

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JORGE DARÍO DAQUILEMA ROLDAN,

Petitioner,

v.

PAMELA BONDI, in her official capacity
as U.S. Attorney General; KRISTI NOEM,
in her official capacity as Secretary, U.S.
Department of Homeland Security; TODD
M. LYONS, in his official capacity as
Acting Director, U.S. Immigration and
Customs Enforcement; DAVID
EASTERWOOD, in his official capacity as
Field Office Director, Director of
Enforcement and Removal Operations, St.
Paul Field Office, U.S. Immigration and
Customs Enforcement; and the Warden of
El Paso Camp East Montana,

Respondents.

CASE NO. 3:26-CV-00384-LS

**AMENDED VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241¹**

COMES NOW Petitioner, JORGE DARÍO DAQUILEMA ROLDAN, ("Mr. Daquilema Roldan" or "Petitioner"), who files this Amended Verified Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. . § 2241, and would respectfully show the Court as follows:

INTRODUCTION

1. Petitioner, born , by and through his undersigned counsel, hereby files this petition for a writ of habeas corpus and complaint for declaratory and injunctive relief to compel his immediate release from immigration jail where he has been held by the U.S.

¹ Petitioner is permitted to amend his petition as a matter of course under Fed. R. Civ. P. 15(a)(1). See 28 U.S.C. § 2242 (petition for habeas corpus may be amended as provided in the Federal Rules of Civil Procedure).

Department of Homeland Security (“DHS”) since being unlawfully detained in or around Fort Snelling, Minnesota on January 29, 2026 without first being provided a due process hearing to determine whether his incarceration is justified. In the alternative, this petition seeks the transfer of Petitioner back to a facility in Minnesota, where he was originally detained and from which he was transferred to Texas without legal process, and to provide a bond hearing.

2. Petitioner must be returned to Minnesota and released from custody unless and until DHS proves to a neutral adjudicator, by clear and convincing evidence, changed circumstances that Petitioner is a flight risk or a danger to the community. DHS will not be able to do so. Due process requires the government to provide noncitizens with notice and a hearing prior to re-detention, and that re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.

JURISDICTION

3. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*

4. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1361 (federal employee mandamus action), 28 U.S.C. § 1331 (federal question), and the Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

5. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, the Declaratory Judgments Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, the Suspension Clause, and the Court’s inherent equitable powers.

VENUE

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 2241(a). Under the general habeas rules, “core habeas petitions challenging present physical confinement, jurisdiction lies in

only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

PARTIES

7. Petitioner was detained while attending his scheduled ICE check-in, which on information and belief occurred at Fort Snelling, Minnesota. He is in the custody, and under the direct control, of Respondents and their agents.

8. Respondent Pamela Bondi is the Attorney General of the United States and the head of the Department of Justice. She is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely does and transacts business in the District of Minnesota, supervises the St. Paul ICE Field Office, and is legally responsible for pursuing Petitioner’s detention and removal. Attorney General Bondi is a legal custodian of Petitioner. She is sued in her official capacity.

9. Respondent Kristi Noem is the United States Secretary of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the St. Paul ICE Field Office, and is legally responsible for pursuing Petitioner’s detention and removal. As such, Respondent Noem is a legal custodian of Petitioner. She is sued in her official capacity.

10. Respondent Todd M. Lyons is the Acting Director for U.S. Immigration and Customs Enforcement. In that position, he is responsible for ICE’s policies, practices, and procedures, including those relating to the detention of immigrants. Acting Director Lyons is a legal custodian of Petitioner. He is sued in his official capacity.

11. Respondent David Easterwood is the Acting Field Office Director for U.S. Immigration and Customs Enforcement for the St. Paul Field Office, which has administrative jurisdiction over Petitioner’s detention. Field Office Director Easterwood has supervisory

authority over the ICE agents responsible for detaining Petitioner and is a legal custodian of Petitioner. He is sued in his official capacity.

12. Respondent Warden of the El Paso Camp East Montana, where Petitioner is presently detained, has immediate day-to-day control over and is a legal custodian of Petitioner. He is sued in his official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

13. 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.*

14. 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).

EXHAUSTION OF REMEDIES

15. Because “the detention of Petitioner is mandatory, claiming no one, including the [immigration judge], can review the detention issue, any attempt to require Petitioner to exhaust any administrative remedies is futile.” *Lorenzo C.P. v. Noem*, No. 1:25-cv-181, 2025 U.S. Dist. LEXIS 264574, at *13 (S.D. Tex. Oct. 31, 2025).

LEGAL FRAMEWORK

16. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.”

Zadvydas v. Davis, 533 U.S. 678, 693 (2001).

17. A petitioner may seek a writ of habeas corpus when their custody violates the U.S. Constitution or a Federal law, 28 U.S.C. § 2241(c)(3), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence. *Perez-Sanchez v. Bondi*, No. SA-25-CV-01749-FB, 2026 U.S. Dist. LEXIS 2526, at *4 (W.D. Tex. Jan. 6, 2026), *abrogated on other grounds by Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 U.S. App. LEXIS 3899 (5th Cir. Feb. 6, 2026).

18. 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 is a danger to the community. *Zadvydas*, 533 U.S. at 690.

19. The Immigration and Nationality Act (“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).

20. 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.

21. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the “historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

22. The “motivation for the enactment of the Refugee Act” was the United Nations Protocol Relating to the Status of Refugees, “to which the United States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a

legislative purpose “to give ‘statutory meaning to our national commitment to human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

23. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

24. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

25. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).

26. 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. Respondents will no doubt argue that Petitioner’s detention was lawful pursuant to 8 U.S.C. § 1226, as affirmed by *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 U.S. App. LEXIS 3899 (5th Cir. Feb. 6, 2026). However, the Fifth Circuit in *Buenrostro-Mendez* did not decide the procedural due process question. *See generally id.* at *1-10. As previously held in this District, “‘*Buenrostro-Mendez* has no bearing on this Court’s determination of whether [a habeas petitioner] is being detained in violation of her constitutional right to procedural due process.’”

Lema Lema v. Bondi, No. 3:26-cv-00268-KC (W.D. Tex. Feb. 12, 2026) (quoting *Marceau v. Noem*, No. 3:26-cv-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026)).

FACTUAL ALLEGATIONS

28. Petitioner is a 28-year-old resident of Minnesota, and citizen of Ecuador. Petitioner is a husband and father to two children. He is the primary breadwinner for his family, including his mother.

29. Petitioner came to the United States in 2023 and has been here ever since. Petitioner presented himself to immigration authorities and applied for asylum upon entering the United States.

30. On information and belief, Petitioner has not been detained since his entry into the United States. He was briefly placed on an ankle monitor before having it removed by immigration enforcement. Petitioner was released without supervision until he was unlawfully detained on January 29, 2026.

31. On information and belief, Petitioner has a pending asylum application docketed on February 27, 2024, and does not have a final order of removal.

32. On information and belief, Respondent ICE detained Petitioner on January 29, 2026, in or around Fort Snelling, Minnesota when he appeared as directed for a scheduled ICE check-in.

33. On information and belief, no ICE agent at any time showed Petitioner a warrant or authorization for his arrest. Respondents to date have not provided Petitioner with a valid warrant justifying Petitioner's arrest and indefinite detention.

34. On information and belief, Petitioner has followed all immigration court instructions, attended all required appearances, and has no criminal history.

35. On information and belief, Respondents did not make an individualized finding of

Petitioner's flight risk.

36. Petitioner is neither a danger to others nor a flight risk.

37. This arrest is part of an operation in Hennepin and Ramsey counties called "Operation Metro Surge." This operation has involved hundreds of masked, unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting pedestrians, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody regardless of the constitutionality of their actions. *See, e.g., Compl., Tincher et. al. v. Noem*, No. 0:25-cv-04669. (D. Minn. Dec. 17, 2025).

38. Since the operation began on December 1, 2025, the number of immigration officials in Minneapolis and St. Paul, or the Twin Cities Metro Area, has increased fourfold, and with them these new agents have brought a similarly massive increase in unconstitutional, unlawful, and downright violent behavior towards citizens and non-citizens alike. The people of Minnesota—of all races, nationalities, and citizenship status—are united in their shock and fear at the events of the past six weeks and are begging for the attacks on their community to stop.

39. Given the massive volume of perceived non-citizens being taken off the streets, Respondents are running out of physical space to continue detaining people. Detainees are being held in cramped quarters at the federal building, before being quickly sent to remote locations across Minnesota or to facilities as far away as El Paso, Texas.

40. Petitioner is one of such detainees—he was initially detained while attending an ICE check-in, which on information and belief occurred at Fort Snelling, Minnesota, and subsequently transferred to Camp East Montana, in El Paso, Texas, far away from his family, community, legal resources, and place of residence.

41. On information and belief, Respondents are detaining Petitioner regardless of the individual facts and circumstances of his case.

42. On information and belief, Respondents are using the immigration detention system, including extra-territorial transfer and detention, as a means to punish individuals for asserting rights under the Refugee Act.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Due Process Under the Fifth Amendment and the Suspension Clause,

U.S. Const. art. I, § 9, cl. 2

43. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

44. Petitioner has due process rights as a resident of the United States. *Zadvydas*, 533 U.S. at 693.

45. Federal courts use the three-part test in *Mathews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

46. Here, all three factors favor the petitioner.

47. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas*, 533 U.S. at 690 ("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.”). Petitioner is wrongfully confined, a direct attack on Petitioner’s liberty interests. Moreover, Petitioner has a private interest in remaining in his community. “In custody, he is suffering ‘all the deprivations of incarceration, including loss of contact with friends and family.’” *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 U.S. Dist. LEXIS 209332, at *9 (W.D. Tex. Oct. 21, 2025). Courts across the country have recognized the “strong liberty interest in [habeas petitioners’] freedom from incarceration.” *Id.* (collecting cases).

48. Second, detaining Petitioner without a bond hearing creates a substantial risk in the erroneous deprivation of the private interest. A bond hearing is the proper method for ensuring that Petitioner is detained only where he poses a threat to public safety or risk of flight, which Respondents have failed to prove here.

49. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or at a minimum holding a bond hearing, would in fact *save* the government the resources and expense of continued imprisonment.

50. The placement of Petitioner in detention pending the resolution of ongoing immigration proceedings violates Petitioner’s constitutional rights to due process guaranteed in the Fifth Amendment.

REMEDY

51. Where a petitioner has been detained in violation of procedural due process, the appropriate remedy is to provide a bond hearing, in which the government bears the burden of proving “by clear and convincing evidence that the detainee poses a danger or flight risk.” *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 2025 U.S. Dist. LEXIS 188232, at * 34 (W.D. Tex. 2025). “This is so ‘[b]ecause the alien’s potential loss of liberty is so severe . . . he should not have to

share the risk of error equally.” *Lala Barros v. Noem*, No. EP-25-CV-488-KC, 2025 U.S. Dist. LEXIS 223593, at *13 (W.D. Tex. Nov. 10, 2025) (quoting *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 214 (3d Cir. 2020)).

52. If the government does not provide a bond hearing, then the petitioner must be immediately released. *Lopez-Arevelo*, 801 F. Supp. 3d 668, 2025 U.S. Dist. LEXIS 188232, at *35-36.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue a writ of habeas corpus and an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment, and the Suspension Clause (U.S. Const. art. I, § 9, cl. 2), and the Separation of Powers;
- (4) Enjoin Respondents from removing Petitioner from the United States without the procedures for removal identified in the Immigration and Nationality Act;
- (5) Order the immediate transfer to Minnesota then humane release of Petitioner;
- (6) Order the return of Petitioner’s personal effects including his cell phone and all documents and paperwork confiscated at the time of arrest;
- (7) Award reasonable attorneys’ fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and
- (8) Grant any other and further relief that this Court deems just and proper.

Dated: February 20, 2026

Respectfully submitted,

/s/ Alexandra Wood

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**ATTORNEYS FOR PETITIONER JORGE
DARÍO DAQUILEMA ROLDAN**

Verification by Someone Acting on Petitioner's Behalf

Pursuant to 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have discussed with Petitioner's close family members the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Alexandra Wood

Date: February 20, 2026

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 20, 2026, a true and correct copy of the foregoing instrument was served on all counsel of record via the online CM/ECF system, on or before February 20, 2026.

/s/Alexa Balderrama
Alexa Balderrama