petitioner Pursuant to an Unlawful Interpretation of 8 U.S.C. § 1225(b)(2) violates the Administrative Procedure Act*

40. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
41. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).
42. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).
43. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens could properly be detained under § 1226(a), but would then be eligible for release on bond unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

44. Nonetheless, the Board has adopted a policy and practice of applying § 1225(b)(2) to Petitioner and others in the same position.

45. Respondents, through a recent administrative decision, have failed to articulate any reasoned explanation for the Board's new interpretation of the Act. The Board's decision represents a change in the agencies' policies and positions that negates the plain language of the Act, the will of Congress, and decades of administrative precedent.

46. The application of § 1225(b)(2) to ROBERTO GREGORIO CATELO ANDINO is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

#### **REMEDY**

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

48. 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)). Detention here serves no statutory purpose. There is no indication that Petitioner's detention was based on any facts that might indicate that Petitioner should be in custody for some reason.

49. Since § 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).

50. 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”).

51. 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.

52. Nor would § 1226(a) have supported a lawful detention in the first instance. Detention under § 1226(a) would require a warrant issued by the Attorney General.

*Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 961 (D. Minn. 2025). To put this plainly: “absent a warrant a noncitizen may not be arrested and detained under section 1226(a).” *See also Ahmed M. v. Bondi et al.*, 2026 WL 25627, \*3 (D. Minn. Jan. 5, 2026) (quoting *Chogllo Chafra v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at \*11 (D. Me. Sept. 21, 2025)). Upon information and belief, Respondents had no such warrant.

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

**PRAYER FOR RELIEF**

WHEREFORE, ROBERTO GREGORIO CATELO ANDINO 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;
- (3) Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately, or in the alternative afforded a bond hearing;
- (4) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days; and
- (5) Grant any other and further relief that this Court may deem just and proper.

Dated: January 28, 2026

s/Juan J. Martinez

Juan J. Martinez (#0197233)

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**ATTORNEY FOR PETITIONER**

**Verification by Someone Acting on  
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's immigration attorney. I have discussed the factual assertions in this petition with Petitioner's wife, who is also acting on Petitioner's behalf and who I understand to have personal knowledge of the facts alleged herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: January 28, 2026

*s/Juan J. Martinez*  
Juan J. Martinez