

JUDGE KATHLEEN CARDONE

UNITED STATES COURT
FOR THE WESTERN DISTRICT OF TEXAS

Alberto Wenceslao Ayala Aguirre,

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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 26CV0346

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, Alberto Wenceslao Ayala Aguirre, 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 was denied a bond hearing based on a misinterpretation of statute and/or due to not be allowed an unbiased bond hearing, and is now being detained unlawfully.

PARTIES

7. Petitioner is a native of Mexico who came to the United States in 2002 when he was 3 years old. He has lived in the U.S. for 23 years and has never been back to Mexico. On June 24th, 2025 he was detained by ICE. He is now been detained in the El Paso Processing Center for over 7 months.

8. 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.

9. 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.

10. 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

11. I, Alberto Wenceslao Ayala Aguirre, Petitioner was born on  in Guadalajara, Mexico. In June, 2002, when I was three years old, my mother crossed from Mexico into the United States illegally. My father had a Lawful Permanent Residence in the U.S. and we came to live with him in Long Beach, California.

12. I attended school in California until the third grade and then my family relocated to Roswell, New Mexico. In Roswell I attended school up to High School during which time I

also worked different jobs.

13. Through my years growing up in Roswell I found myself around a toxic environment. The community in Roswell, New Mexico was infested with drugs and at an early age my friends and I began to experiment with the things we saw around ourselves. My school years were interrupted with truancy and other foolish adolescent behavior. Through it all I battled to stay on the right track.

14. In the year of 2015, when I was sixteen years old, I discovered a place called the Unity Center. The Unity Center is a place available for teenagers and young adults to participate in community events and a safe place to spend time. As I began to attend there I felt safe and inspired to be involved in something that helps our community. I decided to be a volunteer at the Unity Center and have developed strong relationships with other people there.

15. Even though through my adolescent years I have had trouble navigating my life I always pursued mentorship and sought out constructive environments.

16. I have had some run-ins with the law and do have a misdemeanor conviction for trespassing. I was twenty two years old and my parents called the police when I came home drunk.

17. Alcohol has been a struggle in my life that I admit to and have sought out help for. Recently in the year of 2025 I was drinking at home and got into an argument with my father. As I was trying to leave the house my father attempted to prevent me from leaving because he did want me to go out while under the influence of alcohol. As he was blocking the front door I pushed him and this was witnessed by the neighbors who called the police. The police responded to the call and I was arrested for a battery that was eventually dismissed. (please see Exhibit , a letter from my father stating that him and I have a good relationship.)

18. Due to this arrest ICE detained me and placed me into custody on June 24th, 2025. I have been in ICE detention continuously (7 months) since that date.

19. In July of 2025 while in current detention in El Paso Processing Center I was denied a bond. The immigration judge did not give me any reason but only stated that he will not allow me a bond. Three days after this initial court date I was called back to court and the immigration judge informed me that even if he would want to give me a bond he can not due to an executive order.

20. In the duration of the 7 months that I have been detained I have been attempting to show evidence for my 23 years of life in the United States. I have had six court hearing during which I have had very minimum information and understanding of the progression in my case.

21. I have built my life in this country. In the twenty three (23) years that I have lived in the United States, since my parents brought me here, I have never left the U.S. I have never been to Mexico. My life and all my memories are of my life in the United States. I applied and received DACA and Employment Authorization. I pray for an opportunity to establish my status in this country. I think of my self as an American and have not known anything else.

22. This detention has done nothing but damage my psychological health resulting in depression. The medical staff at my detention facility have prescribed medication that I take three times a day to deal with the psychological effects the current situation has on me.

23. I hope I can be reunited with my family as soon as possible so that I can continue to pursue a legal status in this country and at the same time be in a healthy and safe environment.

COUNT ONE SUBSTANTIVE DUE PROCESS VIOLATION LEGAL FRAMEWORK:

24. 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.

25. 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.

26. 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.

27. Petitioner has never been detained by ICE before, 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.

28. 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 twenty three (23) years, and so §1225(b)(1)(A)(iii) does not apply.

29. 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. 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:

30. 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.”

31. 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 2002 (23 years). “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.

32. 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).

33. 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:

34. The Petitioner has been living in the United States since 2002. 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.”

35. The Petitioner came to the U.S. in 2002 when he was three (3) years old. He has lived in this country continuously since that time. He has received DACA and Employment Authorization. He has gone to school and worked here. He has no recollection of any memories outside of the United States.

THE 2ND MATTHEW FACTOR:

36. 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 was denied a bond and is being deprived of liberty even though he has Fifth Amendment protection because he has resided in the U.S. for 23 years.

37. 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 immediate release.

THE 3RD MATTHEW FACTOR:

38. The Petitioner does not have any criminal convictions other than a misdemeanor trespassing charge and there is no record to show he is a danger to the community. He has lived in the same place for 16 years where he attended school and worked. He has reference letters and documentation to show that he has built a life in his 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 supervision requirements.

39. 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. In the history of ICE and their procedures they have always conducted bond hearings and have allowed cases similar to the Petitioner's to be released on bonds and/or supervision requirements.

CONCLUSION:

40. The Petitioner has been detained unlawfully because he has been denied a bond hearing. He has not had an opportunity to show that he is not a danger to the community nor a flight risk. The immigration court has not given him an unbiased hearing to determine whether he is suitable to be released on a bond and/or placed on supervision while his immigration case progresses.

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 Feb. 2nd, 2026


Alberto Wenceslao Ayala Aguirre, *Pro Se*

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El Paso SPC

8915 Montana Ave

El Paso, Texas 79925

CERTIFICATE OF SERVICE

I, Alberto Wenceslao Ayala Aguirre, certify that a true copy of the above document (Petition for Writ of Habeas Corpus) was served on FEB. 2nd, 2016, 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.

Ab *Ayala*
Alberto Wenceslao Ayala Aguirre, *Pro Se*
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YO ALBERTO AYALA RODRIGUEZ

PAPA DE ALBERTO WENCESLAO AYALA AGUIRRE DESEO QUE DEJARAN EN LIBERTAD A MI HIJO PARA SEGUIR JUNTOS COMO FAMILIA YA QUE EL ES PARTE ESENCIAL PARA NOSOTROS A UNQUE TENEMOS NUESTRAS DIFERENCIAS COMO PADRE E HIJO NOS NECESITAMOS EL SE OFRESE EN TODO PARA ASES COSAS EN CASA Y FUERA DE CASA COMO PERSONA ES AMABLE CON LOS DEMAS SE OFRESE PARA AYUDALES ES POR ESO Y OTRAS COSAS MAS LES PIDO QUE LO DEJARAN LIBRE YA QUE EN MEXICO NO CONOCE NADA EL NO TIENE FAMILIA LA UNICA FAMILIA SOMOS NOSOTROS NUNCA A SALIDO A MEXICO EL SE CREGIO EN ESTE PAIS PARA EL ESTE ES SU PAIS Y NOSOTRO SO FAMILIA SALIAMOS JUNTOS NOS LA PASAMOS BIE POR ESO LES PIDO POR FAVOR QUE LO DEJEN EN LIBERTAD Y YO

ALBERTO AYALA RODRIGUEZ

ME AGO RESPONSABLE DE MI HIJO
ALBERTO WENCESLAO AYALA AGUIRRE

Alberto Ayala Rodriguez

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To Whom It May Concern:

I am writing this letter in sincere and strong support of Mr. Alberto Wenceslao Ayala-Aguirre, affectionately known to friends and family as Beto. I have had the pleasure of knowing Beto since 2012, and over the past thirteen years, he has consistently demonstrated outstanding character, integrity, and compassion.

Beto is one of the most genuine, loyal, and kind-hearted individuals I have ever known. He approaches everyone with warmth and respect, and his positive impact on those around him cannot be overstated. Throughout the years, I have personally witnessed Beto go out of his way to support friends and community members during difficult times—always with grace, humility, and a generous heart.

His presence in our community is both meaningful and indispensable. He has built deep relationships and has become a pillar of support for many. Beto lives by values of honesty, responsibility, and service to others. He is the kind of person who strengthens the fabric of the community simply by being part of it.

I am deeply concerned about the possibility of Beto being deported. Losing him would not only be a tremendous personal loss to his friends and loved ones, but it would also be a loss to the broader community that benefits from his steady, uplifting presence. I respectfully urge you to consider the tremendous value he brings and the life he has built here in the United States.

Beto is not only deserving of the opportunity to remain in this country—he is needed here. I fully support him and his efforts to stay in the United States, and continue building his life at the place we all call home.

Thank you for your time and consideration.

Sincerely,

Renee B.



7/12/25

STATE OF NEW MEXICO
NOTARY PUBLIC
IRMA VALADEZ
COMMISSION # 1071741
EXPIRATION DATE 1/25/2026

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