

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Iosmany Torres-Navarro,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	Cause No.
Kristi Noem	)	
Secretary, U.S. Department of	)	
Homeland Security	)	
	)	
Todd Lyons, Acting Director, U.S.	)	
Immigration and Customs	)	
Enforcement (ICE)	)	
	)	
Marcos Charles, Acting Executive	)	
Associate Director, ICE and Removal	)	
Operations	)	
	)	
Pamela Bondi, U.S. Attorney General	)	
	)	
Warden, Karnes County Immigration	)	
Processing Center	)	
	)	
Respondents.	)	
	)	
	)	
	)	
	)	
	)	
	)	

FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241 AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Petitioner Iosmany Torres-Navarro (A# ) , through counsel, seeks a writ of *habeas corpus* under 28 U.S.C. § 2241, challenging the legality of his *re-detention* by Immigration and Customs Enforcement (“ICE”).
2. Petitioner is in the physical custody of Respondents at the Karnes County Immigration Processing Center in Karnes, Texas. (*Ex 1 Detainee Locator*) Petitioner now faces unlawful re-detention by the Department of Homeland Security (DHS).
3. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i).
4. Petitioner was apprehended and initially released from custody upon first encounter by DHS and then subsequently without reason re-detained. DHS has, without reason or change of circumstance re-detained Petitioner to continue removal proceedings in custody.
5. Accordingly, Petitioner seeks a writ of *habeas corpus* requiring that he be released as Petitioner’s re-detention was a violation of due process and an ultra-vires action by the Respondents.

I. PARTIES

1. Petitioner, Iosmany Torres-Navarro, is a non-citizen who is currently detained by ICE at the Karnes County Immigration Processing Center in Karnes City, Texas.
2. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She is the cabinet-level secretary responsible for all immigration enforcement in the United States. She is sued in her official capacity only.
3. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States. He is sued in his official capacity only.
4. Respondent Marcos Charles is the Acting Executive Associate Director of ICE Enforcement and Removal Operations. He is the head of the ICE office that carries out arrests of noncitizens and removals from the United States. He is sued in his official capacity only.
5. Respondent, Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees. She is sued in her official capacity only.
6. Respondent, Warden, Karnes County Immigration Processing Center.

He is the head of the facility that currently maintains physical custody of the Petitioner. He is sued in his official capacity only.

JURISDICTION

7. This Court has jurisdiction to hear this case under *28 U.S.C. § 2241* and *28 U.S.C. § 1331*, Federal Question Jurisdiction as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to *28 U.S.C. § 2241*, and the *All Writs Act*, *28 U.S.C. § 1651*.

CUSTODY

8. Petitioner is under the Physical custody of the Respondents and is currently detained at the Karnes County Immigration Processing Center in Karnes City, Texas.

VENUE

9. Venue is proper in this court, pursuant to *28 USC §1391(e)*, in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where the Petitioner is detained. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973)

REQUIREMENTS SET FORTH IN 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).

FACTS

12. Petitioner is a non-citizen from Cuba who was apprehended near San Luis, Arizona. (*Ex. 2 NTA*)
13. Petitioner was charged with inadmissibility under INA 212(a)(6)(A)(i) as being present in the United States without admission or parole. (*Id.*)
14. After being initially detained Petitioner was released from custody and allowed to continue removal proceedings in a non-detained manner. At the time of release, DHS necessarily determined that Petitioner’s

appearance and public-safety risks could be managed without detention.

(*Ex 3 OREC*)¹

15. Petitioner was thereafter re-detained by DHS without cause, revoking Petitioner's prior release from custody, without any identified change in circumstances.² (*Ex. 1*)

16. The Petitioner currently remains in detention with his removal proceedings continuing in custody. Without relief from this Court the Petitioner will remain in custody for months or even years while his case is processed. (*Ex. 4 EOIR Case Status- Detained Setting*)

CAUSES OF ACTION

I. Inapplicability of *Buenrostro-Mendez v. Bondi* to the Instant Matter

17. Petitioner acknowledges the recent 5th Circuit Precedential decision of *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701, slip op. at ____ (5th Cir. Feb. 6, 2026) that found that noncitizens who entered without inspection and were never admitted are "applicants for admission" under § 1225(a)(1), such applicants are "seeking admission" within the meaning of § 1225(b)(2)(A) and therefore, § 1225(b)(2)(A) requires mandatory detention without bond during removal proceedings. However, the Fifth

¹ Per *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701, slip op. at ____ (5th Cir. Feb. 6, 2026) the Petitioner is subject to expedited removal and the release from custody would be deemed a Parole under INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A). As per *Jennings v. Rodriguez*, 583 U.S. 830, 842–47 (2018) the only release from custody of a person subject to expedited removal is a parole.

² As stated while labeled as a release on own recognizance under the current case law it is considered a parole.

Circuit never reached the question of due process or liberty interest in being free from custody following re-detention by DHS. Further, the Court only decided who may be detained under the statute, but they never addressed how a prior release affects the constitutionality of a re-detention or whether mandatory detention under 1225(b)(2)(A) can violate due process on a re-detention. Petitioner does not challenge DHS's general authority to detain under § 1225(b)(2)(A), but rather the constitutionality and legality of withdrawing previously granted liberty without process. Accordingly, *Buenrostro-Mendez* resolved only who may be detained under § 1225(b)(2)(A), not whether DHS may withdraw previously granted liberty through re-detention without due process or statutory justification.

18. This Petition does not seek a bond right under § 1225(b) and does not challenge the statutory detention scheme on its face. It challenges only the executive branch's unexplained withdrawal of previously conferred liberty.

19. Following *Buenrostro*, a growing body of law has come about granting relief for habeas Petitioners based on due process violations. *See Hassen v. Noem*, No. EP-*26-CV-00048-DB (W.D. Tex. Feb. 9, 2026), *Marceau v. Noem*, No. EP-26-CV-237-KC (W.D. Tex. Feb. 9, 2026), *Ayala Aguirre v. Bondi*, No. EP-26-CV-346-KC (W.D. Tex. Feb. 18, 2026),

Bonilla Chicas v. Warden, 5:26-cv- 00131 (S.D. Tex. Feb. 20, 2026), *Lopez Mejia v Warden Webb County*, 5:26-cv-00160 (S.D. Tex. Feb. 23, 2026). The relief prescribed by District Courts in the recent due process related habeas grants is release and not a bond hearing. (Id.)

20. Further, recent decisions the Western District of Texas have found that habeas relief is available even for arriving alien's who were paroled into the United States and subsequently had their release revoked in violation of their due process. *See Smirnov v. Warden, El Paso Camp East Montana et al*, 3:25-cv-00669-KC, (W.D. Tex. Dec. 23, 2025)(Dkt. 7), *See also Magana-Garcia v Bondi et al*, 1:26-cv-00051-ADA, (W.D. Tex. Jan. 28, 2026)(Adopting Report and Recommendations of Magistrate)

CAUSE OF ACTION I DUE PROCESS VIOLATION- 5th AMENDMENT

21. Petitioner incorporates by reference all preceding paragraphs.

22. The Fifth Amendment's Due Process Clause protects noncitizens physically present in the United States from arbitrary deprivations of liberty, including freedom from physical restraint. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), *See also Reno v. Flores*, 507 U.S. 292, 301–02 (1993)

23. Freedom from physical restraint lies at the heart of the liberty protected by the Due Process Clause, and immigration detention—although civil—

implicates a substantial liberty interest that may not be deprived arbitrarily or without due process of law.

24. When the Government affirmatively exercises discretion to release an individual from physical custody, it confers a form of conditional liberty. Although immigration parole remains discretionary and revocable, the Fifth Amendment requires that revocation of such liberty not be arbitrary or unreasoned. *See Young v. Harper*, 520 U.S. 143, 152 (1997) (government-created liberty interests require due process protections).

25. Once the government confers liberty and allows an individual to reenter the community, that liberty may not be withdrawn arbitrarily or without justification, even where the government retains authority to regulate the individual's status.

26. The Petitioner was previously detained and released by the Respondents. Once released from custody a non-citizen acquires a protectable liberty interest in remaining out of custody.

27. Substantive due process protects the liberty interest in freedom from physical restraint itself, while procedural due process governs the process required before that liberty—once granted—may be withdrawn.

i. Substantive Due Process Violation

28. Immigration detention is civil, not punitive, and is constitutionally permissible only when it is reasonably related to a legitimate

governmental purpose, such as preventing flight or protecting the community. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 527–28 (2003).

29. Although Congress may mandate detention of certain noncitizens, the Fifth Amendment prohibits arbitrary executive action. Even where detention authority exists, executive implementation must not be irrational, punitive, or divorced from legitimate regulatory purposes

30. Detention violates substantive due process when it becomes arbitrary, excessive, or disconnected from its asserted regulatory purpose. *Zadvydas*, 533 U.S. at 690–91.

31. Respondents’ re-detention of Petitioner is not reasonably related to any legitimate civil purpose because as DHS had already determined Petitioner was suitable for release, Petitioner demonstrated compliance while at liberty, Respondents identified no new facts or changed circumstances to justify renewed detention.

32. The Supreme Court has noted that Due process requires notice that is “reasonably calculated, under all the circumstances, to apprise interested parties” and that “afford[s] a reasonable time . . . to make [an] appearance.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, 314, 70 S. Ct. 652, 94 L. Ed. 865 (1950)

33. Under these circumstances, renewed detention, absent articulated

changed circumstances, risks arbitrary confinement inconsistent with due process.

34. Respondents' actions therefore violate Petitioner's substantive due process rights under the Fifth Amendment.

ii. Procedural Due Process Violation

35. "[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings." *Trump v. J. G. G.*, 604 U. S. 670, 673, 145 S. Ct. 1003, 221 L. Ed. 2d 529, 532 (2025) (per curiam) (internal quotation marks omitted). "Procedural due process rules are meant to protect" against "the mistaken or unjustified deprivation of life, liberty, or property." *Carey v. Piphus*, 435 U. S. 247, 259, 98 S. Ct. 1042, 55 L. Ed. 2d 252 (1978). *See also A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025)

36. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), procedural due process requires balancing (1) the private liberty interest affected, (2) the risk of erroneous deprivation through the procedures used, and (3) the Government's interest. Where the Government has previously determined release is appropriate and the noncitizen has complied with conditions, the risk of erroneous deprivation upon unexplained re-detention is substantial, and minimal procedural safeguards—such as articulated reasons and meaningful review—impose little administrative burden.

37.DHS previously determined that Petitioner did not pose a flight risk or danger to the community and released Petitioner from immigration through a humanitarian parole.

38.Petitioner complied with all conditions of release and remained at liberty without incident.

39.Respondents thereafter re-detained Petitioner without identifying any materially changed circumstances, new evidence, or violations of release conditions that would justify renewed custody.

40.Re-detention following release constitutes a new deprivation of liberty, not a continuation of prior detention, and therefore requires individualized justification and meaningful procedural safeguards. *Zadvydas*, 533 U.S. at 690; *Jennings v. Rodriguez*, 583 U.S. 830, 842–43 (2018) (preserving as-applied due process challenges). This deprivation is constitutionally distinct from initial border detention and requires its own justification and process.

41.Further due process requires that immigration detention not be arbitrary and that custody determinations be accompanied by a meaningful opportunity to be heard before a neutral decisionmaker. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

42.Respondents failed to provide Petitioner with a prompt and meaningful custody redetermination on re-detention, an individualized explanation

for why prior release was no longer sufficient, and a reasoned assessment of flight risk or dangerousness based on current facts.

43. Because Respondents re-detained Petitioner without adequate procedural protections or individualized justification, they deprived him of liberty without due process of law, in violation of the Fifth Amendment.

44. Although Congress may authorize detention under §1225(b), the Constitution requires that the executive's decision to revoke previously granted liberty comply with minimal procedural safeguards and not be arbitrary.

COUNT II
Ultra Vires Agency Action Re-Detention in Excess of Statutory Authority

45. Petitioner realleges and incorporates all preceding paragraphs.

46. Petitioner is detained, pending removal proceedings.

47. Binding agency precedent provides that once DHS grants release from custody, it may revoke that release only upon a showing of materially changed circumstances or other legitimate justification. *Matter of Sugay*, 17 I. & N. Dec. 637, 640–41 (BIA 1981).

48. DHS custody determinations must be individualized and must consider prior compliance and history of release. *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006).

49. While DHS retains discretion over custody determinations, discretion

does not include the authority to disregard binding agency precedent or to revoke release absent materially changed circumstances.

50. Respondents revoked Petitioner's release and re-detained him without identifying materially changed circumstances or articulating a reasoned basis for departing from the prior custody determination.

51. By re-detaining Petitioner absent the showing required by binding agency precedent, Respondents acted in excess of their statutory authority.

52. Ultra vires agency action is not entitled to deference and renders Petitioner's continued detention unlawful. *See Jennings*, 583 U.S. at 842 (courts retain authority to resolve constitutional and ultra vires claims).

REQUEST FOR RELIEF

Petitioners pray for judgment against Respondents and respectfully request that the Court enters an order:

1. Assume jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside the Western District of Texas while this habeas petition is pending;
3. Issue a writ of habeas corpus directing Respondent to release Petitioner from detention and return Petitioner to the conditions of prior release
4. Declare that Petitioner's continued detention violates federal law and the Constitution;
5. Order the Respondent to return identity documents to Petitioner upon

- release, including but not limited to Social Security Card, Work Authorization, Driver's License, ID Card and Passport.
6. Award reasonable attorney's fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412; and
 7. Grant any other relief the Court deems just and proper.

Respectfully submitted,

/s/Varsha Shirhatti
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Iosmany Torres-Navarro, 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 the 2nd day of March 2026.

/s/Varsha Shirhatti
Varsha Shirhatti
Attorney for Petitioner