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 March 23, 2026
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 WESTERN DISTRICT OF TEXAS
 United States Courts
 Eastern District of Texas
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**UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 WACO DIVISION**

KELVIN ALEXANDER GARCIA SORTO, Petitioner,
 v. **KRISTI NOEM**, in her official capacity, Respondent.

Case No. 6:26-CV-00087-ADA-DNM

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner **Kelvin Alexander Garcia Sorto** respectfully submits this Reply to Respondent's Response (Dkt. 11). Respondent's filing fails to rebut the constitutional and statutory defects in Petitioner's detention. The government's arguments are incomplete, factually inaccurate, and contradicted by recent developments, including Petitioner's transfer back to the Montgomery Processing Center ("Conroe") two days ago.

Petitioner has now been detained for approximately **three months**, despite having **no felony convictions**, having been released on a PR bond by a state judge, and despite the fact that his missed court date was solely due to ICE custody, not any act or omission by Petitioner.

For the reasons below, the Court should grant the writ or order an immediate bond hearing.

I. Respondent Fails to Identify the Statutory Basis for Detention

Respondent does not specify whether Petitioner is detained under:

- **8 U.S.C. § 1226(a)** (pre-removal),
- **8 U.S.C. § 1226(c)** (mandatory detention), or
- **8 U.S.C. § 1231(a)** (post-order detention).

This omission is significant because:

- Under **§ 1226(a)**, Petitioner is entitled to a **bond hearing**.
- Under **§ 1226(c)**, detention applies only to individuals with certain criminal convictions — which Petitioner does not have.
- Under **§ 1231**, detention beyond six months becomes presumptively unreasonable under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Respondent's failure to identify the statutory basis for detention is itself grounds for relief.

II. Petitioner's Missed Court Date Was Caused by ICE Custody and Cannot Justify Detention

Respondent attempts to rely on a missed state court date to justify detention. This argument is legally and factually flawed.

- Petitioner was **released on a PR bond** by a Harris County judge.
- ICE immediately placed a **hold** and took him into custody.
- Because he was in ICE custody, he was **physically unable** to appear for his state court date.
- The missed appearance was **caused by ICE**, not Petitioner.

A missed court date caused by government custody **cannot** be used to label Petitioner a flight risk. Courts routinely reject this argument as a violation of due process.

III. ICE's Transfers — Including the Recent Transfer Back to Conroe — Undermine Respondent's Claims

Petitioner was transferred:

I, **Kelvin Alexander Garcia Sorto**, declare under penalty of perjury:

1. I have been detained by ICE for approximately **three months**.
2. I have **no felony convictions**.
3. A Harris County judge released me on a **PR bond**.
4. ICE placed a **hold** on me immediately after my release.
5. I missed my state court date **only because I was in ICE custody** and could not appear.
6. I was transferred from Harris County to ICE, then to Limestone County, and **two days ago** back to Conroe with 38 other detainees.
7. ICE released a detainee with **multiple felonies** from the same transfer group, while I remain detained.
8. I have strong family ties and am not a danger or flight risk.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 03/14/2024 Signature: Kelvin Alexander Garcia Sorto **Kelvin Alexander Garcia Sorto**

PROPOSED ORDER

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS WACO DIVISION

KELVIN ALEXANDER GARCIA SORTO, Petitioner,

v. **KRISTI NOEM**, Respondent.

Case No. 6:26-CV-00087-ADA-DNM

ORDER

Before the Court is Petitioner's Petition for Writ of Habeas Corpus and related briefing. Having considered the filings, the record, and applicable law, the Court finds that Petitioner's continued detention without individualized review violates the Due Process Clause.

IT IS ORDERED that:

1. The Petition for Writ of Habeas Corpus is **GRANTED**.
2. Respondent shall **immediately release Petitioner, OR**, in the alternative:
3. Respondent shall provide Petitioner with an **individualized bond hearing** before an immigration judge within **7 days**, at which the government must justify continued detention by **clear and convincing evidence**.

IT IS SO ORDERED.

Dated: _____

UNITED STATES DISTRICT JUDGE

- from Harris County to ICE custody,
- then to Limestone County (Groesbeck),
- and **two days ago** back to Conroe,
- along with **38 other detainees**.

Upon arrival in Conroe, ICE released a detainee with multiple felony convictions on bond, while Petitioner — who has **no felonies** — remains detained without bond.

This inconsistency undermines any claim that Petitioner is a danger or flight risk.

Frequent transfers also:

- disrupt communication with family,
- interfere with access to courts,
- and contradict any assertion that ICE is preparing for removal.

Courts have held that such transfers can violate due process when they impede meaningful access to the courts.

IV. Petitioner Is Not a Danger or Flight Risk

Respondent fails to address the following:

- A state judge already determined Petitioner was **not a danger** and **not a flight risk**, granting a **PR bond**.
- Petitioner has **no felony convictions**.
- ICE released a **multiple-felony detainee** from the same transfer group.

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The government's position is unsupported by the facts.

V. Petitioner's Three-Month Detention Is Unreasonable and Violates Due Process

Petitioner has now been detained for approximately **three months** with:

- no bond hearing,
- no explanation for transfers,
- no clarity on the statutory basis for detention,
- and no evidence of danger or flight risk.

Prolonged civil detention without individualized review violates due process under:

- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Demore v. Kim*, 538 U.S. 510 (2003)
- *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018)

Even under the most restrictive reading of these cases, Petitioner is entitled to **individualized custody review**.

VI. Relief Requested

Petitioner respectfully requests that this Court:

1. **Grant the writ of habeas corpus, OR**, in the alternative:
2. Order an **immediate bond hearing** before an immigration judge, with the burden on the government to justify continued detention by **clear and convincing evidence**.

Petitioner requests any additional relief the Court deems just and proper.

DECLARATION OF KELVIN ALEXANDER GARCIA SORTO

United States Courts
Southern District of Texas
FILED

MAR 18 2026

Nathan Ochsner, Clerk of Court

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

Kelvin Alexander Garcia Sorto,
Petitioner,

v.

Kristi Noem, Secretary of the Department of Homeland Security,
Respondent.

Case No. 6:26-cv-00087-ADA-DNM

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE

Petitioner, proceeding pro se, respectfully submits this reply to the government's response to his Petition for Writ of Habeas Corpus under 28 U.S.C. §2241.

I. INTRODUCTION

Petitioner remains detained by Immigration and Customs Enforcement ("ICE"). Petitioner respectfully submits that his continued detention is unlawful and violates his constitutional right to due process. The government's response fails to justify continued detention and does not address the circumstances that led to Petitioner's inability to attend his state court hearing.

II. BACKGROUND

Petitioner was detained by local authorities and later released on a personal recognizance bond by a state judge. The state court determined that Petitioner did not pose a danger to the community and was not a flight risk.

Upon release from county custody, however, Petitioner was immediately taken into ICE custody pursuant to an immigration detainer. As a result of being held in federal immigration custody, Petitioner was unable to appear for his scheduled state court hearing.

Petitioner was subsequently transferred to an ICE detention facility in Groesbeck, Texas. Because he remains detained, Petitioner has limited ability to prepare his defense or access legal resources.

III. ARGUMENT

A. Petitioner Is Not a Flight Risk

A state court previously evaluated Petitioner and released him on a personal recognizance bond. This determination demonstrates that Petitioner was not considered a danger to the community and was not considered a flight risk.

Petitioner intended to comply with all court obligations. Any failure to appear in state court occurred because Petitioner was detained by ICE and physically unable to attend.

B. ICE Custody Prevented Petitioner From Appearing in Court

Petitioner's inability to attend his state court hearing was not voluntary. ICE detention prevented Petitioner from appearing before the state court.

The government cannot rely on a missed court appearance to justify detention when the absence occurred solely because Petitioner was already in government custody.

C. Continued Detention Raises Due Process Concerns

Immigration detention is civil in nature and must comply with the Due Process Clause of the Fifth Amendment. Detention that is unnecessary or excessive violates these constitutional protections.

Petitioner is detained despite the absence of evidence that he poses a danger to the community or a risk of flight. The government's response does not demonstrate that continued detention is necessary.

IV. REQUEST FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus.

Petitioner respectfully asks the Court to:

1. Order Petitioner's release from immigration detention; or
2. In the alternative, order that Petitioner receive an immediate bond hearing before an immigration judge.

Respectfully submitted,

Kelvin Alexander Garcia Sorto
Kelvin Alexander Garcia Sorto
Petitioner, Pro Se

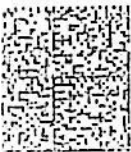
DECLARATION

I, Kelvin Alexander Garcia Sorto, declare under penalty of perjury that the statements contained in this reply are true and correct to the best of my knowledge.

Executed on this 14 day of MARCH, 2026.

Kelvin Alexander Garcia Sorto
Kelvin Alexander Garcia Sorto

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