

TABLE OF CONTENTS

ADVISORY TO THE COURT.....	3
PRELIMINARY STATEMENT.....	3
CUSTODY.....	4
JURISDICTION.....	4
VENUE.....	4
REQUIREMENTS OF 28 U.S.C. § 2243.....	4
PARTIES.....	5
EXHAUSTION OF ADMINISTRATIVE REMEDIES.....	5
LEGAL FRAMEWORK.....	6
CLAIMS FOR RELIEF.....	9
COUNT I: VIOLATION OF DUE PROCESS.....	9
COUNT II: VIOLATION OF APA.....	9
PRAYER FOR RELIEF.....	10
VERIFICATION PURSUANT TO 28 U.S.C. § 2242.....	11
EXHIBITS	
A. Notice to Appear	
B. Motion for Bond/Custody Redetermination	
C. Bond Order	
D. DHS's Denial of Acceptance of Bond	

ADVISORY TO THE COURT:

This Petition for Writ of Habeas Corpus is *not* governed by the Fifth Circuit's February 6, 2026 decision in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496, 25-40701, 2026 U.S. App. LEXIS 3899 (5th Cir. Feb. 6, 2026). Unlike *Buenrostro-Mendez*, Petitioner was granted a bond hearing and ordered released on bond in the minimum amount of \$1,500.00. Nevertheless, Respondents refuse to accept the bond and continue to detain Petitioner. The legality of that continued detention—despite an outstanding bond order—is the sole issue presented.

PRELIMINARY STATEMENT

1. Petitioner **ALBERTO MORENO-DIAL** is unlawfully detained by Respondents at the Montana East Detention Facility in Fort Bliss, El Paso, Texas. Despite an Immigration Judge's order granting release on bond in the amount of **\$1,500.00**, the Department of Homeland Security ("DHS") has refused to effectuate Petitioner's release and continues to hold him without legal authority.

2. Petitioner is a 42-year-old male and citizen of Venezuela who entered the United States on or about January 13, 2022. Exhibit A.

3. On or about September 2, 2022, Petitioner applied for asylum. Exhibit B, at 9.

4. On or about June 24, 2025, Respondents took Petitioner into custody and incarcerated him at the Montana East Detention Facility. Exhibit A.

5. Petitioner filed a motion for bond and on January 13, 2026, an Immigration Judge held a hearing and granted bond in the amount of \$1500.00. Exhibits B, C.

6. Respondents did not timely file Form EOIR-43 to stay the release pending appeal.

7. Petitioner has sought to post the bond set by the Immigration Judge, yet Respondents have rejected those efforts and refused to accept payment. Exhibit D.

8. The filing of an appeal by Respondents from an bond order of an immigration judge shall not operate to delay compliance with the bond order. 8 C.F.R. § 1236.1(d)(4).

CUSTODY

9. Petitioner is in the physical custody of Respondent MARY DE ANDA YBARRA, El Paso Field Office Director for Detention and Removal, Immigration and Customs Enforcement (ICE), and the Department of Homeland Security (DHS).

JURISDICTION

10. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article 1, section 9, clause 2 of the United States Constitution (the Suspension Clause).

11. 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

12. 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, El Paso Division because Petitioner is detained in El Paso County, Texas, within the environs of the El Paso Division.

13. Venue is also proper pursuant to 28 U.S.C. § 1391(e) because (a) Respondents are employees, officers, and agencies of the United States, and (b) 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

14. The Court must grant a petition for writ of habeas corpus or order a respondent to show cause forthwith, unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, a respondent must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

15. 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

16. Petitioner is a national and citizen of Venezuela. Exhibit A.

17. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, which is responsible for Petitioner’s detention. Secretary Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

18. Respondent Mary De Anda Ybarra is the Field Office Director of ICE’s Enforcement and Removal Operations division in El Paso, Texas. As such, Respondent is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. She is named in her official capacity.

19. Respondent Todd M. Lyons is the Acting Director of United States Immigration and Customs Enforcement, and responsible for Petitioner’s detention. He is named in his official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. “The major purpose of the exhaustion doctrine is to prevent the courts from interfering with the administrative process until it has reached a conclusion.” *Von Hoffburg v. Alexander*, 615 F.2d 633, 637 (5th Cir. 1980). Here, there is nothing to “exhaust.” Petitioner received bond. Therefore, an exception to exhaustion exists and Petitioner’s only remedy is by way of a writ

of habeas corpus to this Court.

LEGAL FRAMEWORK

Due Process Violation

21. Respondents' continued detention of Petitioner denies due process under the Fifth Amendment.

22. "To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 U.S. Dist. LEXIS 174415, at *3 (W.D. Tex. Sept. 8, 2025). Those factors are: (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"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. "The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time." *Id.* at 348.

a. Private Interest

23. As to the first element, "[t]he interest in being free from physical detention' is 'the most elemental of liberty interests.'" *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Respondents have detained Petitioner since January 13, 2026, after the immigration judge granted bond. Such detention deprives him of his physical liberty on a daily and continuing basis. Freedom from bodily restraint is a paramount liberty interest, protected not merely by statute but by the Due Process Clause of the Constitution itself. *Id.*

24. That liberty interest extends to noncitizens present in the United States, albeit to

varying degrees. *Martinez v. Hyde*, ___ F. Supp. 3d ___, 2025 U.S. Dist. LEXIS 141724, at *8 (D. Mass. July 24, 2025) (citation omitted). As the Supreme Court has long recognized, “our immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.” *Id.* (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958)). In the latter circumstance, the Constitution affords “additional rights and privileges” not available to individuals who remain merely “on the threshold of initial entry.” *Id.* (quoting *Leng May Ma*, 357 U.S. at 187).

25. Consistent with these constitutional principles, the Immigration Judge granted bond in the nominal amount of \$1,500.00, because Petitioner poses no danger and no flight risk. Petitioner has no criminal history, has viable relief from removal, and has established both family ties and deep community connections within the United States. Nevertheless, Respondents continue to incarcerate him, subjecting him to all the deprivations of detention—including separation from family and community and, most fundamentally, the total loss of freedom of movement—despite an administrative determination that his continued confinement is unwarranted. Exhibit C.

26. The immigration judge granted bond in the nominal amount of \$1,500 because Petitioner has no criminal history, has relief from removal, has established a family and a community in the United States. In custody, he is suffering all the deprivations of incarceration, including loss of contact with friends and family and, most fundamentally, the lack of freedom of movement. Exhibit B-C.

27. Due process applies to those who are present in the interior of the United States, regardless of their citizenship status. *See Leng May Ma*, 357 U.S. at 187.

b. Risk of Erroneous Deprivation

28. Under the second *Mathews* factor, the Court must consider “whether the challenged procedure creates a risk of erroneous deprivation of individuals’ private rights and the degree to which

alternative procedures could ameliorate these risks.” *Martinez v. Noem*, 2025 U.S. Dist. LEXIS 403462 at *8 (quoting *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. May 21, 2025)).

29. Detaining Petitioner after he has received bond from an immigration judge certainly deprives him of his liberty. Exhibits C-D. Therefore, the second *Mathews* factor weighs in favor of Petitioner.

c. Government’s Interest

30. Respondents undoubtedly have a legitimate interest in ensuring that noncitizens appear for removal proceedings and do not pose a danger to the community. Those interests, however, have already been fully adjudicated and resolved by the Immigration Judge, who granted Petitioner release on bond. *See* Exhibit C. Because the government’s asserted interests have been satisfied through an individualized bond determination, the third *Mathews* factor weighs decisively in Petitioner’s favor.

31. Where, as here, all three *Mathews* factors favor Petitioner, Respondents’ continued refusal to effectuate his release on bond constitutes a deprivation of liberty without due process of law, in violation of the Fifth Amendment to the United States Constitution. The Constitution does not permit indefinite or continued detention once flight risk and dangerousness have been adjudicated and rejected. Respondents must therefore accept the bond payment and immediately release Petitioner.

Administrative Procedure Act

32. Under the Administrative Procedure Act, a court must “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law,” that is “contrary to constitutional right [or] power,” or that is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).

33. Respondents’ detention of Petitioner is arbitrary and capricious. Respondents’ detention of Petitioner violates the INA and the Fifth Amendment. Respondents do not have statutory authority to continue to detain Petitioner.

CLAIMS FOR RELIEF

COUNT I: VIOLATION OF DUE PROCESS

34. Petitioner incorporates by reference the factual allegations and legal arguments set forth in the preceding paragraphs.

35. 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 (2001).

36. Petitioner has a fundamental interest in liberty and being free from official restraint.

37. Petitioner’s due process rights are violated by the denial of a bond hearing by Respondents.

COUNT II: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

38. Petitioner incorporates by reference the factual allegations and legal arguments set forth in the preceding paragraphs.

39. Under the Administrative Procedure Act, a court must “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law,” that is “contrary to constitutional right [or] power,” or that is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).

40. Respondents did not file EOIR Form 43 to stay the bond order pending appeal.

41. Respondents’ continued detention of Petitioner violates 8 U.S.C. § 1227 and 8 C.F.R. § 1236.1(d)(4).

42. Respondents’ continued detention of Petitioner is arbitrary and capricious. Respondents’ detention of Petitioner violates the INA and the Fifth Amendment. Respondents do not have statutory authority to deny the posting of bond to detain Petitioner.

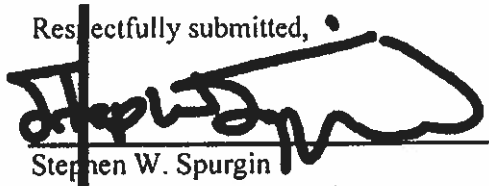
PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring Respondents to accept payment of the \$1500 bond and immediately release him from custody.
- c. Grant such other relief that the Court deems proper.

Date: February 9, 2026

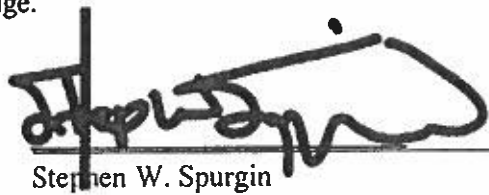
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stephen W. Spurgin', is written over a horizontal line.

Stephen W. Spurgin
Texas Bar No. 189743250
310 North Mesa, Suite 300
Cortez on the Plaza
El Paso, Texas 79901
Tel: 915.779.2800
Email: stephen@spurginLaw.com
Attorney for Petitioner
Alberto Morena-Dial

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

I, Stephen W. Spurgin, am submitting this verification on behalf of Petitioner because I am his attorney and Petitioner is in ICE custody. I have discussed with Petitioner the events described in this Petition and have reviewed the documents corroborating those events. I hereby verify under penalty of perjury that the factual statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.



Stephen W. Spurgin

Lucia Leyva

Miami, FL 33172
305

06/26/2025

U.S. Immigration and Customs Enforcement (ICE)
Krome North SPC

To Whom It May Concern,

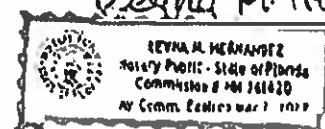
I am writing this letter in support of Mr. Alberto Moreno Diaz, who is currently in ICE custody. I have had the privilege of knowing Alberto for the past two years, and in that time, I have come to know him as an honest, hard-working individual with strong values and a kind heart.

Alberto has consistently demonstrated a strong work ethic and a deep commitment to helping those around him. He is the kind of person who is always willing to lend a hand, offer support, or share a word of encouragement. His integrity, humility, and sense of responsibility have earned the respect of those who know him.

I firmly believe that Alberto is a positive presence in our community and someone who contributes meaningfully through both his actions and character. I kindly ask that you consider this letter as a testament to the good person he is.

Thank you for your time and consideration.

Sincerely,
Lucia Leyva



Yonris Miranda

Florida, PC 33013

786

06/26/25

U.S. Immigration and Customs Enforcement (ICE)
Krome North SPC

To Whom It May Concern,

I am writing this letter on behalf of Mr. Alberto Moreno Diaz, whom I have known personally for the past year. I want to express my sincere support for him and to share my experience regarding his character and the positive impact he has had on those around him.

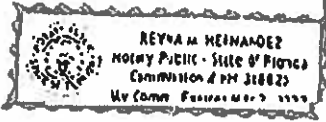
Alberto is a man of integrity and compassion. He consistently shows a genuine willingness to support others, whether through his daily work or simple acts of kindness. His dedication, reliability, and respectful nature are just a few of the qualities that make him stand out.

In all the time I've known Alberto, he has never wavered in his efforts to live an honest and decent life. He works hard, contributes to his community, and treats everyone with dignity. I believe he deserves the opportunity to continue building his life and supporting those who depend on him.

Please consider this letter as a personal testimony to Alberto's good character. I truly hope that his case can be viewed with fairness and compassion.

Respectfully,
Yonris Miranda

[Handwritten signature]

[Handwritten signature]
Reyna M. Hernandez
6-26-25


Doral, Florida - June 26, 2025

To whom it may concern:

I hereby certify that I have known Mr. Alberto Martin Moreno Diaz for a little over two years. During this time, we have developed a friendship through activities involving our children. We have spent time together attending our children's sports practices, birthday parties, and family outings.

Throughout this period, Mr. Moreno Diaz has always demonstrated that he is a person of good character. He is respectful, responsible, kind, and always supportive of his family and friends. I have no hesitation in vouching for his integrity and good standing.

I am issuing this letter at his request for any purpose it may serve.

Please feel free to contact me should you require any further information.

Sincerely,


Luis Miguel Silva

[REDACTED]
(786) [REDACTED]

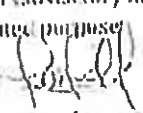
Driver's License [REDACTED]

NOTARY ACKNOWLEDGMENT

State of Florida

County of Miami-Dade

On this June 26, 2025, before me the undersigned Notary Public, personally appeared Luis Miguel Silva, who provided satisfactory identification and acknowledged that he signed this letter voluntarily for its stated purpose.

Signature of Notary Public: 

Name of Notary Public (Printed): RAFAEL A. VARGAS

Continuation Number: AA 61292063

My Commission Expires: 12/26/2026



Doral, Florida - June 26, 2025

To whom it may concern,

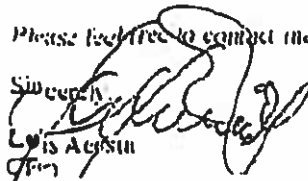
I hereby certify that I have known Mr. Alberto Marlon Moreno Diaz for approximately two years. During this time, he has been responsible for the cleaning and maintenance of the offices where I work.

Throughout this period, Mr. Moreno Diaz has consistently demonstrated that he is a person of good character. He is responsible, honest, and diligent in his duties. His behavior has always been respectful and professional, showing a high level of commitment and dedication to his work.

In addition, Mr. Moreno Diaz is entrusted with the cleaning and maintenance of our medical spas, where we have valuable equipment and sensitive client information. He has always handled these responsibilities with great care, respect, and trustworthiness. His discretion and reliability in these environments have further demonstrated his integrity and professionalism.

I am issuing this letter at his request for any purpose it may serve.

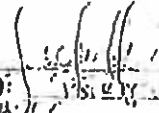
Please feel free to contact me should you require any further information.

Sincerely,

Luis Acosta
For
Makeover Skincare Corp

NOTARY ACKNOWLEDGMENT

State of Florida
County of Miami-Dade

On this 26th day of June, 2025, before me the undersigned Notary Public, personally appeared Luis Acosta, who provided satisfactory identification and acknowledged that he signed this letter voluntarily for its stated purpose.

Signature of Notary Public: 
Name of Notary Public (Printed): Polinda N. Rodriguez
Commission Number: 01167421
My Commission Expires: 12/21/2028

8181 NW 14th Street, Suite 301
Doral, FL 33126



Doral, Florida – June 26, 2025

To whom it may concern:

I, Luis Miguel Silva, a citizen of the United States, respectfully submit this letter to express my full support for Mr. Alberto Martin Moreno Diaz, who is currently in detention.

I have known Mr. Moreno Diaz for many years—our relationship goes back to the time we both lived in Venezuela. I can confidently say he is a man of integrity, humility, and deep devotion to his family. He is not only a good friend, but a person who has always acted with kindness, responsibility, and respect toward those around him.

Since 2018, Alberto's oldest son, Adelis Manuel Moreno Ortiz, has lived with me in my home. I have watched this young man grow and thrive, and I've seen firsthand how important Alberto's love and guidance are to his well-being. Despite the physical distance caused by difficult circumstances, Alberto has remained a committed and loving father—present in every way he can be.

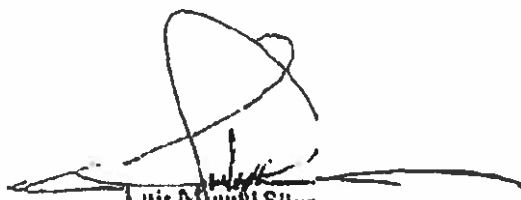
His absence has left a deep emotional void in his son's life. Reuniting this father with his child is not only a matter of justice, but a matter of human dignity and compassion. Alberto's presence is essential to his children, and to the continued stability and emotional health of his family.

I am willing and fully prepared to sponsor Mr. Moreno Diaz upon his release. I take personal responsibility for supporting him—financially and morally—including providing for his basic needs such as housing, food, and any other form of assistance necessary to help him rebuild his life and stay close to his children.

Enclosed is a copy of my U.S. passport to confirm my citizenship and my sincere commitment to this declaration.

Please feel free to contact me should you require any further information.

Sincerely,



Luis Miguel Silva
(786) [REDACTED]

June 26, 2025

To whom it may concern:

I, **Maviel Ortiz**, a lawful permanent resident of the United States, hereby declare that I am willing and able to provide financial support for **Mr. Alberto Marlon Moreno Diaz**, who is currently detained. He is the father of my oldest son, **Adelis Manuel Moreno Ortiz**.

I take full responsibility for ensuring his basic needs, including housing, food, and any other necessary support, upon his release. I am prepared to sponsor **Mr. Moreno Diaz** and guarantee that I will provide the necessary financial assistance so that he will not become a public charge.

A copy of my permanent resident card (green card) is attached for your reference.

Please feel free to contact me should you require any additional details.

Sincerely,

Maviel Ortiz
[Redacted]
Terrace
Doral, FL 33166

(786) [Redacted]

[Signature]
Notary 6-26-25
Reyna M. Hernandez

