UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Luis Humberto Pilatuna Gualoto 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. Respondents.	Case No. 26-cv-625 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS** Expedited Handling Requested

INTRODUCTION

1. Petitioner Mr. Luis Humberto Pilatuna Gualoto, ("Mr. Pilatuna Gualoto"), 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 Petitioner 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 Mr. Pilatuna Gualoto seeks to challenge their 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); 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), 28 U.S.C. § 1391(e)(1), and 28 U.S.C. § 2241 because Mr. Pilatuna Gualoto was apprehended within the District of Minnesota and immediately placed into federal immigration custody, the legality of which is the subject of the instant Petition.

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. Pilatuna Gualoto is a citizen of Ecuador and resident of Minneapolis Minnesota. He is currently indefinitely detained by and under the direct control of Respondents without any 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 Petitioner.

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 Petitioner.

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 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 Petitioner. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

1. Petitioner is a resident of Minneapolis Minnesota and a citizen of Ecuador, and has lived in the United States since July 2022.

2. Mr. Pilatuna Gualoto has a pending asylum application and does not have a final order of removal.

3. Mr. Pilatuna Gualoto and his partner Ms. Cornel Curay have a 13 year old child together who lives with them in Minneapolis. Mr. Pilatuna Gualoto is also active in his community, attending a local church and playing soccer with friends at the park.

4. Respondent ICE arrested Mr. Pilatuna Gualoto on January 14, 2026 while he was withdrawing money from an ATM. Several agents wearing black clothing, military vests, and face coverings grabbed him and handcuffed him. They did not present a judicial or administrative warrant or subpoena.

5. Petitioner's 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, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody regardless of the constitutionality of their actions. *See*, e.g., Compl., *Tincher et. al. v. Noem*, No. 0:25-cv-04669. (D. Minn. 12/17/2025) (preliminary injunction

granted in part and enjoining certain conduct of federal agents operating in the District of Minnesota as part of Operation Metro Surge in Order at Doc. 85).

6. Since the operation began on December 1, 2025, the number of immigration officials in the twin city 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, nationalities, and citizenship status–are united in their shock and fear at the events of the past six weeks, and are begging for the attacks on their community to stop.

7. In addition to the surge of federal agents in the Twin Cities metropolitan area, ICE has also boosted these numbers by contracting with private "bounty hunters" to detain and arrest people they profile as not being citizens. *See* Sam Biddle, *10 Companies Have Already Made $1 Million As Ice Bounty Hunters*, THE INTERCEPT (Dec. 23, 2025, 3:38 P.M.), https://theintercept.com/2025/12/23/ice-bounty-hunters-track-immigrant-surveillance/

8. Since Operation Metro Surge began, reports of unconstitutional behavior by federal agents and deputized bounty hunters—including suspicionless seizures, warrantless arrests without probable cause, searches of homes without warrants, unreasonable uses of force, and detention of immigrants with meritorious habeas claims—have reached unprecedented levels in flagrancy, manner, and scope.

9. Given the massive volume of perceived non-citizens being taken off the streets, Respondents are running out of physical space to continue detaining people.

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, or New Mexico.

10. Respondents are transporting detained immigrants across the country with increasing frequency and magnitude, making it difficult if not impossible to identify the precise 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-flights-leaving-msp-increase-as-surge-continues.

11. Upon information and belief, frequently moving detained immigrants from one federal judicial district to another serves as a means to frustrate meritorious legal claims for release and 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.

12. Upon information and belief, frequently moving detained immigrants with meritorious habeas claims also serves as a way to isolate them from their communities, their loved ones, and their counsel, in an attempt to demoralize people and encourage them to waive their legal rights and sign voluntary deportation agreements.

13. Detaining Mr. Pilatuna Gualoto is an expensive, cruel, and pointless endeavor. Mr. Pilatuna Gualoto respectfully seeks the opportunity to return home and

continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

STANDARD OF LAW

14. 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. § 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).

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

16. 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).

17. "[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).

18. 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.

19. 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). *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).

20. 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. Pilatuna Gualoto without a hearing, when instead any detention could only be pursuant to 8 U.S.C. 1226(a), which here the Respondents are not purporting to invoke and which, if invoked, would require a warrant.

CLAIMS FOR RELIEF

COUNT ONE
Fifth Amendment Due Process

Respondents Deprive Petitioner of an adequate and meaningful process to challenge their ongoing confinement.

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

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

23. 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.

24. Here, all three factors favor the Petitioner.

25. First, Mr. Pilatuna Gualoto 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. Pilatuna Gualoto is wrongfully confined, a direct attack on Petitioner's liberty interests.

26. Second, Mr. Pilatuna Gualoto 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. Pilatuna Gualoto. 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).

27. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Mr. Pilatuna Gualoto poses no safety threats to the community. Releasing

Mr. Pilatuna Gualoto, or at a minimum holding a bond hearing, would in fact *save* the government the resources and expense of continued imprisonment.

28. The placement of Petitioner in detention pending the resolution of ongoing immigration proceedings violates their 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

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

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

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

32. 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).

33. 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).

34. 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.

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

36. 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.

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

REMEDY

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

39. 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)).

40. A noncitizen seeking only to challenge the legality of their detention, not the substance of their removal proceedings in immigration court, may properly ask a federal court to find jurisdiction over such a request pursuant to 28 U.S.C. § 2241. *See, e.g., Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1154–55 (D. Minn. 2025).

41. 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 their 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).

42. 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").

43. 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.

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

REQUEST FOR ORDER TO SHOW CAUSE

45. 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.

46. 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. Pilatuna Gualoto prays that this Court grant the following relief;

(1) Assume jurisdiction over this matter;

(2) 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;

(3) 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

(4) Grant any other and further relief that this Court may deem just and proper.

Date: Jan. 24, 2026 */s/ Kira A. Kelley*

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Verification Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed the factual assertions in this petition with my investigator and Petitioner's family and friends, who are 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: Jan. 24, 2026 */s/ Kira A. Kelley*