

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

**GUTIERREZ CASTANO, KEVIN**

A#

Petitioner,

v.

**TODD LYONS, Director,**

U.S. Immigration and Customs Enforcement;

**KRISTI NOEM, Secretary,**

Department of Homeland Security;

**WARDEN, KROME NORTH SERVICE PROCESSING CENTER,**

Respondents.

**PRO SE PETITION FOR WRIT OF HABEAS CORPUS  
(28 U.S.C. § 2241)  
AND EMERGENCY MOTION FOR IMMEDIATE RELEASE  
AND TEMPORARY RESTRAINING ORDER (ANTI-TRANSFER)**

**I. INTRODUCTION**


1. I, **Kevin Gutierrez Castano** A# respectfully submit this pro se Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging my unlawful and unconstitutional civil immigration detention by the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”).
2. I am currently detained at Krome North Service Processing Center, Miami, Florida, despite the fact that:
  - a. I have a pending affirmative application for asylum before U.S. Citizenship and Immigration Services (“USCIS”);
  - b. My asylum application has not been denied;
  - c. I have no final order of removal;
  - d. I am not currently in removal proceedings before an Immigration Judge; and
  - e. I have no criminal convictions or pending criminal charges.
3. I was arrested and detained without a judicial warrant, without probable cause, and without any individualized determination that I pose a danger to the community or a flight risk.

4. My continued detention violates the Due Process Clause of the Fifth Amendment, the Fourth Amendment, and exceeds the lawful statutory authority of DHS and ICE.
5. I also seek emergency release and a Temporary Restraining Order (“TRO”) prohibiting transfer, because any transfer would irreparably harm my constitutional rights, interfere with this Court’s jurisdiction, and obstruct my access to the courts.

## **II. JURISDICTION AND VENUE**

6. This action arises under 28 U.S.C. § 2241 and the Suspension Clause of the United States Constitution, Art. I, § 9.
7. Petitioner is detained within the Southern District of Florida, at Krome North Service Processing Center, Miami, Florida.
8. This Court has jurisdiction to review the legality of Petitioner’s detention and to order release where detention violates the Constitution or federal law.
9. Venue is proper in this District pursuant to 28 U.S.C. § 2241(a).

## **III. PARTIES**

10. Petitioner is KEVIN GUTIERREZ CASTANO A  an asylum applicant currently detained by ICE.
11. Respondent Todd Lyons is the Director of U.S. Immigration and Customs Enforcement (“ICE”), responsible for immigration detention decisions.
12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”), the agency with ultimate authority over ICE.
13. Respondent Warden, Krome North Service Processing Center, is Petitioner’s immediate physical custodian.

## **IV. FACTUAL BACKGROUND**

14. Petitioner entered the United States and filed an affirmative application for asylum with USCIS. See Exhibit “A”
15. Petitioner’s asylum application is currently pending and has not been adjudicated or denied.
16. Petitioner has no final order of removal and is not in removal proceedings before an Immigration Judge.
17. Petitioner has no criminal history and poses no danger to the community. See Exhibit “B”

18. On Thursday, February 5, 2026, Petitioner was detained by ICE while returning home from work.
19. ICE officers did not present a judicial warrant, did not articulate probable cause, and did not conduct any individualized assessment justifying detention.
20. Petitioner was taken into custody and transferred to Krome North Service Processing Center, where he remains detained.
21. Although Petitioner received detention-related paperwork, ICE has never articulated a lawful statutory or constitutional basis for continued detention.

## **V. GROUNDS FOR HABEAS RELIEF**

### **A. Unlawful and Arbitrary Civil Detention**

22. Immigration detention is civil in nature and must be reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
23. Detaining an asylum applicant with a pending USCIS application, no final order of removal, and no criminal history, without individualized justification, is arbitrary and unlawful.
24. While INA § 236(a) permits discretionary detention, it requires an individualized determination of necessity, which did not occur in Petitioner's case.

### **B. Violation of the Fifth Amendment – Due Process**

25. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law, including non-citizens physically present in the United States.
26. Petitioner's detention lacks any individualized determination of danger or flight risk, violating procedural and substantive due process.
27. Detention under these circumstances becomes punitive rather than administrative, which is unconstitutional. *Demore v. Kim*, 538 U.S. 510, 532 (2003).

### **C. Violation of the Fourth Amendment**

28. Petitioner was seized without probable cause and without a warrant, in violation of the Fourth Amendment.

### **D. Abuse of Discretion by ICE**

29. ICE has failed to demonstrate any mandatory statutory authority requiring Petitioner's detention.

30. ICE abused its discretion by detaining Petitioner solely based on immigration status, without lawful justification or individualized analysis.

**VI. NO ADEQUATE ALTERNATIVE REMEDY**

31. Petitioner has no meaningful access to prompt administrative or immigration court review of the legality of his detention.

32. Habeas corpus is the only effective and adequate remedy to challenge Petitioner's unlawful detention.

**VII. REQUEST FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241;

B. Order Petitioner's immediate release from ICE custody;

C. In the alternative, order an immediate individualized bond or probable-cause hearing;

D. Issue a Temporary Restraining Order prohibiting ICE from transferring Petitioner outside the Southern District of Florida;

E. Grant any other relief the Court deems just and proper.

Respectfully submitted,

**Kevin Gutierrez Castano**

A# 

**Krome North Service Processing Center**

**Miami, Florida**

**PRO SE**

**Date:** \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I certify that on this date, a true and correct copy of the foregoing was served by **Certified Mail**  
– **Return Receipt Requested** upon:

- Office of the Chief Counsel  
U.S. Immigration and Customs Enforcement (ICE)  
333 S. Miami Avenue, Suite 200,  
Miami, FL 33130
- Department of Homeland Security  
Office of the General Counsel  
2707 Martin Luther King Jr. Ave, SE  
Mail Stop 0485  
Washington, DC 20528-0485.
- Warden, Krome Detention Center  
Krome North Processing Center  
18201 SW 12th Street  
Miami, FL 33194
- U.S. Attorney for the Southern District of Florida  
U.S. Attorney's Office  
99 N.E. 4th Street  
Miami, Fl. 33132

Date: \_\_\_\_\_

**Kevin Gutierrez Castano**

A# 

**PRO SE**

**INDEX OF FILINGS**

<b># Document</b>	<b>Page</b>
1 Cover Letter to the Clerk (Emergency)	1
2 Petition for Writ of Habeas Corpus (28 U.S.C. § 2241)	2
3 Emergency Motion for Immediate Release	11
4 Emergency Motion for Temporary Restraining Order (Anti-Transfer)	13
5 [Proposed] Order Granting Immediate Release	15
6 [Proposed] Order Granting Anti-Transfer TRO	17
7 Certificate of Service	19
8 Exhibit A – I-589 Asylum Receipt (USCIS)	20
9 Exhibit B – Criminal Records	21
10 Exhibit C- Detention Documents (I-213 / Custody Records)	22

**EXHIBIT "A"**

**EXHIBIT "B"**

**EXHIBIT "C"**