


UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

<p>Lou LEE,  Petitioner,  v.  Warden, ERO El Paso Camp East Montana facility,  Pamela Bondi, Attorney General,  Kristi Noem, Secretary, U.S. Department of Homeland Security,  Todd M. Lyons, Acting Director of Immigration and Customs Enforcement, and  David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement.  Respondents.</p>	<p>Case No. _____</p> <p><b>PETITION FOR WRIT OF HABEAS CORPUS</b></p> <p>Expedited Handling Requested</p>
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**INTRODUCTION**

1. Petitioner, Mr. Lou Lee, (DOB ) by and through the undersigned attorney, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement ("ICE") to release Mr. Lee from ICE

detention, and to enjoin their transfer to a facility outside of Minnesota, or return him to Minnesota as soon as possible.

### JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Ms. Guaman Pinguil seeks to challenge her custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Demore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Mr. Lee had a scheduled ISAP appointment

in Minnesota, was arrested in Minnesota, and processed in Minnesota before being transferred to the ERO El Paso Camp East Montana facility.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

### PARTIES

7. Petitioner is a citizen of Laos and a resident of Minneapolis, MN, who is currently being held by ICE. Petitioner is under the direct control of the respondents and has no scheduled release date.

8. Respondent Warden of the ERO El Paso Camp East Montana ICE facility is sued in their official capacity as the jail administrator and operator of procedures at such facility. As such, he/she is the physical custodian of Petitioner and has responsibility over his well being and safety.

9. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Mr. Lee.

10. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department 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 Fort Snelling ICE Field Office, and is legally responsible for pursuing Mr. Lee's detention and removal. As such, Respondent Noem is a legal custodian of Mr. Lee.

11. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

12. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Mr. Lee.

### **FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY**

13. Mr. Lee was arrested and detained by ICE at his ISAP check-in appointment on February 4, 2026. His Order of Supervision ("OSUP") had been revoked.



14. Before that time, Mr. Lee had been convicted under Minn. Stat. § 609.713.1 in 2020 for committing a threat of violence against another person with reckless disregard of the risk of such threat. However, Mr. Lee had been making his ICE check-ins every year up until the present without issue.

15. Back in 2003, ICE released Mr. Lee from custody on an OSUP where he was required to check in with ICE every year and follow any other

conditions as they saw fit. Every year since 2003, Mr. Lee has checked in with ICE and followed the proper procedures.

16. Mr. Lee was ordered removed in 2003 and did not appeal his case. The Immigration Judge (“IJ”) ordered that his lawful permanent resident status, based on being a refugee, be revoked due to what undersigned counsel believes, may have been a conviction of an aggravated felony in 2001.<sup>1</sup>

17. In 2001, Mr. Lee was convicted of endangering the safety of another person, under Wis. Stat. § 941.30(2). This statute reads, “Whoever recklessly endangers another’s safety is guilty of a Class G felony.”

18. Mr. Lee was admitted to the United States as a refugee in 1989 due to the fear of persecution and death from the Laotian Army.   


19. Mr. Lee became a lawful permanent resident when he entered the United States on December 9, 1989. He was granted residency until September 27, 1991.

20. He then renewed that status to extend to 2001 and another time until 2011.

21. Since then, he has not extended his status.

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<sup>1</sup> Undersigned counsel is not sure at this time if it was due to an aggravated felony offense as counsel has no Immigration Court records to confirm this.

22. His underlying refugee status, however, remains to this day.

**STATEMENT OF FACTS**

23. Petitioner is a native and citizen of Laos who was admitted to the United States as a refugee and received lawful permanent resident status upon entry in 1989 pursuant to Section 207 of the Immigration and Nationality Act (INA).

24.

[REDACTED]

[REDACTED] Due to the high likelihood of persecution and death after the war, the United States granted his father and the rest of his family refugee status upon admission into the United States. Mr. Lee's refugee status is a fundamental legal protection that has never been formally terminated by the government.

25. Approximately a few years later, Petitioner adjusted his status to that of a Lawful Permanent Resident (LPR) under INA § 209. In 2003, following a conviction under Wis. Stat. § 941.30(2), Petitioner's LPR status was revoked by an Immigration Judge ("IJ"). Petitioner did not appeal that decision. Wis. Stat. § 941.30(2) reads, "Whoever recklessly endangers another's safety is guilty of a Class G felony."

26. It is likely that the IJ found Mr. Lee to have been convicted of an

aggravated felony, a serious offense under immigration law.<sup>2</sup>

27. However, pursuant to the binding precedent of *Matter of Smriko*, 23 I&N Dec. 836 (BIA 2005), the revocation of Petitioner's LPR status did not automatically terminate his underlying refugee status. Because the government has never initiated formal termination of Petitioner's refugee status under INA § 207(c)(4), Petitioner remains a refugee under the law.

28. Following the 2003 order, Petitioner was released on an Order of Supervision (OSUP). *See* Exh. 1. For over two decades, Petitioner has remained in the United States, complying with all reporting requirements, maintaining stable employment, and supporting his family and community.

29. In 2020, Petitioner was convicted under the "reckless disregard" prong of Minn. Stat. § 609.713, subd. 1. That statute reads,

*Whoever threatens, directly or indirectly, to commit any crime of violence* with purpose to terrorize another to cause evacuation of a building, place of assembly, vehicle or facility of public transportation or otherwise to cause serious public inconvenience, or *in a reckless disregard of the risk of causing such terror or inconvenience* may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(emphasis added); (relevant sections boldened).

30. This offense, committed with a reckless *mens rea*, is not a "crime

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<sup>2</sup> It is not 100% certain that this the IJ's finding. Undersigned counsel does not have those Immigration Court records. But undersigned counsel thinks the IJ's decision must have been serious enough to revoke Mr. Lee's lawful permanent status.

of violence" under *Borden v. United States*, 141 S. Ct. 1817 (2021). Despite the non-violent, non-aggravated nature of this offense, U.S. Immigration and Customs Enforcement (ICE) revoked Petitioner's OSUP and re-detained him on February 4, 2026, as part of a localized enforcement effort targeting refugees.

31. Petitioner is a refugee residing in Minnesota who has not adjusted to LPR status (as his previous adjustment was rescinded). He is a clear member of the "Detained Subclass" protected by the Temporary Restraining Order issued on January 28, 2026, in *U.H.A. v. Bondi*, No. 0:26-cv-00417 (D. Minn. 2026). His current detention is a direct violation of that federal court order.

### STANDARD OF LAW

32. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The "Great Writ" has been referred to by US Courts 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). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 22441(c)(3), which should be granted if the

petitioner meets their burden of proof—a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

33. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Id.* at 967-68.

34. Other courts in the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained immigrant's habeas corpus petition under similar circumstances—to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *Giron Reyes v. Lyons*, 2025 WL 2712427 at \*3 (N.D. Iowa Sept. 23, 2025).

35. “[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).

## **CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **Fifth Amendment Due Process and U.H.A. v. Bondi Class Membership**

*Respondents Deprived Petitioner of an adequate and meaningful process to re-detain him and revoke his OSUP. Petitioner is also a U.H.A. v. Bondi class member and should be immediately released*

36. Petitioner re-alleges and incorporates by reference the allegations contained above.

37. Mr. Lee has due process rights as a noncitizen of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

38. Federal courts use the three-part test in *Matthews 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.

39. Here, all three factors favor the petitioner.

40. First, Mr. Lee 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, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 ("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.”). Mr. Lee is wrongfully confined, a direct attack on Petitioner’s liberty interests.

41. Second, Mr. Lee will continue to be deprived of this interest if the current procedure – detaining Mr. Lee without a legal basis – is followed. Mr. Lee is a class member of *U.H.A. v. Bondi*, No. 0:26-cv-00417 (D. Minn. Jan. 28, 2026).

42. This class is defined as, “All individuals with refugee status who are residing in the state of Minnesota, who have not yet adjusted to lawful permanent resident status, and have not been charged with any ground for removal under the Immigration and Nationality Act.”

43. Although the Petitioner’s lawful permanent resident status was revoked in 2003, his fundamental status as a refugee was never formally terminated. Under the well-settled principle established in *Matter of Smriko*, 23 I&N Dec. 836 (BIA 2005), refugee status and LPR status are distinct legal layers; the revocation of the latter does not automatically extinguish the former. Because the Petitioner remains a refugee, he is a member of the protected class identified in *U.H.A. v. Bondi*, a case in which the Court explicitly enjoined the Department of Homeland Security from detaining Minnesota refugees who have not been charged with a new, valid ground of removal.

44. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Mr. Lee poses no safety threats to the community. He has had no convictions since 2020 and followed the conditions of his supervised probation over the course of two years. He has been discharged from that probation.

45. Releasing Petitioner would in fact *save* the government the resources and expense of continued imprisonment.

46. It is unknown what the government's primary justification is for re-detaining the Petitioner after years of compliant release on an Order of Supervision. This is especially so when Petitioner has a 2020 conviction under Minn. Stat. § 609.713, subd. 1.

47. However, this conviction cannot serve as a "new ground" for removal or a basis for mandatory detention. The Supreme Court's landmark decision in *Borden v. United States*, 141 S. Ct. 1817 (2021), clarified that a "crime of violence"—the statutory prerequisite for an aggravated felony under 18 U.S.C. § 16—requires a mental state higher than mere recklessness.

48. Because the Petitioner was convicted under the reckless disregard prong of the Minnesota statute, the offense is categorically disqualified from being treated as a crime of violence. By extension, the Petitioner's 2001 Wisconsin conviction under Wis. Stat. § 941.30(2) is likewise a reckless

offense that fails the Borden test. Consequently, the government lacks any current statutory authority to categorize the Petitioner as an aggravated felon or a "danger to the community" in a manner that would override the protections afforded to him as a refugee in Minnesota.

49. Furthermore, the Petitioner's re-detention constitutes a severe procedural due process violation under the framework established in *Roble v. Bondi*, No. 0:2025cv03196 (D. Minn. 2025). In *Roble*, the court held that the government violates its own regulations and the Fifth Amendment when it revokes an Order of Supervision using "generic" and "conclusory" language.

50. The government is required to provide specific, individualized evidence that a change in circumstances has made the Petitioner's removal significantly likely in the reasonably foreseeable future.

51. In this case, the government has failed to demonstrate how Petitioner's deportation is imminent in the future. If it is based on the 2020 conviction—which is not a deportable aggravated felony—suddenly rendering the removal of a long-term refugee "imminent," the Petitioner has demonstrated years of stability and compliance while at liberty. This lack of transparency and individualized reasoning renders the revocation of his supervision procedurally void.

52. Beyond the procedural defects, the Petitioner remains substantively eligible for relief that makes his ultimate removal highly unlikely, thereby rendering his detention "punitive" rather than "administrative" under the limits of *Zadvydas v. Davis*, 533 U.S. 678 (2001).

53. As an unadjusted refugee, the Petitioner is eligible to apply for a "super-waiver" under INA § 209(c). This unique statutory provision allows the Attorney General to waive nearly any criminal ground of inadmissibility for a refugee to ensure family unity or serve the public interest.

54. The Petitioner's 35-year history in the United States, his family ties, and the inherent danger he would face if returned to a country from which he was granted refuge all militate strongly in favor of such a waiver.

55. Because the Petitioner has a viable and meritorious path to regain his legal status through a Motion to Reopen his 2003 proceedings, the government cannot establish that his removal is "reasonably foreseeable."

56. In light of the January 28, 2026, TRO in *U.H.A. v. Bondi*, the Petitioner is entitled to immediate release. The court in that matter has already determined that ICE's systemic policy of targeting Minnesota refugees—Operation PARRIS—is likely unconstitutional and has ordered the immediate release of all members of the "Detained Subclass."

57. As a refugee whose status has never been terminated, the Petitioner is a clear member of that subclass. His continued incarceration

in the face of this injunction, his eligibility for a 209(c) waiver, and the legal insufficiency of his "reckless" convictions under Borden all demand that this Court grant the Writ of Habeas Corpus and order his immediate release from custody.

58. The placement of Mr. Lee in detention while being a *U.H.A. v. Bondi* class member and re-detaining him without following proper administrative procedures violates Mr. Lee's constitutional rights to due process guaranteed in the Fifth Amendment.

#### **REMEDY**

59. Petitioner asks for the remedy of immediate release.

#### **PRAYER FOR RELIEF**

WHEREFORE, Mr. Lee prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings (or returning her if Respondents have removed her from Minnesota);
- (3) Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately;
- (4) Alternatively, issue a writ of habeas corpus requiring Respondents to immediately release Petitioner;

- (a) If the Court issues a writ of habeas corpus requiring immediate release, ordering that at the time of release Respondents are to return all personal property including all immigration paperwork that was seized during his arrest.
- (5) Declare that the actions of Respondents as set forth in the Petition and Motion violate the Fifth Amendment of the United States Constitution, 28 U.S.C. § 2241, the APA, and the INA;
- (6) An award of attorney's fees and costs to the extent permitted by law, including but not limited to the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412; and
- (7) Grant any other and further relief that this Court may deem just and proper.

Dated this 8th of February of 2026

By: /s/ Sherene Mostaghimi

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Dated this 8th of January of 2026

By: /s/ Joseph D. Kantor

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

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. My firm has discussed the factual assertions in this petition with Petitioner's wife, who is acting on Petitioner's behalf and who I understand has personal knowledge of the facts alleged herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: February 8, 2026

/s/ Sherene Mostaghimi

Sherene Mostaghimi