

Leanne Reetz Hightower
Barringer Law Firm, P.C.
5660 Greenwood Plaza Boulevard
Suite 445
Greenwood Village, CO 80111
Counsel for Petitioner

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Carlos TAFOYA BARRIOS,)
)
Petitioner,)
)
v.)
)
JUAN BALTASAR, Warden, Aurora ICE)
Processing Center;)
TODD LYONS, Acting Director of)
U.S. Immigration and Customs Enforcement;)
KRISTI NOEM, Secretary of the U.S. Department)
of Homeland Security; and)
PAM BONDI, Attorney General of the United)
States)
in their official capacities,)
)
Respondents.)
_____)

Case No. 26-cv-492

**PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner, Carlos Tafoya Barrios, is a noncitizen in the custody of Immigration and Customs Enforcement ("ICE") at Aurora ICE Processing Center ("AIPC"), operated by GEO Group, Inc.
2. Petitioner was detained on December 9, 2025, and placed in removal proceedings. Respondent filed an application for Cancellation of Removal and Adjustment of Status for

Certain Nonpermanent Residents with the Executive Office for Immigration Review (EOIR) on January 13, 2026. To date, Respondent remains in the physical custody of Respondents at AIPC. Petitioner faces unlawful detention because the Department of Homeland Security ("DHS") and the EOIR maintain that Respondent is an applicant for admission under 8 U.S.C. § 1225(b)(2), even though Respondent entered the United States ("U.S.") over 20 years ago and the DHS initiated removal proceedings on December 9, 2025.

3. The Due Process Clause of the Fifth Amendment forbids such arbitrary and prolonged detention. Respondents have never justified Petitioner's continued detention at a hearing before a neutral decisionmaker with evidence of danger or flight risk.
4. Petitioner brings this action for injunctive, habeas, and declaratory relief and requests an order for Respondents to release him.

JURISDICTION

5. This action arises under 28 U.S.C. § 2241, the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, and its implementing regulations, the Administrative Procedures Act, 5 U.S.C. §§ 500-596, §§ 701-706, the All Writs Act, 8 U.S.C. § 1651, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the Constitution of the United States
6. District Courts have jurisdiction under 28 U.S.C. § 2241 to hear *habeas corpus* actions by noncitizens challenging the lawfulness and constitutionality of their civil immigration detention.
7. 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).
8. This Court may grant relief under 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

9. Venue is proper because Juan Baltasar is Petitioner's immediate custodian under 28 U.S.C. § 1391(e)(1), and Petitioner is in custody at AIPC operated by GEO Group, Inc. in Aurora, Colorado, which is within the jurisdiction of this District.
10. Venue is proper in this District because Respondents are officers, employees, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in this District of Colorado. 28 U.S.C. § 1391(e).

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

11. Petitioner is "in custody" for the purpose of § 2241 because Petitioner was arrested and remains detained by Respondents and Petitioner is in custody in violation of the U.S. Constitution and the laws of the U.S. 28 U.S.C. § 2241.
12. 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.*
13. 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).

PARTIES

14. Petitioner is a citizen of Mexico. Petitioner is currently detained at AIPC and in the custody and under the direct control of Respondents and their agents.
15. Respondent Juan Baltasar is the Warden of AIPC, and he has immediate physical custody of Petitioner pursuant to the facility's contract with ICE to detain noncitizens. Thus, Respondent Juan Baltasar is a legal custodian of Petitioner.
16. Respondent Todd Lyons is named in his official capacity as the Acting Director of ICE. Respondent Todd Lyons is a legal custodian of Petitioner and has authority to release him.
17. Respondent Kristi Noem is named in her official capacity as the Secretary of the DHS. In this capacity, Respondent Kristi Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA"), and oversees ICE, the agency responsible for Petitioner's detention. Respondent Kristi Noem is a legal custodian of Petitioner.
18. Respondent Pam Bondi is named 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 EOIR, which administers the immigration courts and the Board of Immigration Appeals. Respondent Pam Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

19. Petitioner is a 43-year-old native and citizen of Mexico who entered the U.S. over 20 years ago and has established himself as a positive member in his community. Petitioner is a proud father of two children: his daughter has been granted Deferred Action for Childhood Arrivals by USCIS, and his son is a U.S. citizen.
20. Petitioner encountered ICE / Enforcement Removal Operations ("ICE/ERO") on December

9, 2025, in Colorado Springs, Colorado when ICE/ERO officers conducted a vehicle stop. Petitioner presented a Colorado driver's license to ICE/ERO and was asked to step out of his vehicle after ICE/ERO officers stated they "knew he was a citizen of Mexico and that he did not have any documents that would lawfully allow him to be in the U.S." When Petitioner did not immediately exit the vehicle, an ICE/ERO officer reached through the partially opened driver's window, unlocked the door, unbuckled the Petitioner's seatbelt, and informed Petitioner that if he did not exit the vehicle on his own, the ICE/ERO officers would "use force to remove him from the vehicle." ICE/ERO Officers then decided to conduct a warrantless arrest and transported Petitioner to the Colorado Springs Homeland Security Investigations ("HSI") office for processing.

21. The DHS placed Petitioner in removal proceedings on December 9, 2025, by filing a Notice to Appear ("NTA") with the EOIR, alleging that Petitioner is removable pursuant to 8 U.S.C. §1182 (a)(6)(A)(i) as an alien present in the U.S. without being admitted or paroled, or who arrived in the U.S. at any time or place other than designated by the Attorney General.

22. On January 21, 2026, Petitioner, with undersigned counsel, appeared at a custody redetermination hearing at the EOIR Aurora Immigration Court. At this hearing, the DHS asserted that the immigration judge ("IJ") did not have jurisdiction to conduct a custody redetermination hearing because Petitioner had been detained pursuant to 8 U.S.C. § 1225(b). As the IJ indicated she would not have jurisdiction to conduct the custody redetermination hearing, the Petitioner, through undersigned counsel, withdrew his request.

LEGAL FRAMEWORK

23. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v.*

Flores, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.”). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious”).

24. Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. 26.
25. Due process requires that the government provide bond hearings to noncitizens facing prolonged detention.
26. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

27. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993). The INA establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).
28. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. § 1229a.

CLAIMS FOR RELIEF

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

29. The allegations in the above paragraphs are realleged and incorporated herein.
30. The DHS asserts that Petitioner is an "applicant for admission" and subject to the mandatory detention provision at 8 U.S.C. § 1225 (b)(2). However, 8 U.S.C. § 1225(b)(2) does not apply to the Petitioner because he was present and living within the U.S. for more than 20 years before he was apprehended by ICE / ERO.
31. The DHS placed the Petitioner in § 1229(a) removal proceedings and charged the Petitioner with inadmissibility pursuant to 8 U.S.C. § 1182. As such, the DHS should have detained the Petitioner pursuant to § 1226(a) because he has been present and residing in the U.S. for more than 20 years and is not subject to any mandatory detention provisions. Detention under § 1226(a) requires access to a custody redetermination hearing by an IJ.
32. Applying § 1225 to Petitioner unlawfully mandates his continued detention without a custody redetermination hearing and violates § 1226(a).

**COUNT II
Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)**

33. The allegations in the above paragraphs are realleged and incorporated herein.
34. Under the Administrative Procedure Act ("APA"), a court shall "hold unlawful and set aside agency action . . . found to be arbitrary [or] capricious." 5 U.S.C. § 706(2)(A).
35. Respondents' detention of the Petitioner pursuant to § 1225 was arbitrary and capricious because the Respondents do not have statutory authority under § 1225 to detain the Petitioner because of his tenure in the U.S.
36. As such, Respondents arrest and detention of Petitioner under § 1225 was arbitrary and capricious and should be held unlawful and set aside.

COUNT III
Violation of Fifth Amendment Right to Due Process

37. The allegations in the above paragraphs are realleged and incorporated herein.
38. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Furthermore, due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. at 693.
39. Petitioner has a fundamental interest in liberty and being free from official restraint, such as detention at the AIPC.
40. Petitioner has been deprived of the meaningful procedural protections necessary to justify restraint on his liberty and violates the Due Process Clause.
41. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment and Petitioner should be released forthwith.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or schedule a bond hearing before an immigration judge and, at such hearing, require the government to justify continued detention by clear and convincing evidence and, if it cannot, afford Petitioner release on bond or conditional parole;
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Leanne Reetz Hightower
Leanne Reetz Hightower
Barringer Law Firm, P.C.
5660 Greenwood Plaza Boulevard
Suite 445
Greenwood Village, CO 80111

Counsel for Petitioner

Dated: February 9, 2026

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

I represent Petitioner, Carlos Tafoya Barrios, 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 9, 2026.

s/ Leanne Reetz Hightower
Leanne Reetz Hightower