

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

Samuel Castaneda Ponce,

Case No.: _____

Petitioner,

v.

Pamela Bondi, Attorney General; Kristi Noem, Secretary of Homeland Security; Todd M. Lyons, Acting Director of U.S. Immigration & Customs Enforcement; Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; Mark Siegel, Field Office Director for Enforcement and Removal Operations; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; Steve Kelley, Sheriff of Kay County Jail.

Respondents.

AMENDED
**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

**EXPEDITED HANDLING
REQUESTED PURSUANT TO 28
U.S.C. § 1657**

INTRODUCTION

1. Petitioner Samuel Castaneda Ponce (“Mr. Castaneda Ponce”), 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 release Mr. Castaneda Ponce from ICE detention, or in the alternative to enjoin their transfer to a facility outside of the Western District of Oklahoma and to provide Petitioner with a bond hearing to permit release 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 Mr. Castaneda Ponce 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. Castaneda Ponce is detained within the Western District of Oklahoma.

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. **Mr. Castaneda Ponce** is a citizen of Mexico and a resident of Minneapolis, Minnesota who is currently being held at the Kay County Jail in

Newkirk, Oklahoma. 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. Castaneda Ponce.

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 Oklahoma, supervises the ICE field offices, and is legally responsible for pursuing Mr. Castaneda Ponce's detention and removal. As such, Respondent Noem is a legal custodian of Mr. Castaneda Ponce.

10. **Respondent Department of Homeland Security ("DHS")** is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

11. **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.

12. **Respondent Immigration and Customs Enforcement ("ICE")** is the subagency within the Department of Homeland Security responsible for implementing

and enforcing the Immigration & Nationality Act, including the detention of noncitizens.

13. **Respondent Marcos Charles** is the Acting Executive Associate Director for ICE Enforcement and Removal Operations (“ERO”).

14. **Respondent Mark Siegel** is being sued in his official capacity as the Field Office Director for the Oklahoma City Field Office for ICE within DHS. In that capacity, Field Director Siegel has supervisory authority over the ICE agents responsible for detaining Mr. Castaneda Ponce.

15. **Respondent Steve Kelley** is being sued in his official capacity as the Sheriff of the Kay County Jail in Newkirk, Oklahoma. Because Mr. Castaneda Ponce is detained in the Kay County Jail Respondent Kelley has immediate day-to-day control over Mr. Castaneda Ponce.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

16. Mr. Castaneda Ponce is a resident of Minneapolis, Minnesota and a citizen of Mexico, and has lived in the United States for 31 years, since March of 1995.

17. Mr. Castaneda Ponce has a pending U visa case as a derivative of his wife’s U visa case as well as an approved I-130 petition from his brother.

18. Mr. Castaneda Ponce is married and has one who has DACA.

19. Mr. Castaneda Ponce’s mother has her green card.

20. ICE arrested Mr. Castaneda Ponce on or about December 10, 2025 while he was outside his home shoveling snow.

21. Mr. Castaneda Ponce has resided in the United States for over 31 years.

22. Mr. Castaneda Ponce has a 2003 DWI conviction, 13 years ago.

23. Petitioner has been brought to Kay County Jail in Newkirk, Oklahoma.

24. Detaining Mr. Castaneda Ponce is an expensive and pointless endeavor.

Mr. Castaneda Ponce 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.

25. Pending the adjudication of this Petition, Mr. Castaneda Ponce further seeks an order restraining the Respondents from transferring Petitioner to a location outside of the Western District of Oklahoma, 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

26. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. 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. § 2241(c)(3).

27. 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.*

28. 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, Mr. Castaneda Ponce is not appealing a final order of removal. *Id.* at 6.

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. 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 relief.

31. 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.

32. Here, Mr. Castaneda Ponce was apprehended within the United States, not at a border while seeking entry. Mr. Castaneda Ponce was apprehended in Minneapolis, Minnesota. Respondents wrongly assert 8 U.S.C. § 1225(b)(2) as a basis for detaining Mr. Castaneda Ponce 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.

33. Mr. Castaneda Ponce realleges and incorporates by reference the allegations contained above.

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

35. 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.

36. Here, all three factors favor Mr. Castaneda Ponce.

37. First, Mr. Castaneda Ponce 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. Castaneda Ponce is wrongfully confined, a direct attack on Petitioner’s liberty interests.

38. Second, Mr. Castaneda Ponce will continue to be deprived of this interest if the current procedure (detaining Petitioner without a legal basis) is followed. There is no rational explanation for detaining Mr. Castaneda Ponce. 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).

39. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Mr. Castaneda Ponce 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.

40. The placement of Mr. Castaneda Ponce in detention pending the resolution of ongoing immigration proceedings violates Mr. Castaneda Ponce'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

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

42. 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

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

44. 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).

45. 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).

46. 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.

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

48. 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.

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

REMEDY

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

51. 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.

52. 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 Mr. Castaneda Ponce's detention. *See Lopez-Arevelo*, 2025 WL 2691828, at 8 and *Acosta Dominguez*, 2026 WL 67200.

53. 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").

54. 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

55. 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.

56. Counsel, on behalf of Mr. Castaneda Ponce, 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. Castaneda Ponce prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from moving Petitioner outside of the jurisdiction of the Western District of Oklahoma;
- (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: February 4, 2026

/s/ Alyssa Nguyen-Schmitz
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**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. I have 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.

DATED: February 4, 2026

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