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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA  
OKLAHOMA CITY DIVISION**

**Nahun Antonio Oliveros-Leon** )  
 )  
Petitioner, )  
 )  
v. )  
 )  
Scarlet Grant, Warden, Cimmaron Detention )  
Center; Rohit Rai, Field Office Director, ICE; Kristi )  
Noem, Secretary of the Department of Homeland )  
Security; and Pam Bondi, US Attorney General, )  
 )  
Respondents. )  
\_\_\_\_\_ )

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

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**INTRODUCTION**

1. Petitioner is a citizen of Honduras, with EWI (Entry Without Inspection) status, was detained by ICE in late 2025. His alien registration number is ~~XXXXXXXXXX~~. He has been detained for several months at the Cimarron Detention Center. Petitioner's detention is unlawful and unconstitutional, and release is not reasonably foreseeable as petitioner is unable to obtain a bond because immigration judges nationwide have been refusing to grant a bond hearing for individuals similarly situated as the petitioner.

Accordingly, to vindicate Petitioner's statutory & constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

2. Due to the decision by the BIA, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA

2025), petitioner has been unable to have a custody redetermination in immigration court. Although the petitioner is a class member under *Maldonado Bautista v. DHS*, 5:25-cv-01873, (C.D. Cal.), which grants a custody redetermination hearing to the petitioner, and those similarly situated, EOIR immigration judges are *still* denying custody redetermination hearings for individuals such as the petitioner based on a memorandum issued by the Chief Immigration Judge Teresa L. Riley on 1/13/2026, which instructs immigration judges to ignore the class certification in *Maldonado Bautista*, despite a clarifying order issued by the California district court in the *Maldonado* case on 11/25/2025 that stated the Bond Eligible Class is nationwide. Absent an order from this Court, Petitioner will remain in mandatory detention for an indefinite period, and at present, has no other adequate remedy at law.

3. Petitioner asks this Court to find that the petitioner is eligible for a bond, and order release on his own recognizance, with appropriate supervision, or order the immigration court having jurisdiction over the petitioner to hold a custody redetermination hearing.

#### **JURISDICTION**

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

5. This Court has subject matter jurisdiction 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).

6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

#### **VENUE**

7. Venue is proper because Petitioner is detained at the Core Civic Cimarron Facility at 3200 South Kings Highway, Cushing, OK 74023, which is within the jurisdiction of this District.

8. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States

**REQUIREMENTS OF 28 U.S.C. § 2243**

9. 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).

10. 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).

**PARTIES**

11. Petitioner had a pending asylum application, which was denied, and is currently on appeal with the BIA. Petitioner is detained at the Cimarron Detention Center. He is in custody, and under the direct control, of Respondents and their agents.

12. Respondent Scarlet Grant is the Warden of the Cimarron Detention Center. She has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of

Petitioner. Respondent Grant a legal custodian of Petitioner.

13. Respondent Rohit Rai is sued in his official capacity as the Director of the Oklahoma Field Office of Immigration and Customs Enforcement. Respondent Rai is a legal custodian of Petitioner and has authority to release the petitioner.

14. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention & custody. Respondent Noem is a legal custodian of Petitioner.

15. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

#### **STATEMENT OF FACTS**

16. Petitioner is a 24-year-old citizen of Honduras. Petitioner has no negative criminal history, and has ties within Oklahoma through his parents, also Honduran nationals, along with his 3 siblings, who are also within Oklahoma. Prior to detention he was assisting his parents with household expenses by working with his valid Employment Authorization Document ("EAD").

17. Petitioner entered with his family without inspection at an area other than a US port of entry near Hidalgo, Texas. The petitioner, and his family, were released by CBP/ICE on an order of supervision. Petitioner was in removal proceedings and had his application for

asylum denied in January 2026. He has filed a timely appeal with the BIA. Prior to the hearing, he was detained by ICE on 10/31/25 while on his way to work. The Petitioner was given no adequate notice of the revocation of the order of supervision.

**CLAIMS FOR RELIEF**

**COUNT ONE**

**Procedural Due Process Violation of the Fifth Amendment**

18 The allegations in the above paragraphs are realleged and incorporated herein.

19. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens' custody status in neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. Further, Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.

20. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

**COUNT TWO**

**Substantive Due Process Violation of the Fifth Amendment**

21. Petitioner's continued detention violates Petitioner's right to substantive due process through deprivation of the liberty interest in freedom from bodily restraint. See e.g., *Tam v. INS*, 14 F.Supp.2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights).

22. The Due Process Clause of the Fifth Amendment requires that the deprivation of

Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. §1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interest—to effect the alien's removal. *See Kay v. Reno*, 94 F.Supp.2d. 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because petitioner's substantive due process rights were violated, and noting that "If deportation can never occur, the government's primary legitimate purpose in detention—executing removal—is nonsensical.")

23. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

**PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or schedule a bond hearing before an immigration judge and, at such hearing, afford Petitioner bond on his own recognizance, or a reasonable bond amount
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(6) Grant any further relief this Court deems just and proper.

Dated 1/25/26

Respectfully submitted,

/s/ Eliyahu Kaplunovsky  
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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, and submit this verification on her 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 this 25<sup>th</sup> day of January, 2026

/s/ Eliyahu Kaplunovsky  
Eliyahu Kaplunovsky