

JUDGE DAVID GUADERRAMA

UNITED STATES COURT
FOR THE WESTERN DISTRICT OF TEXAS

Taras Pilipenko

A# 

Petitioner,

v.

Pam Bondi, ATTORNEY GENERAL,
Kristi Noem, SECRETARY OF THE
DEPARTMENT OF HOMELAND
SECURITY, Maria Deandra Ybara,
U.S. ICE FIELD OFFICE DIRECTOR,

Respondents

FILED
FEB 05 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

EP 26CV0348

Civil Action No.
PETITION FOR A WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. §2241, BY A
PERSON SUBJECT TO
INDEFINITE IMMIGRATION
DETENTION.

BACKGROUND

1. Petitioner, Taras Pilipenko, hereby petition this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondent. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

2. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the El Paso Processing Center in El Paso, Texas. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

3. The constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525, 124 S. Ct. 2633, 159 L. Ed. 2d 578 (2004). (citing U.S. CONST. Art. 1, §9, cl.2) This includes immigration related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). The petitioner seeking habeas relief must demonstrate they are in custody in violation of the Constitution or federal law. 28 U.S.C. §2241 (c)(3); *Walker v. Johnston*, 312 U.S. 275, 286, 61 S. Ct. 574, 85 L. Ed. 830 (1941).

4. In recent cases the government has brought forward arguments based on 8 U.S.C. §1252(g) and §1252(b)(9). But the Court of Western District of Texas has already rejected these arguments. *Vieira v. De Andra-Ybarra*, No. EP-25-CV-00432-DB, 2025 U.S. Dist. LEXIS 203930, 2025 WL 2937880 at *3 (W.D. Tex. Oct. 16, 2025).

EXHAUSTION OF REMEDIES

5. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

6. The Petitioner's Order of Supervision was revoked unlawfully and;

7. The Petitioner was denied a bond hearing based on a misinterpretation of statute and is now being detained unlawfully. (Exhibit F)

PARTIES

8. Petitioner is a native of Russia who was detained at the U.S. and Mexico border in March, 2022. He was paroled into the U.S. in April, 2022. When reporting for his Order of Supervision in August, 2025 he was detained by ICE and placed into custody. He is now detained in the El Paso Processing Center.

9. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration and Naturalization Act (INA). As such, Pam Bondi has ultimate custodial authority over Petitioner.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Kristi Noem is the legal custodian of Petitioner.

11. Respondent Maria Deanda Ybara is the ICE Field Office Director of the EOIR Field Office of ICE and is Petitioner's immediate custodian. *See Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. Denied, 122 S. Ct. 43 (2001).

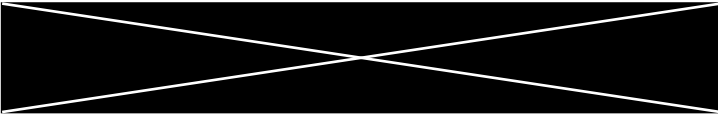
HISTORY

12. I, Taras Pilipenko, was born  in Iskitim, Russia. In the year of 1999 when I was four years old my family and I relocated to Venev, Russia.

13. From a young age I participated in political movements that were in opposition to the Russian regime.

14. In March 4, 2022 I left Russia after the war began with Ukraine. I was not in agreement with the political atmosphere in the country and felt that I would be prosecuted for my political ideas. My fears were based on factual events that took place.

15. I have been previously arrested in Russia for my political opinions. As well as I have been



16. In March 22, 2022 I arrived at the United States and Mexico border Port of Entry San Ysidro. I requested asylum from the United States government from the Customs and Border Patrol (CBP) officer.

17. I was detained and placed into ICE custody pending investigation. On April 12, 2022 I was released on Parole and placed on an Order of Supervision (OSUP).

18. While on OSUP I was required to comply with periodic check-ins with which I complied for over three years. During the first year of parole and of being in the U.S. I filed I-589 application as required. (Exhibit C)

19. I was also granted Employment Authorization that has been extended at least once.

20. In June, 2024 I had a disagreement with my girlfriend at the time. The police was called and I was arrested for domestic violence. I was released after three days and the charges were dropped from a felony to a misdemeanor. I was never convicted of the crime and the case is still pending. The latest update in the criminal proceeding is the offer from prosecution to drop the charges to a public disturbance if I complete certain classes. I was enrolled in the classes and completed half of the course because once I detained by ICE I can not continue the classes. (Exhibit H)

21. Later in the year of 2024 I was reconciled with my previous girlfriend who I had a relationship with in the year of 2022. On December 19, 2024, Olga Prakapenkava and I were married. Olga is a U.S. Citizen and I and her applied I-130 and I-485 forms for a change of status. (Exhibit B, D)

22. In February, 2025 I had a scheduled ICE OSUP check-in. Approximately nine months have passed since my arrest by the police and when I arrived for my check-in I was informed to return in approximately six months on the date of August 19, 2025.

23. August 19, 2025 when I reported for the required check-in I was detained without cause. I asked the ICE officer who was detaining me for the reason I was being detained and they informed me that they had a change of policy. (Exhibit E)

24. I have been in ICE detention since August 19, 2025. When I requested a bond hearing I was told that I do not qualify. (Exhibit F)

25. During my detention I passed Credible Fear Interview. An asylum officer has found that I had demonstrated a credible fear of prosecution and/or torture. I was told that I have enough evidences and the decision is positive. (Exhibit G)

26. My wife resides in San Francisco, California. If I was to be released I would live at  with my wife. (Exhibit D)

COUNT ONE SUBSTANTIVE DUE PROCESS VIOLATION LEGAL FRAMEWORK:

27. The Respondents are detaining Petitioner without a bond because they have deemed him detained under 8. U.S.C. §1225, but the Petitioner should be deemed detained under 8. U.S.C. §1226. (Exhibit E)

28. Petitioner's detention violates (1) the due process clause of the Fifth Amendment and (2)

provisions of the INA. His detention violates the plain language of the INA because §1225 does not apply to individuals who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, §1226(a) that (1) expressly applies to individuals who are charged as inadmissible for having entered the United States without inspection and (2) allows for release on conditional parole or bond.

29. Respondents' new legal interpretation based on the BIA ruling, In *Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025), is plainly contrary to the statutory framework and contrary to decades of agency practice applying §1226(a) to people like the Petitioner.

30. Petitioner was initially detained more than three years ago, was released on his own recognizance, and "has been present without a determination of inadmissibility within two years of Petitioner's entry." *Lopez v. Lyons*, No. 2:25-CV-03174-DJC-CKD, 2025 WL 3124116, at *2 (E.D. Cal. Nov. 7, 2025). Therefore, §1226 applies to the Petitioner.

31. Petitioner was not "arriving" at the time of his detention, and so § 1225(b)(1)(A)(i) does not apply. He has been present in the United States for more than two years, and so §1225(b)(1)(A)(iii) does not apply.

32. For the reasons set forth in numerous district court decisions in the past few months, §1225(b)(2) does not apply to persons like the Petitioner who were previously taken into custody and then released (such as under parole or supervised release). See *Afghan v. Noem*, No. 25-cv-4105-SAG, 2025 WL 3713732, at *1 (D. Md. Dec. 23, 2025) ("The primary issue in this case is one that has been considered in hundreds of federal courts over recent weeks—whether Petitioner is subject to mandatory detention under 8 U.S.C. §1225(b)(2) or is entitled to a hearing before an administrative judge to seek bond under 8 U.S.C. §1226(a). The overwhelming majority of courts to have considered the issue have ruled that Petitioner (and similarly situated aliens who have been in this country for years) are in the latter category.") (citing cases); see also, e.g., *Velasquez v. Noem*, No. 25-cv-3215-GLR, -- F. Supp. 3d ---, 2025

WL 3003684, at *4–7 (D. Md. Oct. 27, 2025); *Maldonado de Leon v. Baker*, No. 25-cv-3084-TDC, 2025 WL 2968042, at *8 (D. Md. Oct. 21, 2025); *Guerrero Orellana v. Moniz*, No. 25-cv-12664-PBS, -- F. Supp. 3d ---, 2025 WL 2809996, at *5–9 (D. Mass. Oct. 3, 2025).

COUNT TWO PROCEDURAL DUE PROCESS VIOLATION LEGAL FRAMEWORK:

33. The Petitioner’s detention violates the Fifth Amendment’s Due Process Clause. The Fifth Amendment’s Due Process Clause forbids the government to “deprive any person... of... liberty... without due process of law.”

34. The Petitioner is not challenging his removal proceedings, but rather his detention during the removal proceedings. The Petitioner was not detained at the border on the threshold of initial entry, but rather after living in the United States since 2022. “Once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. at 693.

35. To determine whether there is a Procedural Due Process violation the Supreme Court has applied the “Matthew” test, “to determine whether a civil detention violates a detainee’s due process rights, courts apply the three-part test set forth in *Matthew v. Eldridge*, 4243 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976).” *Maritinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 U.S. Dist. LEXIS 174 415, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025).

36. The three-part test consists of (3) factors: (1) “the private interest that will be affected by the official action”; (2) “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”; (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.”

THE 1ST MATTHEW FACTOR:

37. The Petitioner has been living in the United States since 2022. Therefore he has acquired a liberty interest. “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty [Due Process] Clause protects. *Zadvydas*, 533 U.S. at 690. In the case of *Dominguez v. Noem*, 2026 U.S. Dist. LEXIS 3031, the Court has stated, “Like many courts across the country dealing with similar circumstances, the Court finds Petitioner possess a strong liberty interest in his freedom from detention because he has established a life here – albeit without authorization.”

38. The Petitioner was paroled into the United States and has participated with compliance in his Order of Supervision (OSUP). He filed a I-589 application within the first year of being in the U.S., as required. He has also married a U.S. Citizen, Olga Prakapenkava, and applied I-130 and I-485 forms for a change of status. The Petitioner has lived in this country for over three years before ICE revoked his OSUP and placed him in detention. (Exhibit B, C)

THE 2ND MATTHEW FACTOR:

39. The Petitioner is faced with a substantial risk of erroneous deprivation of his interest in being free from arbitrary confinement pending resolution of his removal proceedings. The risk lies in the continued deprivation of liberty based on a decision made by ICE but without any oversight and/or review of said decision. The Petitioner’s OSUP was revoked without cause and Respondents failed to comply with the OSUP revocation procedures set forth in 8 C.F.R. §241.4(l)(1-2) and 241.13(h)(4)(i)(3) when revoking Petitioner’s Order of Supervision.

40. The value of additional safeguards is high given that it would allow an immigration judge to conduct a hearing to determine whether continued detention is necessary and/or allow the federal court to rule in favor of reinstatement of Order of Supervision.

THE 3RD MATTHEW FACTOR:

41. The Petitioner has showed himself to be compliant with all requirements of his OSUP. He was present for all of his check-ins as required. His wife is a U.S. Citizen who currently resides

in the U.S. where the Petitioner will be living if released from detention. The Petitioner does not have any criminal convictions and there is no record to show he is a danger to the community. Therefore in the interest of ICE, and his own, the Petitioner would not be a flight risk nor a danger to the community. The governments interest is generally protected by affording a bond hearing and/or OSUP requirements.

42. Any fiscal or administrative burdens on the government's part would not be significant in contrast to the fiscal and administrative necessities entailed in detaining an individual. ICE had placed the Petitioner on Order of Supervision (OSUP) before, therefore there are no unforeseen administrative burdens. ICE also has in the past and continues to now conduct bond hearings.

CONCLUSION:

43. The Petitioner has been detained unlawfully because his Order of Supervision was revoked without cause. He is also being detained under the wrong statute and therefore is being denied a bond hearing.

RELIEF SOUGHT:

Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody under reasonable conditions of supervision or to provide a bond hearing.

I affirm, under penalty of perjury, that the foregoing is true and correct. Respectfully submitted
this

Taras Pilipenko, *Pro Se*

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El Paso SPC

8915 Montana Ave

El Paso, Texas 79925

CERTIFICATE OF SERVICE

I, Taras Pilipenko, certify that a true copy of the above document (Petition for Writ of Habeas Corpus) was served on Feb 02, 2026, upon the following:

Western District Court of Texas
Albert Armendariz, Sr. United States Courthouse
525 Magoffin Avenue
Room 105
El Paso, Texas 79901

by placing a copy of the above in the mail system at the facility where I am detained.



Taras Pilipenko, *Pro Se*

A# 240-268-753

EXHIBIT INDEX

Exhibit A: Reference Letters	pages 12-17
Exhibit B: Marriage Certificate	pages 18-19
Exhibit C: Forms I-797C and Form I-94	pages 20-24
Exhibit D: Spouses' U.S. Passport and Driver's License	pages 25-27
Exhibit E: ICE Notice to Appear	pages 28-31
Exhibit F: Bond Hearing Denial	pages 32-34
Exhibit G: Credible Fear Determination	pages 35-37
Exhibit H: Pending Criminal Charges Update	pages 38-40