

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

Nelson Enrique FERNANDEZ CHACIN )

Petitioner, )

Corpus )

v. )

Philip VALDEZ, Warden, )  
Eden Detention Center )

Pamela BONDI, Attorney General )  
United States Department of Justice )

Kristi NOEM, Secretary )  
United States Department of )  
Homeland Security )

Todd LYONS, Acting Director )  
United States )  
Immigration and Customs )  
Enforcement (ICE) )

and )


Marcos CHARLES, )  
Acting Executive Associate Director for the )  
Office of Enforcement and Removal )  
Operations (ERO) for United States )  
Immigration and Customs Enforcement )

Respondents. )

Petition for Writ of Habeas

Case No.:

PETITION FOR WRIT OF HABEAS

Petitioner, Nelson Enrique Fernandez Chacin, Alien Number  by and through  
Petitioner's attorney, petitions this Honorable Court for a Writ of Habeas Corpus and immediate

release from custody to remedy Petitioner's unlawful detention. In support of therefore, Petitioner states as follows:

I. CUSTODY

1. Petitioner is in the physical custody of United States Immigration and Customs Enforcement ("ICE") detained at the Eden Detention Center at 704 E Broadway St, Eden Texas, 76837. ICE contracted with Core Civic to house immigration detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

II. JURISDICTION AND VENUE

2. This case arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. §1101 *et seq.*, and the Administrative Procedures Act ("APA"), 5 U.S.C. §701 *et seq.*, This court has jurisdiction and venue in this action pursuant to 28 U.S.C. §§ 2241(a), (c)(1,3); U.S. CONST. art I, §9, cl. 2 (the "Suspension Clause"); and 28 U.S.C. §1331, as Petitioner is presently in custody under the color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. *Zadvydas v. Davis*, 533 U.S. 678 (2001). This court may grant relief pursuant to 28 U.S.C. §2241, the APA, the Declaratory Judgement Act, 28 U.S.C. 2201 *et seq.* and the All Writs Act, 28 U.S.C. §1651. Further, this Court has jurisdiction under 28 U.S.C. §2241 to review constitutional as well as statutory issues. *INS v. St. Cyr*, 531 U.S. 1107 (2001). The Writ of Habeas Corpus "is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." *Harris v. Nelson*, 394 U.S. 286, 290 (1969). The power of this Court's inquiry on federal habeas corpus review is plenary. *Towsend v. Sain*, 372 U.S. 293, 312 (1963).

3. Venue is proper with this Court pursuant to 18 U.S.C. §1391(e), because Respondents are employees or officers of the United States or under contract with the United States acting in their official capacity, and an agency of the United States, and Petitioner is under their control; because Petitioner is detained by ICE at the Eden Detention Center in Eden, Texas, which is under the jurisdiction of the District; because a substantial part of the events or omissions giving rise to the claim occurred in this District; and because the government's decision to hold petitioner in custody and his administrative proceedings occurred in this District.

### III. ALLEGATIONS

4. On October 11, 2025, ICE placed Petitioner in detention. Petitioner is not eligible for a bond request with an immigration judge under 8 C.F.R. §1003.19(h)(1)(i)(B) because Petitioner is considered an "arriving alien." However, being ineligible to request a bond with an immigration judge under 8 C.F.R. §1003.19(h)(1)(i)(B) does not allow ICE to imprison Petitioner indefinitely. *See Demore v. Kim*, 538 U.S. 531 (2003)(finding mandatory detention is *only* for "the limited period of [the alien's] removal proceedings.) *See also Ramirez v. Watkins*, No. 1:10-CV-0126, 2010 WL 6269226, at 1\* (S.D. Tex. Nov. 3, 2010)(stating the Supreme Court's use of the language "for the limited period of [the alien's] removal proceedings" implies the length of detention can become unreasonable and unconstitutional). Petitioner's detention is now over 118 days and detention has become "unreasonable." *See Saeku v. Johnson*, No. 1:16-CV-155-O, at 8\* (N.D. Tex. Sept. 14, 2017)(stating one of the factors to be considered when making a reasonableness inquiry includes the length of detention).

IV. BACKGROUND

5. Petitioner is a native and citizen of Venezuela.
6. Petitioner applied for admission into the United States at the Miami, Florida, International Airport on July 9, 2021, but was detained at the airport.
7. The Department of Homeland Security (“DHS”) initiated removal proceedings against Petitioner on July 27, 2021, when DHS issued Petitioner a Notice to Appear (“NTA”).
8. On November 19, 2021, Petitioner filed a Form I-589, Application for Asylum and for Withholding of Removal (“Form I-589”), with the Dallas, Texas, Immigration Court.
9. On October 12, 2025, DHS apprehended Petitioner and placed Petitioner in DHS custody without a bond.
10. On November 25, 2025, and Immigration Judge scheduled a final hearing to consider the merits of Petitioner’s Form I-589 for February 3, 2026.
11. On January 20, 2026, the Immigration Judge rescheduled Petitioner’s final hearing to occur on January 22, 2026.
12. On January 22, 2026, the Immigration Judge vacated Petitioner’s final hearing because DHS transferred Petitioner to a new detention center outside the Immigration Judge’s jurisdiction.
13. A new hearing date has not been scheduled since January 22, 2026.

V. PARTIES

14. Petitioner is a citizen of Venezuela. Petitioner is currently detained by DHS at the Eden Detention Center in Eden, Texas, located within the jurisdiction of the United States District Court for The District of Southern Texas.

15. Respondent, Philip Valdez, is sued in his official capacity as Warden of Eden Detention Center in Eden, Texas. Petitioner is in Respondent's direct custody. Respondent is the legal custodian of Petitioner.
16. Respondent, Pamel Bondi, is sued in her official capacity as the United States Attorney General. In this capacity she has responsibility for the administration of the immigration laws pursuant to 8 U.S.C. §1103(g).
17. Respondent, Kristi Noem, is sued in her official capacity as the Acting Secretary for the United States Department of Homeland Security. In this capacity, Respondent has responsibility for the administration of the immigration laws under 8 U.S.C. §1103(a) and is the legal custodian of Petitioner.
18. Respondent, Todd Lyons, is sued in his official capacity as the Acting Director for United States Immigration and Customs Enforcement. In this capacity, Respondent has responsibility for the administration of the immigration laws under the authority granted the Secretary for the Department of Homeland Security and is the legal custodian of Petitioner.
19. Respondent, Marcos Charles, is sued in his official capacity as the Executive Associate Director for the Office of Enforcement and Removal Operations for the United States Immigration and Customs Enforcement. In this capacity, Respondent has responsibility for the administration of the immigration laws under the authority granted to the Secretary for the Department of Homeland Security and is the legal custodian of petitioner.

#### VI. EXHAUSTION

20. Petitioner exhausted his administrative remedies. Petitioner is considered an "arriving alien." An "arriving alien" is ineligible to request a bond hearing with an immigration

judge. 8 C.F.R. §1003.19(h)(1)(i)(B). Additionally, the exhaustion requirement does not apply in Petitioner's case because Petitioner is raising a due process claim regarding the government's continued unlawful detention of Petitioner. *See Monteon-Camargo v. Barr*, 918 F. 3d 423 429 (5th Cir. 2019)(*stating* due process claims are generally exempt from the exhaustion doctrine).

VII. FIRST CLAIM OF RELIEF

(SUBSTATANTIVE DUE PROCESS)

21. Plaintiff reallege and incorporate by reference paragraphs 1 through 20 of this Complaint as fully stated herein.
22. Petitioner remains detained for over 118 days.
23. A date in which an immigration judge will adjudicate Petitioner's Form I-589 is not foreseeable.
24. All persons residing in the United State are protected by the Due Process Clause of the Fifth Amendment. *See Zadyvdas*, 533 U.S. at 693-94. The Due Process Clause of the Fifth Amendment provides "[n]o person shall be... deprived of life, liberty or property without due process of law." U.S. Const. amend V. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary government action." *Foucha v. Lousiana*, 504 U.S. 71, 80 (1992). Petitioner's continued detention violates substantive due process by depriving him of his fundamental liberty interest in remaining free from detention.
25. Respondents' dentition of Petitioner is unreasonable and unlawful. Respondents continue to detain Petitioner for longer than is required for the limited period of removal proceedings. The prolonged detention is on account on the government's continued

rescheduling of Petitioner's immigration court hearings and failure to schedule a new hearing. The immigration authorities have not acted promptly in this case and Petitioner's detention has become unreasonable. *See Saeku v. Johnson*, at 8\*.

26. The Federal District Court should hold Respondent's continued detention of Petitioner is unlawful and order Respondents to release Petitioner immediately from ICE detention at the Eden Detention Center in Eden, Texas.

#### VIII. IRREPARABLE INJURY

27. Petitioner is suffering and will continue to suffer irreparable injury because of Respondent's actions. Everyday that he is held in custody he suffers further injury, which is irreparable.

#### IX. PRAYER FOR RELIEF

WHEREFORE, and in light of the foregoing, Petitioner prays the Court:

- A. Assume jurisdiction over this matter;
- B. Issue an Order to Respondents to show cause why the District Court should not issue a Writ of Habeas Corpus;
- C. Issue a declaratory judgement holding Respondent's continued detention of Petitioner is unreasonable and unlawful;
- D. Compel Respondents to release Petitioner from ICE detention;
- E. Award Plaintiff attorney's fees and court costs pursuant to 28 U.S.C § 2412 and any other applicable statutory, common law, or Constitutional provision; and
- F. Grant Plaintiff any other relief that this Court deems just and proper at law and in equity.

Respectfully Submitted,

\*\*s/\*\* Christopher Carlston

Christopher R. Carlston (TX 24087263)  
MCGREGOR & OBLAD, PLLC  
3010 LBJ Fwy Suite 200  
Dallas, Texas 75234  
Tel: (214) 720-9555  
Fax: (214)-572-9338  
Email: ccarlston@mcgregorfirm.com

*Attorney for Petitioner*

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2026, the foregoing Complaint for Writ of Mandamus was filed electronically. Parties may access this filing through the Court's system.

I further certify that a summons and Complaint were served upon each of the parties listed below:

Jay R. Combs, Esq.  
United States Attorney  
United States Department of Justice  
550 Fannin St. #1250,  
Beaumont, Texas 77701  
*Via certified mail, return receipt requested*

Honorable Kristi Noem,  
Acting Secretary United States Department of Homeland Security  
C/O Office of the General Counsel  
245 Murray Lane, SW  
Mail Stop 0485  
Washington, D.C. 20528-0485  
*Via certified mail, return receipt requested*

Honorable Todd Lyons,  
Acting Director for United States Immigration and Customs Enforcement  
500 12<sup>th</sup> Street SW  
Washington, D.C. 20024  
*Via certified mail, return receipt requested*

Marcos Charles,  
Executive Associate Director for the Office of Enforcement and Removal  
Operations for United States Immigration and Customs Enforcement,  
500 12<sup>th</sup> Street SW  
Washington, D.C. 20024  
*Via certified mail, return receipt requested*

Philip Valdez,  
Warden, Eden Detention Center,  
704 E Broadway St.  
Eden, Texas 76837  
*Via certified mail, return receipt requested*

"/s/ Christopher Carlston  
Christopher R. Carlston ( TX 24087263)  
MCGREGOR & OBLAD, PLLC  
*Attorney for Petitioner*