

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
PETE V. DOMENICI U.S. COURTHOUSE
333 LOMAS BLVD. NW, SUITE 270
ALBUQUERQUE, NM 87102**

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
FEB 02 2026
MITCHELL R. ELFERS
CLERK

26cv227-KG-LF

IN THE MATTER OF:

POLANCO ALVARADO, Oliver Fernando

A#: 

Petitioner, PRO SE.

v.

U.S. DEPARTMENT OF HOMELAND SECURITY;

IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE);

ICE FIELD OFFICE DIRECTOR, ESTANCIA NM;

WARDEN OF THE DETENTION FACILITY,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS PRO SE

PURSUANT TO 28 U.S.C. § 2241

I. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody within this judicial district.
2. Venue is proper in the District of New Mexico, because Petitioner is physically detained at TORRANCE COUNTY DETENTION CENTER, COUNTY ROAD 49, ESTANCIA, NM 87016, within this district.
3. This Petition challenges the lawfulness and constitutionality of Petitioner's ongoing civil immigration detention.

II. PARTIES

4. Petitioner, OLIVER FERNANDO POLANCO-ALVARADO, is a native and citizen of Nicaragua, currently detained by Immigration and Customs Enforcement ("ICE").
5. Respondents are federal officials with custody and authority over Petitioner, including the Warden of TORRANCE COUNTY DETENTION CENTER, the ICE Field Office Director, and the Secretary of the Department of Homeland Security.

III. STATEMENT OF FACTS

6. Petitioner entered the United States through the southern border on November 13, 2022.
7. Upon entry, Petitioner was granted parole by the Department of Homeland Security.
8. Petitioner's parole was valid until January 12, 2023.
9. At no time after the expiration of parole did DHS issue or serve Petitioner with a Notice to Appear (NTA).
10. Petitioner has never appeared on the Immigration Court docket, nor has he ever been ordered removed.
11. Petitioner currently has a pending affirmative asylum application before USCIS, which has never been referred to the Immigration Court.
12. Petitioner has no criminal record, neither in the United States nor in Nicaragua.
13. Petitioner has remained compliant with U.S. immigration authorities and has never absconded, failed to appear, or violated any condition imposed upon him.

14. Petitioner possesses valid identification documents, including a passport, employment authorization, and Social Security number.

15. On Friday, January 9, 2026, Petitioner was arrested during a mass enforcement operation in Minnesota, without an individualized determination of danger or flight risk.

16. Following his arrest, Petitioner was transferred to Texas and was detained at ERO El Paso Camp East and then transferred back to the current detention center mentioned earlier.

17. ICE has not provided Petitioner with:

- A bond hearing,
- A custody determination by a neutral decision-maker,
- Or any explanation establishing lawful authority for continued detention.

18. A search of the Executive Office for Immigration Review (“EOIR”) Automated Case Information System using Petitioner’s Alien Registration Number confirms that no immigration court case exists for Petitioner.

19. Petitioner has never been placed in removal proceedings, has never been scheduled for a hearing, and has never failed to appear before an Immigration Judge.

20. DHS has therefore detained Petitioner outside any active removal process, without court jurisdiction or statutory authority.

IV. LEGAL STANDARD

21. A federal court may grant habeas relief when a petitioner is “in custody in violation of the Constitution or laws of the United States.” 28 U.S.C. § 2241(c)(3).

22. Civil immigration detention must comply with the Due Process Clause of the Fifth Amendment.

23. DHS bears the burden of justifying detention through individualized findings, not categorical assumptions.

V. ARGUMENT

A. ICE Lacks Statutory Authority to Detain Petitioner

- 24. The expiration of parole does not, by itself, confer detention authority upon DHS.
- 25. DHS failed to initiate removal proceedings by issuing or filing an NTA for over two years.
- 26. Absent pending removal proceedings, ICE lacks statutory authority to maintain custody.
- 27. Detention under these circumstances constitutes ultra vires action beyond DHS's legal power.

B. Petitioner's Detention Violates Due Process

- 28. Petitioner has been deprived of liberty without a hearing, without judicial review, and without individualized findings.
- 29. ICE has made no determination that Petitioner is a danger to the community or a flight risk.
- 30. Such detention is arbitrary, punitive, and unconstitutional, in violation of the Fifth Amendment.

C. Pending Affirmative Asylum Application Bars Arbitrary Detention

- 31. Petitioner's asylum case remains affirmatively pending before USCIS.
- 32. DHS has never referred Petitioner's case to Immigration Court.
- 33. While an affirmative asylum application is pending, DHS may not detain Petitioner absent lawful process and due process safeguards.
- 34. Immigration Judges derive jurisdiction only upon the filing of a Notice to Appear with the Immigration Court.
- 35. No such filing has occurred in this case, as confirmed by EOIR's own records.
- 36. Without EOIR jurisdiction, ICE lacks authority to detain Petitioner under removal statutes.
- 37. Continued detention in the absence of any pending removal proceedings constitutes unlawful executive detention in violation of due process.

D. Continued Detention Is Unreasonable and Unlawful

- 38. Petitioner's detention serves no legitimate governmental purpose.
- 39. Less restrictive alternatives to detention are plainly available.

40. Continued custody violates fundamental principles of liberty and proportionality.

VI. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Order Petitioner's immediate release from ICE custody;
- B. Alternatively, order a prompt custody hearing at which DHS bears the burden of proof;
- C. Grant any other relief this Court deems just and proper.

VII. VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on: 01/19/2026

OLIVER FERNANDO POLANCO-ALVARADO

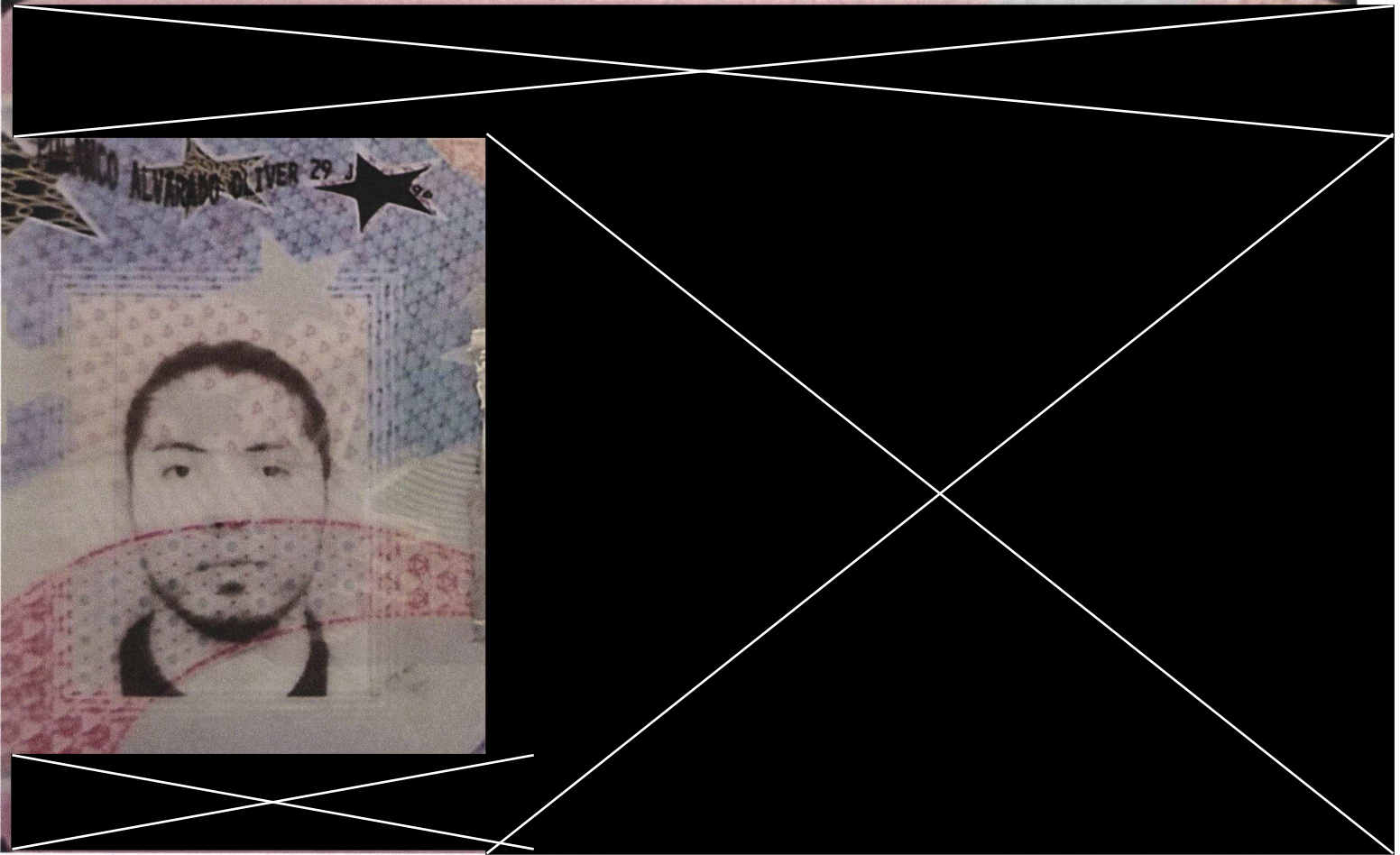
Petitioner, Pro Se

VIII. EXHIBITS

- Exhibit A – Passport
- Exhibit B – Parole / Entry Evidence
- Exhibit C – Pending Affirmative Asylum Proof
- Exhibit D – Employment Authorization
- Exhibit E – ICE Detainee Locator Printout
- Exhibit F – EOIR Automated Case Information (No Case Found for A-Number)

CONTROL Name (Last, First, Middle) [REDACTED]						
[REDACTED]		Age 26	Marital Status ☒ Single ☐ Married ☐ Divorced		File Number W2111190414 [REDACTED]	
Sex M	Hair BLK	Eyes BRO	Complexion MED	Height 68	Weight 145	Scars or Marks
U.S. Address/Mail (Number) (Street) (City) (State) (ZIP CODE) [REDACTED]						
[REDACTED]				Date of Action 11/13/2022	Location Code SGT	
City, Province (State) and Country of Birth CIMA, NICARAGUA				Country of Citizenship NICARAGUA		
Date, Place, Time, and Manner of Last Entry/Attempted Entry 11/11/2022, 1320, 1 mile(s) S of SGT, SGT					Status at Entry PMA Mexico	
Foreign Address/Residence (Number, Street, City, Province (State), Country) NICARAGUA						
Method of Location/Apprehension PB UNKNOWN			(At/Near) [REDACTED]		Date & Hour 11/11/2022 1321	





E



Official Website of the Department of Homeland Security



U.S. Immigration and Customs Enforcement



Main Menu

Search Results: 1

OLIVER FERNANDO POLANCO-ALVARADO

Country of Birth : Nicaragua

A-Number: 

Status : In ICE Custody

State: TX

Current Detention Facility: [ERO EL PASO CAMP EAST MONTANA](#)

** Click on the Detention Facility name to obtain facility contact information*

[BACK TO SEARCH >](#)

Was transfer.



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Court Closures Today January 19, 2026

Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.



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Welcome to the Automated Case Information System (ACIS). ACIS provides basic information about the status of certain cases before an immigration court or the Board of Immigration Appeals. Not all cases, or all information about a case is displayed. ACIS includes details regarding the primary case only. If there has been more than one case for the A-Number, ACIS displays the most recent case. Please contact your local court if you need bond hearing information.

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Enter your A-Number

A-Number *Required

What's an A-Number?

Nationality *Required

What is Nationality?

NICARAGUA (NU)

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SUBMIT

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Department of Justice | Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041



EOIR Automated Case Information

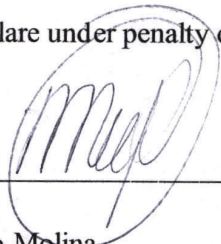
CERTIFICATE OF SERVICE

I, Mario Molina, hereby certify that a true and correct copy of this Petition was served upon the Respondents by U.S. mail.

Service was completed by mailing the documents to the last known addresses of the above-listed parties.

1. United States District Court
District of Nuevo Mexico,
Pete V. Domenici U.S. Courthouse
333 Lomas Blvd. NW, Suite 270
Albuquerque, NM 87102
2. TORRANCE COUNTY DETENTION CENTER,
Attn: Field Office Director / Warden
COUNTY ROAD 49,
ESTANCIA, NM 87016
3. United States Attorney's Office,
District of Nuevo Mexico,
201 3rd St. NW, Suite 900
Albuquerque, NM 87102

I declare under penalty of perjury that the foregoing is true and correct.



Mario Molina
Service Declarant

Date: 01/22/2026