

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Nicolas SALGADO VILLEGAS,

Petitioner,

v.

Sylvester ORTEGA, Field Office Director of
Enforcement and Removal Operations, San
Antonio Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Charlotte
COLLINS, Warden of T. Don Hutto Detention
Center,

Respondents.

Case No. 1:26-cv-285-ADA

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

INTRODUCTION

1. Petitioner Nicolas SALGADO VILLEGAS brings this first amended petition for a writ of habeas corpus to seek enforcement of their rights under the Fifth Amendment's Due Process Clause and the Immigration and Nationality Act. Petitioner submits the amended petition pursuant to Fed. R. Civ. P. 15(a)(1)(A) or (B).

2. The Petitioner entered the United States without inspection more than 35 years ago and has strong ties to his family and community. He has three U.S. citizen children and one grandchild that he regularly sees, has worked for the same company for over 30 years, and is currently paying the mortgage of his home. The Petitioner was detained in a routine traffic stop on approximately January 22, 2026 and was turned over to the DHS. He is currently detained in Taylor, Texas.

JURISDICTION

3. Petitioner is in the physical custody of Respondents. Petitioner is detained at the T. Don Hutto Detention Center.

4. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

5. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

6. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Texas, the judicial district in which Petitioner currently is detained.

7. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court should grant the petition for writ of habeas corpus expeditiously, as the legal issues have already been resolved by this Court in numerous cases with similar facts.

9. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

10. Petitioner Nicolas SALGADO VILLEGAS, has been in immigration detention since January 22, 2026.

11. Respondent Sylvester M. ORTEGA is the Director of the San Antonio Field Office of ICE’s Enforcement and Removal Operations division. As such, Sylvester M. ORTEGA is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

12. Respondent Kristi NOEM is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and

Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. NOEM has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

14. Respondent Pamela BONDI is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

15. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

16. Respondent Charlotte COLLINS is employed by CoreCivic as Warden of the T. Don Hutto Detention Center, where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

CLAIM FOR RELIEF:
Procedural Due Process Claim
Fifth Amendment of the U.S. Constitution

17. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

18. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court has recently recognized, this

constitutes “the most elemental of liberty interests.” *Martinez v. Sec. of Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)).

19. That liberty is protected by the Fifth Amendment because, “although indeterminate, it includes many of the core values of unqualified liberty,” such as the ability to work and reside with family, and its termination imposes a “grievous loss” on the released individual and often on others. *Morrissey v. Brewer*, 408 U.S. 471 (1972).

20. To guard against arbitrary detention, due process requires adequate procedural safeguards to assess whether the government’s asserted grounds for confinement outweigh the individual’s constitutionally protected interest in freedom from physical restraint. *Zadvydas*, 533 U.S. at 690.

21. Federal district courts in the 5th Circuit, and across the nation have recognized that habeas corpus is fundamental to ensuring that immigration detention is not arbitrary, unlawful, or inconstant with due process. *See, e.g., Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v. Noem*, --- F. Supp. 3d ---, No. 5:25-CV-05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar); *Hassen v. Noem*, 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026) ; *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).

22. The Respondents contend that the Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2). As stated above, Petitioner contends he is not detained under this provision.

Regardless, Petitioner's Due Process claim for relief is not affected by the recent Fifth Circuit decision in *Buenrostro-Mendez v. Bondi* as this claim for relief is based on his procedural due process rights. No. 25-20496, ---F.th---, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

23. The courts use a three-part test set forth in *Mathews v. Eldridge*, 42 U.S. 319 (1976). The three factors are: 1) the private interest that will be affected by the official action; (2) the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail; and (3) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards. *Id.* at 335. Each of these factors, when applied to this case, weigh in favor of relief.

24. The first *Mathews* factor weighs in Petitioner's favor. "The interest in being free from physical detention" is "the most elemental of liberty interests." *Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). Federal courts in Texas have found that noncitizens have a protected liberty interest in their freedom, regardless of citizenship status, when they have spent time living, working, or supporting a family in the interior of the United States. *See, e.g., Lopez Miranda v. Flores*, No. EP-25-CV-584-KC, 2025 WL 3901908, at *3 (W.D. Tex. Dec. 10, 2025); *Chinchilla v. De Anda-Ybarra*, No. EP-25-CV-00548-DB, 2025 WL 3645178 (W.D. Tex. Dec. 16, 2025) (finding noncitizen has protectable liberty interest because he was "living in the United States for over four years and attends his local church"); *Hernandez-Fernandez*, 2025 WL 2976923 at *9 ("Because he spent nearly three years at liberty in the United States, [petitioner] possesses a cognizable interest in his freedom from detention."). As previously

noted, the Petitioner has lived in the United States for over three decades, has children, a mortgage, and steady employment.

25. The second factor, risk of erroneous deprivation, also weighs in favor of relief. The government's refusal to provide bond hearings creates a high risk of erroneous deprivation, since the process afforded in removal proceedings does "not ameliorate the risk that [a petitioner] will be erroneously deprived of his liberty while his removability is assessed." *See Rojas v. Noem*, 2025 WL 3038262 at *3-*4. Bond hearings that "conduct individualized custody determinations considering flight risk and dangerousness" are the precise "type of proceeding that would give [a noncitizen] an opportunity to be heard and to receive a meaningful assessment of whether he is dangerous or likely to abscond." *Id.* at *4. The Petitioner has not been afforded any opportunity to present evidence that would show he is not a flight risk nor a danger to the community.

26. Finally, the third factor in the analysis also weighs in favor of relief. Regardless of the government's purported interest in enforcing its interpretation of the immigration detention statutes, a habeas petitioner's "constitutional interest in his liberty exists above and apart from the INA." *Rojas*, 2025 WL 3038262 at *4 (citing *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) ("[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.")). Further, while the government "has an interest in ensuring that noncitizens appear for their removal hearings and do not pose a danger to the community," such interest "would be squarely addressed through a bond hearing." *Id.* (citing *Martinez v. Noem*, 2025 WL 2598379 at *4 (W.D. Tex. Sep. 8, 2025)).

Statutory Claim

27. The Department of Homeland Security (“DHS”) asserts that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b), despite Congress’s separate detention framework in 8 U.S.C. § 1226(a), which governs interior arrests and provides discretionary bond and immigration-judge (“IJ”) review.

28. DHS’s position was recently endorsed by the Board of Immigration Appeals in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 220 (B.I.A. 2025). This interpretation contradicts the Immigration and Nationality Act’s (INA) text, the canon against surplusage, longstanding administrative practice, and Due Process. It effectively erases section 236(a) of the INA, collapses Congress’s dual-track detention scheme, and imposes categorical detention on long-time residents like the Petitioner, who present no danger and are not flight risks.

29. Petitioner acknowledges the recent decision by the 5th Circuit in *Buenrostro*, nonetheless asserts this claim for relief to preserve further review.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner; and
- c. Grant any other and further relief that this Court deems just and proper.

DATED this 12th day of February 2026.

Respectfully Submitted,

/s/ Claire E. Rodriguez

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