

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

SEGUNDO RAMIRO CUJI CUJI,	§	
<i>Petitioner,</i>	§	
	§	
v.	§	
	§	
PAMELA BONDI, ATTORNEY	§	
GENERAL,	§	
KRISTI NOEM, SECRETARY, U.S.	§	
DEPARTMENT OF HOMELAND	§	
SECURITY,	§	
TODD M. LYONS, ACTING DIRECTOR	§	CIVIL ACTION NO. 1:26-cv-272
OF IMMIGRATION AND CUSTOMS	§	
ENFORCEMENT,	§	
MARISA FLORES, DIRECTOR, EL	§	
PASO FIELD OFFICE IMMIGRATION	§	
AND CUSTOMS ENFORCEMENT, AND	§	
CURTIS TAYLOR, MAJOR GENERAL,	§	
U.S. ARMY AT CAMP BLISS,	§	
<i>Respondents.</i>	§	

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
EXPEDITED HANDLING REQUESTED

INTRODUCTION

1. Petitioner, Mr. Segundo Ramiro Cuji Cuji, (“Mr. Cuji Cuji”), by and through the undersigned attorney Rachel L. McKenna, 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 issue an order requiring Mr. Cuji Cuji be transferred back to Minnesota for the duration of these proceedings and released from ICE custody. If the Court sees fit to order release, Petitioner respectfully requests specific relief to ensure a safe return home, including release: (1) in Minnesota, (2) at a

safe place/time communicated in advance to counsel given recent adverse weather conditions; (3) with all his personal effects, such as driver's license, passport, immigration documents, keys, and cell phone; and (4) without conditions such as worn GPS tracking devices, telephonic tracking, or use of the SmartLINK app.

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 Mr. Cuji Cuji 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"). *Denmore 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 Mr. Cuji Cuji is detained within the Western District of Texas.

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, MN, who is currently being held at the ERO El Paso Camp East Montana detention facility in El Paso, Texas. Petitioner is under the direct control of the 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 Mr. Cuji Cuji.

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 Western District of Texas, supervises the ICE field offices, and is legally responsible for pursuing Mr. Cuji Cuji's detention and removal. As such, Respondent Noem is a legal custodian of Mr. Cuji Cuji.

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 Marisa Flores is being sued in her official capacity as the Field Office Director for the El Paso Field Office for ICE within DHS. In that capacity, Field Office Director Marisa Flores has supervisory authority over the ICE agents responsible

for detaining Mr. Cuji Cuji. The address for the El Paso Field Office is 1541 Montana Ave, Suite E, El Paso, Texas, 79936.

12. Respondent Major General Curtis Taylor is being sued in his official capacity as the Commanding General responsible for the ERO El Paso Camp East Montana Detention Center within the U.S. Army Fort Bliss. Because Petitioner is detained in the ERO El Paso Camp East Montana Detention Center, Major General Taylor has immediate day-to-day control over Petitioner.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

13. Petitioner is a resident of Minneapolis and a citizen of Ecuador and has lived in the United States since July of 2020.

14. Mr. Cuji Cuji has had no interaction with immigration officials since his arrival in the United States. He does not have a final order of removal.

15. Mr. Cuji Cuji is an active member of his community. He lives with family in Minnesota, including his partner, her child, her parents and brother. Mr. Cuji Cuji has a strong connection with his daughter and cousins who also live in Minneapolis. Mr. Cuji Cuji belongs to a church community in his neighborhood.

16. Upon a search of Petitioner's public criminal history on the Minnesota Court Record Online website on January 29, 2026, Mr. Cuji Cuji has no criminal record.

17. Respondent ICE arrested Mr. Cuji Cuji on January 27, 2026 while Mr. Cuji Cuji was out getting groceries with his family. Agents wearing bulletproof vests and masks and driving unmarked vehicles surrounded Mr. Cuji Cuji, his girlfriend, her son, and Mr. Cuji Cuji's cousin, who were all inside a vehicle. The agents broke the windows

of the vehicle and took Mr. Cuji Cuji and his cousin into custody, leaving their other family members to go home without them. Upon information and belief, these individuals were agents of the Respondents and did not have a warrant to arrest Mr. Cuji Cuji. Respondents then quickly transported Petitioner out of the District of Minnesota.

In Minnesota, the “Largest Immigration Operation Ever” is underway.

18. Petitioner’s detention was part of an operation that now spans across the Twin Cities metropolitan area called “Operation Metro Surge.” ICE referred to Operation Metro Surge as the “largest immigration operation ever.” See “2,000 federal agents sent to Minneapolis area to carry out ‘largest immigration operation ever,’ ICE says, PUBLIC BROADCASTING SERVICE, <https://www.pbs.org/newshour/politics/2000-federal-agents-sent-to-minneapolis-area-to-carry-out-largest-immigration-operation-ever-ice-says>.

19. Operation Metro Surge caused the number of federal agents purporting to enforce immigration laws in the Twin Cities skyrocket to as high as 3,000, which is more than double the total police officers employed by the Cities of Minneapolis and Saint Paul combined. *See* Homeland Security presence in Minnesota dwarfs Twin Cities’ largest police forces, THE MINNESOTA STAR TRIBUNE, <https://www.startribune.com/how-icenumbers-compare-to-twin-cities-largest-police-forces/601562617>.

20. Operation Metro Surge has resulted in two U.S. citizens who reside in Minneapolis—Renee Good and Alex Pretti—being shot and killed by ICE agents.

Masked and heavily armed federal agents are patrolling the streets of the Twin Cities to conduct widespread arrests. Agents often use unmarked vehicles, many with illegally covered or mismatched license plates, and even some without plates at all. On other occasions, they drive militarized vehicles such as armored personnel carriers on residential streets. Agents are liberally utilizing physical force and less-than-lethal munitions against observers exercising their First Amendment rights to observe law enforcement agents. See, e.g., *Tincher et. al. v. Noem*, Doc. No. 85, No. 0:25-cv-04669 (D. Minn. Dec. 17, 2025) (entering preliminary injunction against Respondents).

21. Operation Metro Surge has also seen high numbers of people with U.S. Citizenship, legal status, or pending applications to obtain legal status, arrested without warrants and ostensibly based on their race. Respondents are the subject of ongoing class action lawsuit on these grounds. See *Hussen v. Noem*, Doc. No. 2, 26-cv-00324-PAM-ECW (D. Minn. Jan. 15, 2026).

Systematic Interstate Transfers of Detained Minnesota Residents Impair Their Access to Justice

22. Respondents are transporting detained Minnesotans out of state with shocking speed and frequency, making it difficult or impossible to identify the location of detained individuals, let alone facilitate access to counsel. See, e.g., Ellie Roth, Observer: ICE Detainee Flights Increase at MSP as Enforcement Action Ramps Up, MPR NEWS (Jan. 14, 2026 4:00 A.M.), <https://www.mprnews.org/story/2026/01/14/ice-detainee-flightsleaving-msp-increase->

as-surge-continues. Numerous Minnesota residents are now spread across the nation, including at least Texas, Nebraska, Kentucky, and New Mexico.

23. Upon information and belief, ICE often flies detainees out of Minnesota without completing standard processing procedures. Upon information and belief, this violates ICE's policies and procedures. It also creates a heightened risk of detainees being lost in the system.

24. Upon information and belief, ICE is often prohibiting detainees from visiting with attorneys before boarding a flight out of Minnesota.

25. Upon information and belief, ICE's systematic transfer of most detainees out of Minnesota is motivated, at least in part, by a desire to impair detainees' ability to raise meritorious challenges to the legality of their detention and to forum shop away from the District of Minnesota, where claims for relief that are the same or similar to those presented in the instant Petition frequently have been granted in whole or in part. Petitioner has been brought to the El Paso Processing Facility in El Paso, Texas.

26. Upon information and belief, ICE's systematic transfer of most detainees out of state is motivated, at least in part, by a desire to demoralize detainees by isolating them from their communities, their loved ones, and their counsel. This may encourage detainees to waive their legal rights and sign voluntary deportation agreements.

27. Detaining Mr. Cuji Cuji is an expensive and pointless endeavor. Mr. Cuji Cuji 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.

STANDARD OF LAW

28. 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).

29. The Court must grant a 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 Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

30. Courts have jurisdiction to hear habeas petitions filed by noncitizens who have no final removal order, whose challenges to their arrest and detention are “independent of any future removal order.” *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *3 (W.D. Tex. Sept. 22, 2025). Nor is a petitioner required to first exhaust administrative remedies where, as here, petitioner is not appealing a final order of removal. *Id.* at 6.

31. “[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).

32. 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. *In re: 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 “seeking admission,” simply because they may have pending claims for asylum or other forms of status.

33. 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).

In recent weeks, courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect. See *Lopez-Campos v. Raycraft*, — F. Supp. 3d —, — n.5, 2025 WL 2496379, at *8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting twelve such decisions); see, e.g., *Jimenez v. FCI Berlin, Warden*, — F. Supp. 3d —, — & n.9, 2025 WL 2639390, at *10 & n.9 (D.N.H. Sept. 8, 2025). That includes courts in the Fifth Circuit. *Lopez Santos*, 2025 WL 2642278, at *5; *Kostak v. Trump*, No. 25-cv-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025).

Lopez-Arevelo, 2025 WL 2691828, at 8.

34. Here, Petitioner 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 Mr. Cuji Cuji without a hearing, when instead the default rule is that detention of noncitizens residing within the U.S. must be pursuant to 8 U.S.C. § 1226(a). See *Acosta*

Dominguez v. Noem, No. EP-25-CV-00741-DB, 2026 WL 67200 (W.D. Tex. Jan. 8, 2026).

Here the Respondents are not purporting to invoke § 1226(a) as the basis for Petitioner's detention. The rule that Respondents invoke, 8 U.S.C. § 1225(b)(2), does not support Petitioner's ongoing detention.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

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

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

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

37. Federal courts use the three-part test in *Matthews 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.

38. Here, all three factors favor the petitioner.

39. First, Mr. Cuji Cuji 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.”). Mr. Cuji Cuji is wrongfully confined, a direct attack on Petitioner’s liberty interests.

40. Second, Mr. Cuji Cuji will continue to be deprived of this interest if the current procedure (detaining Mr. Cuji Cuji without a legal basis) is followed. There is no rational explanation for detaining Mr. Cuji Cuji. Respondents’ purported basis for detaining Petitioner under 8 U.S.C. 1225(b)(2) has been soundly rejected by this court. See, e.g., *Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200 (W.D. Tex. Jan. 8, 2026).

41. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Mr. Cuji Cuji 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.

42. The placement of Mr. Cuji Cuji in detention pending the resolution of ongoing immigration proceedings violates Mr. Cuji Cuji’s constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

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

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

44. Respondents violate the Immigration and Nationality Act by attempting to apply mandatory detention through 8 U.S.C. § 1225(b)(2), to Petitioner.

COUNT THREE

Violation of the Administrative Procedure Act

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

45. Mr. Cuji Cuji re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

46. 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).

47. 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).

48. 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.

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

50. Respondents through its recent administrative decision failed to articulate any reasoned explanations for 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.

51. The application of § 1225(b)(2) to Mr. Cuji Cuji is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

REMEDY

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

53. 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.

54. 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 Lopez-Arevelo*, 2025 WL 2691828, at 8 and *Acosta Dominguez*, 2026 WL 67200.

55. 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").

56. Here, where detention is unlawfully based on 8 U.S.C. § 1225, which does not apply to Petitioner, release is an appropriate remedy.

REQUEST FOR ORDER TO SHOW CAUSE

57. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

58. Petitioner respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court's order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

WHEREFORE, Mr. Cuji Cuji prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Issue an order requiring Petitioner's transport back to Minnesota;

- (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;
- (5) If the Court sees fit to order Petitioner's release, specified relief to ensure a safe return home, including release:
 - (a) Inside of Minnesota;
 - (b) At a safe time and place communicated in advance to counsel; and
 - (c) With all of Petitioner's personal effects, such as driver's license, immigration papers, passport, cell phone, and keys.
- (6) Enjoin Respondents from implementing any condition of release, including ICE's "Alternatives to Detention" measures, which include ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application; and
- (7) Grant any other and further relief that this Court may deem just and proper.

Respectfully Submitted,



Rachel L. McKenna
State Bar No. 24102183
rmckenna@abdmlaw.com

ALMANZA, BLACKBURN, DICKIE & MITCHELL, LLP
2301 S. Capital of Texas Highway, Building H
Austin, Texas 78746
(512) 474-9486 (tel) | (512) 478-7151 (fax)
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 attorney and acting on Petitioner's behalf. A member of my legal team spoke with Petitioner's girlfriend, Jenny Santander, who has personal knowledge of the factual assertions in this petition. 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 31, 2026

/s/ Rachel L. McKenna

Rachel L. McKenna