

FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FEB 06 2026

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY ck DEPUTY

Miguel Angel Gomez Alvarado
Petitioner

v.

Miguel Vergara, Acting Director of San Antonio
Field Office, U.S. Immigration and Customs
Enforcement;

Todd Lyons, Acting Director, U.S. Immigration and
Customs Enforcement;

Kristi Noem, Secretary of the U.S. Department of
Homeland Security;

Charlotte Collins, Warden of the T. Don Hutto
Detention Center;
Respondents

PETITION FOR WRIT OF
HABEAS CORPUS

1:26 CV 00309 DAE

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**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Miguel Angel Gomez Alvarado (Mr. Gomez Alvarado) is a thirty-five-old Honduran citizen who is eligible for Cancellation of Removal, Withholding of Removal and Asylum.
2. Mr. Gomez Alvarado entered the United States without inspection through McAllen, Texas in May of 2012, and was never encountered by Border Patrol. On November 13th, 2025, he was detained in Texas
3. Mr. Gomez Alvarado is the father of one United States Citizen, his son who is just over

 who was born in Austin, Texas on  See Exhibit A.

4. On **January 5, 2026**, Petitioner filed with the Honorable Pearsall Immigration Court Form EOIR-42B, **Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents**. See Exhibit B.
5. He has no criminal background.
6. He had been at liberty in the United States for more than thirteen years prior to his detention.
7. In order to vindicate Petitioner's constitutional, statutory and regulatory rights, this Honorable Court should grant this instant petition for a writ of habeas corpus to ensure his continued freedom. Respondent's continue to detain Petitioner without adequate justification. Petitioner humbly asks this Honorable Court to find that his detention to be unlawful and to order ICE to release him.

JURISDICTION

8. This instant action is rooted in the United States Constitution and the Immigration and Nationality Act (INA).
9. This Honorable court has jurisdiction over this matter 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)

VENUE

10. Venue is proper because the petitioner is currently detained at the T. Don Hutto Detention Center, located at 1001 Welch Street, Taylor, TX 76574, therefore, the Petitioner remains detained in the District of Western Texas.

REQUIREMENTS SET FORTH ON 28 U.S.C. § 2243

11. The Honorable Court must grant this instant petition for writ of habeas corpus or issue an order to show-cause 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 Honorable Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed”

PARTIES AND FACTS ALLEGED

12. The Petitioner, **Miguel Angel Gomez Alvarado**, upon information provided by ICE, is currently detained at the T. Don Hutto Detention Center.
13. Respondent **Miguel Vergara**, is sued in his official capacity as the Acting Director of San Antonio Field Office for U.S. Immigration and Customs Enforcement (ICE).
14. Respondent **Todd Lyons**, is sued in his capacity as the Acting Director for the U.S. Immigration and Customs Enforcement (ICE).
15. Respondent **Kristi Noem**, is sued in her capacity as the Secretary of the U.S. Department of Homeland Security (DHS).
16. Respondent **Charlotte Collins**, is sued in her capacity as the Warden of the T. Don Hutto Detention Center.
17. All respondents are named in their official capacities.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process Clause

18. The Fifth Amendment provided that “no person shall be deprived of life, liberty, or property without due process of law”
19. “[t]he Due Process clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary or permanent” *Zadvydas v. Davis*, 533 U.S. 693 (2001)
20. Respondent mandatory detention without consideration for release on bond or access to a bond hearing violates his due process rights.

COUNT TWO

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

21. Mandatory detention as set forth on 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the ground of inadmissibility, most relevant, it does not apply to those who previously entered the country and have been residing in the U.S. prior to being detained by Defendants, historically, such noncitizens would be detained under § 1226(a), and therefore, eligible for release on bond.
22. Nonetheless, the Department of Justice has issued a decision on September 5th, binding to all IJs, thus rendering the Petitioner ineligible for release on Bond, *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025).

COUNT THREE

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19 Unlawful

Denial of Release on Bond

23. In 1997, following the enactment of IIRIRA, EOIR and the Immigration and Naturalization Service issued an interim rule interpreting its detention provisions. Under the heading “Apprehension, Custody, and Detention of [Noncitizens],” the agencies clarified that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination.*” 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Thus, individuals who entered without inspection are eligible for custody redetermination hearings under 8 U.S.C. § 1226 and its implementing regulations.
24. Application of 8 U.S.C. § 1225(b)(2) to Petitioner, who is bond-eligible, unlawfully mandates his continued detention in contravention of 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT FOUR

Violation of the Administrative Procedure Act Contrary to Law and Arbitrary and Capricious Agency Policy

25. The Administrative Procedure Act (“APA”) requires that a “reviewing court shall...hold unlawful and set aside agency action, findings, and conclusions found to be...arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).
26. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens physically present in the United States who are subject to

grounds of inadmissibility. Critically, it does not apply to those who have already entered the country and resided here prior to being apprehended and placed into removal proceedings. Such individuals fall under 8 U.S.C. § 1226(a), which provides for release on bond absent applicability of § 1225(b)(1), § 1226(c), or § 1231.

27. Nevertheless, DHS and the Immigration Court have applied § 1225(b)(2) to Petitioner.

28. This application is arbitrary, capricious, and contrary to law, and therefore violates the APA. See 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

- 1) Wherefore, Petitioner respectfully requests this Court to grant the following:
- 2) Assume jurisdiction over this matter;
- 3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- 4) Order that Defendants not remove Petitioner from the State of Texas;
- 5) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment as well as the relevant statute and regulations governing detention of noncitizens;
- 6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- 7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

8) Grant any further relief this Court deems just and proper.

Respectfully Submitted,

Miguel Angel Gomez Alvarado
Petitioner

By and through undersigned counsel.

/s/ Stephen A. Lagana

Dated: February 3, 2026

Stephen A. Lagana, Esq.
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145 Essex Street
Lawrence, MA 01840
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VERIFICATION PURSUANT TO 28 U.S.C. §. 2242

I represent Petitioner **Miguel Angel Gomez Alvarado** 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.

/s/ Stephen A. Lagana,

Dated: February 3, 2026

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