

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

Braumer Reylet Rodriguez Sanchez,

Case No. 1:26-cv-314

Petitioner,

**PETITION FOR WRIT OF HABEAS
CORPUS**

v.

Melissa Ortiz, Acting Warden, Torrance County Detention Facility; Mary de Anda-Ybarra, Field Office Director, El Paso Field Office, United States Immigration and Customs Enforcement, ERO; Todd M. Lyons, Acting Director, United States Immigration and Customs Enforcement; Kristi Noem, Secretary of Homeland Security; Pamela Jo Bondi, United States Attorney General, in their official capacities,

Respondents.

JURISDICTION

1. Petitioner, Braumer Reylet Rodriguez Sanchez, is in the physical custody of Respondents at the Torrence County Detention Facility.

2. This action arises under the Constitution of the United States and the Immigration and Nationality Act, 8 U.S.C. § 1101 et. seq.

3. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

4. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

5. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Petitioner is detained within the District of New Mexico and his immediate physical custodian is located within this District. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also United States v. Scott*, 803 F.2d 1095, 1096 (10th Cir. 1986) (“A § 2241 petition for a writ of habeas corpus must be addressed to the federal district court in the district where the prisoner is confined.”).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

6. Respondents have Petitioner detained since January 5, 2026.

7. Habeas review is necessary because Petitioner’s continued detention is unlawful. Petitioner’s detention lacked a lawful predicate: the I-213 detailing Petitioner’s arrest includes no mention of whether he was arrested pursuant to a warrant. Further, Petitioner was denied a constitutionally adequate bond hearing.

8. Petitioner asks this Court to find that his due process rights were violated when the Respondents failed to provide a constitutionally adequate bond hearing before a neutral arbiter. Specifically, Respondents failed to provide Petitioner notice and an opportunity to respond to the purported reasons for denying bond and relied on assumptions about country conditions in Venezuela that were not part of the evidentiary record.

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a

return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

11. Petitioner, Braumer Reylet Rodriguez Sanchez, is a non-citizen from Venezuela with a pending asylum application and work authorization. He does not have a final order of removal. Petitioner is currently detained at Torrance County Detention Facility. He is in the custody, and under the direct control, of Respondents and their agents.

12. Respondent Melissa Ortiz is the acting Warden of Torrance County Detention Facility, and she has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Ortiz is a legal custodian of Petitioner.


13. Respondent Mary de Anda-Ybarra is sued in her official capacity as the Field Office Director of the El Paso Field Office, United States Immigration and Customs Enforcement Enforcement and Removal Operations. Respondent de Anda-Ybarra is a legal custodian of Petitioner and has authority to release him.

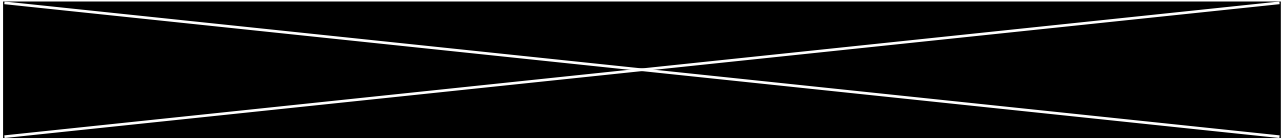
14. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S.

Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

15. Respondent Pamela Jo Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

16. Petitioner Braumer Reylet Rodriguez Sanchez fled to the United States to seek protection from 



 See Petitioner's Exhibit 3.

17. Petitioner is a resident of Minnesota with a pending asylum claim and valid work authorization. He does not have a final order of removal. He has lived in the United States since 2019 and has no criminal history that would subject him to mandatory detention.

18. Petitioner applied for asylum with U.S. Citizenship and Immigration Services (USCIS), a component of the Department of Homeland Security. He also applied for and received employment authorization from USCIS. Petitioner's asylum application was later referred to the Executive Office for Immigration Review (EOIR). EOIR is an executive agency within the Department of Justice that operates the immigration courts system.

19. Beginning in early December 2025, Respondents launched what they have dubbed "Operation Metro Surge," the self-described "largest DHS operation ever." Rebecca Santana &

Mike Balsamo, *Homeland Security plans 2,000 officers in Minnesota for its 'largest immigration operation ever,'* AP (Jan. 6, 2026), <https://perma.cc/M98E6YR6>. The centerpiece of the operation is large-scale immigration enforcement in the Twin Cities, where ICE has undertaken a massive campaign of often violent immigration arrests.

20. On January 5, 2026, Petitioner was sitting in his car in Minnesota when masked Immigrations and Customs Enforcement (ICE) agents approached, opened his door, pulled him from the car, handcuffed him, and put him in one of their vehicles. The I-213 includes no language that would suggest that Petitioner resisted arrest or attempted to flee.

21. To date, Respondents have not produced any evidence that the Attorney General issued a warrant for Petitioner's arrest and detention before they occurred.

22. On information and belief, ICE did not target or detain Petitioner based on his personal circumstances or individualized facts.

23. ICE agents first brought Petitioner to the Bishop Henry Whipple Federal Building and the boarded him on a plane to El Paso, Texas shortly afterwards. Upon arriving in Texas, ICE brought Petitioner to Torrance County Detention Facility in Estancia, New Mexico, where he remains detained today.

24. On January 21, 2026, a bond hearing was held for the Petitioner before Immigration Judge Ralph Girvin.

25. Before the bond hearing, the government submitted only a Form I-213. The government submitted no evidence that Petitioner had serious criminal violations, attempted to flee prosecution or otherwise escape from authorities, or failed to appear for immigration or criminal proceedings. The government also submitted no evidence that the conditions of

Petitioner's home country had changed in a manner that would render Petitioner's claim for relief unlikely to succeed.

26. Petitioner, on the other hand, submitted several letters of support from friends and family swearing to his good, responsible, and honest character as well as his deep involvement with his community in Minnesota. Petitioner also submitted evidence that he (1) has resided at the same address for three years and in the same apartment complex for about six years; (2) has a job and maintained employment since obtaining his work authorization; (3) has no criminal record that would subject him to mandatory detention. In addition, he submitted tax returns for the past three years.

27. At the bond hearing, the immigration judge stated, "You have a new country now. Maduro is over here now in our custody; change of country conditions. I think you're a flight risk. Bond denied." This was the extent of the immigration judge's rationale for denying bond at the hearing. When Petitioner sought to respond, the immigration judge said, "Sir, I didn't ask you a question," and directed personnel to "take him out of here."

28. The government had not filed evidence concerning Maduro's capture or a change in country conditions as a basis for Petitioner's continued detention. Nor had government submitted any evidence that the conditions in Venezuela have changed.¹

29. The Immigration Judge *sua sponte* provided these justifications for Petitioner's continued detention during the bond hearing. Petitioner received neither notice nor an opportunity

¹ Indeed, although Nicolás Maduro is gone from Venezuela, he created a political system of repression that remains in place—and its operators remain in power. *The Colectivos' Role in the Struggle for Power in Post-Maduro Venezuela*, InSight Crime (Jan. 9, 2026), <https://insightcrime.org/news/the-colectivos-role-in-the-struggle-for-power-in-post-maduro-venezuela/>; Brian Bennett, *Fear Grips Venezuela Amid a New Wave of Oppression* (Jan. 13, 2026), <https://time.com/7345598/venezuela-militias-violence-maduro-trump/>.

to respond to the assertion that a purported change in country conditions justified his continued detention.

30. After the hearing, the IJ issued a written order denying bond. The order's stated rationale for denying bond was "[f]light risk, visa over-stay, speculative form of relief; previous I-589 application filed with USCIS was denied and the country conditions in Venezuela have changed." Neither Petitioner's I-589 application for asylum nor any evidence forming the purported basis for the initial denial of Petitioner's I-589 application was part of the record.

31. Other than cursory citation to Petitioner's visa overstay more than five years ago, IJ did not analyze custody-specific factors reflecting an individualized assessment of flight risk beyond the conclusory label. *Cf. Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006)). Instead, IJ's reasoning relied on Petitioner's status and a judgment about Petitioner's claim for asylum relief.

LEGAL FRAMEWORK

32. "[C]onfinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government." The Federalist No. 84 (quoting 1 William Blackstone, Commentaries 136).

33. The writ of habeas corpus, and "the due process provision of the Fourteenth Amendment—just as that in the Fifth—has led few to doubt that it was intended to guarantee procedural standards adequate and appropriate, then and thereafter[.]" *See Chambers v. Florida*, 309 U.S. 227, 236 (1940). The right of habeas corpus, among others, is an "assurance against ancient evils," preserving the "blessings of liberty." *Id.* at 237 n.10.

34. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Due Process Clause’s protections extend to all persons in the United States, including non-citizens, “whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693; *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1182 (D. Colo. 2024) (recognizing a habeas petitioner’s “strong private interest in being free from civil detention”).

35. Reflecting the importance of this interest in freedom from imprisonment, section 1226(a) only permits the lawful detention of noncitizens such as Petitioner if the Attorney General has first issued a warrant authorizing the noncitizen’s arrest and detention. 8 U.S.C. § 1226(a). Put simply, the warrant is a prerequisite to the Respondents’ lawful arrest and detention of a noncitizen. *Ahmed M. v. Bondi*, File No. 25-cv-4711 (ECT/SGE), 2026 WL 25627 at *3 (D. Minn. 2026) (granting a habeas petition and ordering the release of the petitioner where the government have not produced any warrant); *Velasco Hurtado v. Bondi*, File No. 0:26-cv-00546 (JMG-DLM) (D. Minn. Jan. 4, 2026) (granting a habeas petition and ordering the release of noncitizens detained by ICE because the government provided no evidence that any of the petitioners had a warrant issued by the Attorney General when it detained them as § 1226 requires); *Chogllo Chafra v. Scott*, --- F.Supp.3d ---, 2025 WL 2688541, *11 (D. Me. Sept. 21, 2025) *appeal filed with 1st Circuit*; *J.A.C.P. v. Wofford*, 2025 WL 3013328, *8 (E.D. Cal. Oct. 27, 2025). “[R]elease is an available and appropriate remedy” for “detention that lacks a lawful predicate.” *Vedat C. v. Bondi*, File No. 25-cv-4642 (JWB/DTS) (D. Minn. Dec. 19, 2025), ECF No. 9 at 6 (citing *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (“Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release.” (citation modified))); *Miguel B. v. Bondi*, No. 26-

cv-630 (DSD/DLM) (D. Minn. Jan. 29, 2026) (“Petitioner must be immediately released from detention under 8 U.S.C. § 1226(a), as he was arrested without a warrant and is not alleged to have committed any crime”); *Brenda S.G. v. Easterwood*, No. 26-cv-652 (ADM/DTS) (D. Minn. Jan. 31, 2026) [ECF No. 16 at 4]; *Juan S.R. v. Bondi*, No. 25-cv-0005 (PJS/LIB) (D. Minn. Jan. 12, 2026) [ECF No. 8 at 3–4]; *Abner E.R.R. v. Easterwood*, No. 26-cv-482 (KMM/ECW) [ECF No. 10 at 3]. Since Respondents did not comply with the plain language of section 1226(a), Petitioner’s immediate release is justified.

36. The immigration judge did not state who bore the burden of proof during the bond hearing. But based on the submissions of the parties and the procedure at the hearing, the Petitioner bore the burden.

37. The appropriateness of immediate release is bolstered when, as here, the Petitioner is arrested and detained without the necessary warrant and only later provided a constitutionally flawed bond hearing that violates the Petitioner’s right to due process.

38. Indeed, on January 30, 2026, this Court granted habeas and ordered the immediate release of a detainee under these circumstances. *Martinez Rodriguez v. Dora Castro*, Case 2:25-cv-01294 (KG-JFR) (D.N.M. Jan. 30, 2026) (ordering the immediate release of a asylum applicant detainee, who was arrested and detained without a warrant issued by the Attorney General, denied a predeprivation bond hearing, and later provided a bond hearing that placed the burden of proof on the detainee instead of the government and contained other procedural irregularities).

39. Petitioner has a “strong private interest in being free from civil detention.” *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1182 (D. Colo. 2024). Petitioner’s detention without due process has separated him from his community, friends, and family, including his young daughter. The

separation is not simply owing to detainment, either. Here, Respondents forcibly transported Petitioner to New Mexico, far away from his only support network in Minnesota.

40. In addition to due process violations stemming from his arrest and detention without a lawful predicate, Petitioner was denied a constitutionally adequate bond hearing.

41. Federal regulations instruct adjudicators to treat bond determinations as “separate and apart from, and must form no part of, removal proceedings.” 8 C.F.R. § 1003.19(d). “Information adduced during a removal hearing, however, may be considered during a custody hearing **so long as it is made part of the bond record.**” *Matter of Adeniji*, 22 I&N Dec. 1102, 1115 (BIA 1999) (emphasis added).

42. Adjudicators must consider the following factors when making custody determinations: “(1) whether the alien has a fixed address in the United States; (2) the alien’s length of residence in the United States; (3) the alien’s family ties in the United States, and whether they may entitle the alien to reside permanently in the United States in the future; (4) the alien’s employment history; (5) the alien’s record of appearance in court; (6) the alien’s criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the alien’s history of immigration violations; (8) any attempts by the alien to flee prosecution or otherwise escape from authorities; and (9) the alien’s manner of entry to the United States.” *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006).

43. In the present case, the IJ relied on assumptions about country conditions outside the record, denied Petitioner an opportunity to respond to the IJ’s assumptions about country conditions, failed to consider a substantial number of the *Guerra* factors in the flight risk assessment, and conflated an assessment of whether Petitioner was a flight risk with whether the IJ believed his asylum application would be granted.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

44. The allegations in the above paragraphs are realleged and incorporated herein.
45. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).
46. Petitioner would only be subject to discretionary detention under Section 1226(a). Petitioner’s Notice to Appear states that he was admitted to the United States, but overstayed his visa. Exhibit 1. He remains detained despite no warrant for the arrest being in the record. Detention under 8 U.S.C. § 1226(a) may only occur based on “a warrant[.]” 8 U.S.C. § 1226(a). As noted above, several courts have ordered immediate release when the government failed to produce a warrant that served as the predicate for the arrest.
47. Thus, detention in the absence of a necessary prerequisite violates Petitioner’s right to due process.
48. Additionally, the IJ at Petitioner’s bond determination failed to analyze the *Guerra* factors, relied on evidence outside the record of the bond proceedings, and espoused flawed assumptions about country conditions in Venezuela—without support from the evidentiary record—as grounds for denying bond. Failure to allow Petitioner to respond to the reasons for denying bond raised *sua sponte* by the IJ resulted in a denial of due process for the Petitioner.

COUNT TWO
Violation of 8 U.S.C. § 1226(a)

49. The allegations in the above paragraphs are realleged and incorporated herein.
50. Respondents violated 8 U.S.C. § 1226(a) when they subjected him to detention before obtaining a warrant.
51. The plain language of section 1226 states “**On a warrant**[,] [...] an alien may be arrested and detained[.]” 8 U.S.C. 1226(a) (emphasis added). This implies that a warrant is necessary for noncitizens to continue being detained under 1226.
52. The absence of a warrant that would serve as the predicate for the arrest entitles the Petitioner to immediate release. *Javier G.G. v. Bondi*, No. 26-cv-750 (LMP/EMB) (D. Minn. Feb. 02, 2026) [ECF No. 6 at 2] (“[B]ecause the Government has not presented a warrant that would justify [petitioner’s] detention under 8 U.S.C. § 1226(a), the Court concludes that [petitioner] is entitled to release from custody.”).
53. A warrant for arrest has not yet been produced.
54. For these reasons, Petitioner’s detention violates 8 U.S.C. § 1226(a).

COUNT THREE

Violation of the Accardi Doctrine

55. The allegations of the above paragraphs are incorporated herein.
56. Under the *Accardi* doctrine, the Court has a right to set aside agency action that violates agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (“If Petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing”).
57. The bond hearing was marred by a failure to abide by the *Guerra* factors, including failure to credit the fact that Petitioner has a fixed address in the United States, has

resided in the United States for several years, long record of employment, attendance with court appearances, lack of a serious criminal record, the alien's criminal record, and the Petitioner's lack of a documented attempt to flee when confronted by immigration authorities. Instead, the IJ violated EOIR's own rules by overlooking Petitioner's equities and made factual findings about the merits of the Petitioner's asylum claim without any significant country conditions about Venezuela being present in the evidentiary record. The IJ's findings conflated the merits of a removal proceeding with a bond redetermination, which are "separate and apart" from each other. 8 C.F.R. § 1003.19(d).

58. Petitioner seeks immediate release or a new bond hearing before a neutral magistrate in which the government carries the burden of demonstrating that Petitioner is a danger to the community or a flight risk.

59. "Here, where Petitioner has submitted materials attempting to show that he is neither a flight risk nor dangerous, the Court finds the Government has no interest in detaining Petitioner absent a showing by them that the Petitioner is, in fact, at risk of flight or a danger to the community. This finding supports shifting the burden to the Government during a subsequent bond hearing." *Velazquez Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, --- F.Supp.3d ----, 2025 WL 2676729, *7 (D.N.M. Sept. 17, 2025).

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;

- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days and produce any warrant issued by the Attorney General before his arrest and detention;
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1226(a).
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately. In the alternative, order Respondents to schedule a bond hearing before a neutral arbiter within seven days of the Court's order. At such hearing, place the burden of proof on the government to prove the basis for Petitioner's continued detention by clear and convincing evidence and afford Petitioner a meaningful opportunity to respond to any purported basis for his detention and present countervailing evidence.
- (5) Order Respondents to return all property seized from the Petitioner, including identification cards and Petitioner's work permit in order to prevent constraints on Petitioner's liberty after being released from custody.
- (6) Grant any further relief this Court deems just and proper.

Dated: February 07, 2026

/s/ Evan Brown

Evan Brown, Esq.

District of New Mexico Bar ID: 26-108

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Braumer Reylet Rodriguez Sanchez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated February 07, 2026.

/s/ Evan Brown
Evan Brown