

FILED

JAN 27 2026

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

DIEGO ALEJANDRO FREITES
VILLALOBOS,
Petitioner,

Civil Action No. **SA26CA0638 JKP**

v.

Immigration No. 

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security;
TODD LYONS, in his official capacity as
Acting Director of U.S. Immigration and
Customs Enforcement;
Jose Rodriguez, Jr., Field Office Director, San
Antonio Field Office, United States
Immigration and Customs Enforcement;
FACILITY ADMINISTRATOR, SOUTH
TEXAS ICE PROCESSING CENTER
Respondents.

**PLAINTIFF'S ORIGINAL
VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS PRO SE
UNDER 28 U.S.C. § 2241**

I. INTRODUCTION

1. Petitioner Diego Alejandro Freites Villalobos respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. §2241, challenging the lawfulness of his current civil immigration detention by U.S. Immigration and Customs Enforcement ("ICE").
2. Petitioner is currently detained in ICE custody within the jurisdiction of this Court, as reflected in the detention documentation filed in support of this Petition. See Ex. A.
3. Petitioner is in removal proceedings under INA §240, 8 U.S.C. §1229a, and has an upcoming immigration court hearing reflected in the record. See Ex. M.
4. Petitioner has also sought humanitarian protection and related immigration relief reflected in the record, including his asylum filing and supporting USCIS documentation. See Ex. J,

Ex. K. Petitioner has additionally been granted Temporary Protected Status (TPS) for a designated period, providing protection from removal during that period. See Ex. I.

5. This Petition is presented against the current legal backdrop in which immigration courts have relied on recent Board of Immigration Appeals (“BIA”) precedent, particularly Matter of Q. Li and Matter of Yajure Hurtado, to narrow or deny bond consideration in cases like Petitioner’s. See Ex. C. However, numerous federal district courts, including courts within the Fifth Circuit, have made clear that noncitizens detained under INA § 236(a) are entitled to individualized bond hearings. See Ex. G.
6. Despite this posture, immigration judges continue to refuse to provide noncitizens such as Petitioner with an individualized custody redetermination hearing, asserting a lack of jurisdiction based on erroneous BIA precedent. See Ex. F. The refusal to provide such a hearing violates the INA, the Due Process Clause of the Fifth Amendment, and the APA, because apprehension and detention from the interior is governed by INA §236(a), which provides that noncitizens are entitled to bond hearings.
7. Petitioner therefore petitions this Court for habeas relief under 28 U.S.C. §2241 and seeks injunctive relief directing Respondents to release him or provide him with an individualized custody hearing, or release him under reasonable conditions without delay, to restore Petitioner’s constitutional and statutory rights and to prevent continued unlawful detention.
8. Petitioner seeks immediate release, or in the alternative, a constitutionally adequate bond hearing at which the Government bears the burden of proof.

II. JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction under 28 U.S.C. §1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202.
10. This Court has jurisdiction under 28 U.S.C. §2241 because Petitioner Diego Alejandro Freites Villalobos is in federal custody and challenges the legality of that custody under the Constitution and laws of the United States. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. §1651. See Ex. A.
11. Venue is proper in the Western District of Texas because Petitioner is physically detained at the South Texas ICE Processing Center in Pearsall, Texas, and his immediate custodian is located within this District. See Ex. A.
12. Jurisdiction and venue are proper under *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004), because this Petition names Petitioner's immediate custodian and is filed in the district of confinement.

III. PARTIES

13. Petitioner, Diego Alejandro Freites Villalobos, A#  is a citizen and national of Venezuela. Petitioner is currently in active removal proceedings under 8 U.S.C. § 1229a (INA § 240).
14. Respondent, Facility Administrator (or Warden), South Texas ICE Processing Center, is Petitioner's immediate custodian.
15. Respondent, KRISTI NOEM, is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is sued in her official capacity.

16. Respondent, TODD LYONS, is the Acting Director of Immigration and Customs Enforcement (“ICE”), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

IV. STATEMENT OF FACTS

17. Petitioner, Diego Alejandro Freites Villalobos, A#  is a citizen and national of Venezuela.
18. Petitioner has been granted Temporary Protected Status (TPS). His TPS approval notice reflects that his TPS was valid from October 11, 2024 through April 2, 2025. See Ex. I.
19. On December 10, 2025, the United States District Court for the Northern District of California issued a declaratory judgment in *National TPS Alliance, et al. v. Kristi Noem, et al.*, holding that DHS’s actions affecting Venezuela’s Temporary Protected Status were unlawful under the Administrative Procedure Act, including vacatur of the January 17, 2025 TPS extension and the termination of Venezuela’s 2023 TPS designation. Therefore, Petitioner’s TPS remains valid pursuant to ongoing federal litigation and court-ordered relief. See Ex. H.
20. Petitioner is currently in ICE custody, as reflected in the detention information submitted with this Petition. See Ex. A.
21. Petitioner’s immigration case is pending and he has a scheduled immigration court hearing, as reflected in the automated case information. See Ex. M.
22. Petitioner has a pending asylum application, supported by his filing and USCIS receipt documentation. See Ex. J, Ex. K.

23. Petitioner has also been authorized to work in the United States, as reflected in his employment authorization documentation. See Ex. L.
24. ICE previously issued custody documentation in Petitioner's case reflecting release on recognizance and supervision conditions, and Petitioner has consistently complied with immigration requirements and check-ins as directed. See Ex. B.
25. DHS's official custody documentation confirms that Petitioner was arrested and detained pursuant to INA §236(a), not INA §235(b). DHS issued Petitioner an Order of Release on Recognizance (Form I-220A) and a Notice of Custody Determination (Form I-286) expressly citing §236 and advising Petitioner of his right to request an Immigration Judge custody redetermination, which Petitioner affirmatively requested. See Ex. B.
26. DHS's own records therefore establish that DHS exercised §236(a) arrest and custody authority, and not mandatory detention authority under §235(b).
27. Petitioner has no criminal history and no record of noncompliance. See Ex. Q, Ex. R.
28. Petitioner has established strong family and community ties in the United States, including a long-term relationship with his partner and a shared household. See Ex. Q.
29. Petitioner and his partner share significant financial responsibilities, including tax filings and related obligations. See Ex. P.
30. Petitioner's partner is experiencing serious medical conditions requiring ongoing monitoring and care, and Petitioner's detention has created substantial hardship and instability for the household. See Ex. O, Ex. Q.
31. Petitioner also supports family members in Venezuela by sending remittances to cover basic necessities. See Ex. R.

32. Multiple individuals who know Petitioner personally have provided support letters describing his good moral character, responsibility, stability, and consistent compliance with all requirements imposed by immigration authorities. See Ex. R.
33. Petitioner respectfully submits that, based on his documented compliance, lack of criminal history, pending protection-based claims, and substantial equities, his continued detention serves no legitimate governmental purpose and causes severe and ongoing harm.

V. LEGAL STANDARD

34. Immigration detention is governed primarily by two provisions of the INA: Section §235(b) [8 U.S.C. §1225(b)] and Section 236(a) [8 U.S.C. §1226(a)]. Whereas Section §236(a) authorizes discretionary custody and permits release on bond or conditional parole pending removal proceedings, Section §235(b) applies to certain categories of “arriving aliens” and mandates detention during expedited removal or threshold screening processes.
35. Section §236(a) is the default detention framework for noncitizens placed in regular removal proceedings under INA §240. The statutory text expressly provides for release on bond (or conditional release), subject only to conditions reasonably necessary to ensure appearance and protect the community.
36. The Supreme Court has confirmed the distinction between these statutory schemes. *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining the differences between §1225(b) mandatory detention and §1226(a) discretionary custody). The Board of Immigration Appeals likewise recognized for decades that individuals in §240 proceedings are generally eligible for custody redeterminations under §1226(a). *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

37. Notwithstanding this statutory scheme, DHS has invoked recent BIA decisions, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), to restrict or deny immigration judges' bond authority in cases where a detainee has been placed in §240 proceedings and seeks an individualized custody redetermination. See Ex. F.
38. In 2025, multiple district courts addressed habeas petitions raising the Government's efforts to expand §1225(b)(2)(A) beyond its intended scope and concluded that the clear and unambiguous language of INA §236(a) permits noncitizens in circumstances like Petitioner's—i.e., individuals in removal proceedings who seek individualized custody review—to request bond hearings before the immigration court. See Ex. G.
39. For example, in *Santos v. Noem*, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the court emphasized that habeas relief is proper to correct statutory misclassification and to preserve due process. In *Kostak v. Trump*, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the court ordered bond eligibility under §1226(a), rejecting the Government's assertion that §1225(b) applied. Likewise, in *Salazar v. Dedos*, 2025 U.S. Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under §1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause. See Ex. G.
40. Similarly, *Lopez v. Hardin*, 2025 U.S. Dist. LEXIS 188368 (N.D. Tex. 2025), and *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (S.D. Tex. 2025), further confirm that courts are rejecting efforts to apply §1225(b)(2)(A) to individuals who are properly subject to §1226(a). See Ex. G.

41. These holdings reflect the principle that federal district courts retain jurisdiction to intervene where detention rests on statutory error and results in ongoing constitutional harm. The cumulative weight of these decisions underscores that Petitioner is entitled to individualized custody consideration consistent with §1226(a) and due process.
42. As set forth in DHS's own custody records, Petitioner was arrested and detained under INA §236(a), and DHS advised Petitioner of his right to Immigration Judge custody review, which Petitioner requested. See Section IV, *supra*.
43. Immigration detention is civil, not punitive, and must comply with the Fourth Amendment and the Fifth Amendment Due Process Clause. Habeas relief is appropriate where detention is unlawful at its inception, becomes constitutionally excessive, or lacks adequate procedural safeguards.

VI. CLAIMS FOR RELIEF

Count I – Violation of INA §236(a) [8 U.S.C. §1226(a)]

44. Petitioner incorporates by reference the foregoing allegations and re-alleges them as if fully set forth herein.
45. As courts have repeatedly emphasized, agency adjudication cannot override the plain language of the INA.
46. Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and applicable governing law. See Ex. C; Ex. F.
47. INA §236(a), 8 U.S.C. §1226(a), provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and that the Attorney General "may continue to

detain the arrested alien” or “may release the alien on—(A) bond of at least \$1,500 ...; or (B) conditional parole.”

48. By its plain text, §1226(a) applies to noncitizens arrested and detained pending removal proceedings unless mandatory detention under §1226(c) applies.
49. Petitioner is in removal proceedings under INA §240, 8 U.S.C. §1229a. See Ex. M. Accordingly, Petitioner’s custody is governed by §1226(a), not §1225(b).
50. By adopting and applying a policy and/or practice that deprives Petitioner of an individualized bond hearing consistent with §1226(a), Respondents have acted contrary to statutory authority requiring individualized custody consideration.
51. Once DHS elected to arrest Petitioner under INA §236(a), issued a custody determination under §236, and advised him of the right to Immigration Judge review, DHS exhausted its discretion to invoke §235(b). The statute does not permit DHS to retroactively reclassify detention authority years later to avoid bond jurisdiction.
52. Even assuming arguendo §235(b) applies, prolonged mandatory detention without individualized review violates the Fifth Amendment.
53. Where detention rests on a statutory misapplication, particularly where DHS attempts to treat a noncitizen as subject to §1225(b) despite placement in §240 proceedings, habeas relief is an appropriate vehicle to correct the legal error and to prevent ongoing constitutional harm.
54. Petitioner therefore seeks habeas relief ordering that he receives an individualized custody redetermination hearing under INA §236(a) without delay, consistent with the INA and due process.

Count II – Violation of the Fifth Amendment (Due Process)

55. Petitioner incorporates by reference the foregoing allegations and re-alleges them as if fully set forth herein.
56. Petitioner's continued civil detention without a meaningful individualized custody redetermination hearing violates the Due Process Clause of the Fifth Amendment.
57. Petitioner has pending protection-based proceedings and associated filings reflected in the record. See Ex. J, Ex. K, Ex. M.
58. The record reflects substantial equities supporting release and demonstrating that Petitioner is neither a danger to the community nor a flight risk, including documented compliance, family/community ties, and corroborating support letters. See Ex. Q, Ex. R, Ex. P, Ex. O.
59. Yet Petitioner remains detained without a constitutionally adequate process that provides a meaningful individualized determination and places the burden on the Government to justify continued detention
60. Continued detention under these circumstances is arbitrary, excessive, and unconstitutional.
61. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the balance of interests weighs decisively in Petitioner's favor because his fundamental liberty interest in freedom from physical restraint is substantial, the risk of erroneous deprivation is unacceptably high where custody determinations are made categorically without individualized review, and the government's interest in continued detention is minimal. Due process therefore requires, at a minimum, a prompt individualized bond hearing at which the Government bears the burden of justifying continued detention.

62. Because physical liberty is at stake, due process requires that the Government, not the detainee, bear the burden of justifying continued civil detention by clear and convincing evidence at any bond hearing.
63. Accordingly, the Court should grant habeas relief on constitutional grounds and order Petitioner's immediate release, or in the alternative, order an immediate constitutionally adequate bond hearing. See Ex. G.

Count III – Unlawful Agency Action (APA), 5 U.S.C. §§ 701–706

64. Petitioner incorporates by reference the foregoing allegations and re-alleges them as if fully set forth herein.
65. Respondents' continued detention of Petitioner without affording him an individualized custody redetermination hearing constitutes unlawful agency action under the Administrative Procedure Act. See Ex. C; Ex. E; Ex. F.
66. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA §236(a), consistent with statutory text and constitutional principles. See Ex. G.
67. In 2025, the BIA issued decisions that have been invoked to restrict immigration judges' bond authority for a broad class of detainees, including individuals in proceedings like Petitioner's. See Ex. C.
68. The APA requires reasoned decision-making and prohibits arbitrary or capricious action. 5 U.S.C. §706(2)(A). Abrupt departures from longstanding practice without adequate explanation, and policies that conflict with the INA's text, are unlawful. See Ex. E, Ex. F.

69. The record reflects that immigration judges have relied on the recent BIA framework to deny or refuse bond jurisdiction in substantially similar circumstances, rendering the denial of custody redetermination highly likely absent judicial intervention. See Ex. F.
70. DHS's blanket reliance on Matter of Q. Li and Matter of Yajure Hurtado to deny custody jurisdiction constitutes unlawful agency action not in accordance with law and in excess of statutory authority under the APA, 5 U.S.C. § 706.
71. Although Petitioner has not filed a bond application since entering ICE custody on or about December 3, 2025, doing so would be futile, because immigration judges have repeatedly declined to exercise bond jurisdiction in materially identical cases, expressly relying on the recent BIA policy shift reflected in Matter of Q. Li and Matter of Yajure Hurtado. See Ex. F (Sample IJ Bond Decision). By treating individuals such as Petitioner as subject to mandatory detention under INA §235(b), Respondents have applied an unlawful and arbitrary interpretation of the statute that is inconsistent with the plain language of INA §236(a) and unsupported by reasoned analysis.
72. This APA claim is asserted only insofar as Respondents' unlawful agency action directly results in Petitioner's continued physical detention and deprivation of liberty
73. Accordingly, Respondents' refusal to provide Petitioner an individualized custody redetermination hearing constitutes unlawful agency action, and this Court should grant habeas relief to remedy the violation. See Ex. F.

Count IV – Violation of the Fourth Amendment (Unlawful Seizure)

74. Petitioner incorporates by reference the foregoing allegations and re-alleges them as if fully set forth herein.

75. To the extent established by the factual record, Petitioner challenges the lawfulness of the seizure and arrest that resulted in his ICE custody.
76. A seizure without lawful authority, warrant, or constitutionally sufficient cause violates the Fourth Amendment and may warrant habeas relief and/or appropriate injunctive relief where continued custody is the fruit of an unlawful seizure.
77. Petitioner therefore seeks relief declaring that the seizure and resulting detention were unlawful and ordering release or other appropriate relief consistent with the Constitution and laws of the United States, as supported by the record.
78. Petitioner seeks this relief only to the extent supported by the evidentiary record and without disturbing the Court's resolution of the primary statutory and due process claims.

VII. EXHAUSTION

79. Petitioner has no adequate or effective administrative remedy to address the constitutional and statutory violations described herein in a timely manner. Accordingly, exhaustion should be excused and habeas relief is appropriate. See Ex. F; Ex. C.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Declare that Petitioner's continued detention is unlawful;
- B. Order Petitioner's immediate release from ICE custody;
- C. In the alternative, order Respondents to provide Petitioner with an individualized bond hearing under INA §236(a), 8 U.S.C. §1226(a), within seven (7) days of the Court's Order;

- D. In the alternative, order a prompt and constitutionally adequate bond hearing at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary;
- E. Grant such other and further relief as the Court deems just and proper.

IX. VERIFICATION

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

Date: 01/22/2026

Signature: Diego Freites

Diego Alejandro Freites Villalobos

A# 

Petitioner, Pro Se

X. CERTIFICATE OF SERVICE

I certify that on this date, I served a copy of the foregoing Petition for Writ of Habeas Corpus by U.S. Mail on the United States Attorney for the Western District of Texas, the Attorney General of the United States, and the Facility Administrator of the South Texas ICE Processing Center.

Date: 01/22/2026

Signature: Drago Freides

Petitioner, Pro Se

United States Attorney's Office — Western District of Texas
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Kristi Noem (in her official capacity as Secretary)
Secretary of Homeland Security
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, D.C. 20528

Todd M. Lyons (in his official capacity), Acting Director
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South Texas ICE Processing Center
Facility Administrator (Custodian)
566 Veterans Drive
Pearsall, Texas 78061

Office of the Principal Legal Advisor (OPLA)
South Texas ICE Processing Center
566 Veterans Drive
Pearsall, Texas 78061

INDEX OF EXHIBITS IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

<u>Exhibit</u>	<u>Description</u>
A.	Proof of Detention Information
B.	Order of release I-220
C.	Recent BIA Decisions on Bond • <i>Matter of Q. Li</i>, 29 I&N Dec. 66 (BIA 2025) • <i>Matter of Yajure Hurtado</i>, 29 I&N Dec. 216 (BIA 2025)
D.	Venezuelan Passport
E.	Group Exhibit: Pre-2025 Unpublished BIA Bond Decisions • <i>Matter of Guerra</i>, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests) • <i>In re L-E-V-H-</i>, A [REDACTED] (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien"); • <i>In re A-R-S-</i>, A [REDACTED] (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien"); and • <i>In re M-D-M-</i>, A [REDACTED] (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years) • <i>In re F-P-J-</i>, A [REDACTED] (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years)
F.	Sample of IJ Decisions Denying Bond
G.	Appendix of Recent Habeas Decisions

- H. TPS-Alliance Membership and National TPS Alliance, et. al., v. Kristi Noem, et. al.
- I. I-797 I-821 Receipt 2025
- J. I-797 I-589 Receipt
- K. I-589 Asylum application
- L. Employment EAD
- M. Automated Case - Next Hearing
- N. AT&T Bill Proof of Address
- O. Medical Report
- P. Taxes 2024 Diego Freitas y Ricci Ramirez
- Q. Family Ties - Ricci Ramirez
- R. Letter of Support

Diego Alejandro Freites Villalobos
A# 
South Texas ICE Processing Center
Pearsall, Texas

Date: January 20, 2026

Clerk of Court
United States District Court
Western District of Texas
San Antonio Division

Re: Diego Alejandro Freites Villalobos v. Noem, et al.

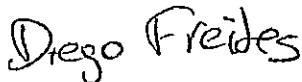
Petition for Writ of Habeas Corpus, 28 U.S.C. § 2241

Dear Clerk of Court:

Please find enclosed for filing Petitioner's Original Verified Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, along with the Application for Issuance of an Order to Show Cause, Emergency Motion for Temporary Restraining Order and Non-Transfer Order, proposed orders, and Index of Exhibits.

Petitioner is proceeding pro se and respectfully requests that the documents be filed and assigned a case number. A self-addressed stamped envelope is enclosed for the return of file-stamped copies.

Thank you for your assistance.



Respectfully submitted,

Diego Alejandro Freites Villalobos

A# 

Petitioner, Pro Se