

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

LUIS DAVID PORTILLO-BEJARANO,
Petitioner,

V.

**KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security,
MARY DE ANDA YBARRA, Field
Operations Director of the El Paso
Immigration and Customs Enforcement
Office, TODD M. LYONS, Acting
Director of United States Immigration
and Customs Enforcement,
All acting in their official capacities,
Respondents.**

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Case No. 3:26-cv-458

PETITION FOR WRIT OF HABEAS CORPUS

TABLE OF CONTENTS

ADVISORY TO THE COURT.....3

PRELIMINARY STATEMENT.....3

CUSTODY.....4

JURISDICTION.....4

VENUE.....4

REQUIREMENTS OF 28 U.S.C. § 2243.....5

PARTIES.....5

EXHAUSTION OF ADMINISTRATIVE REMEDIES.....6

LEGAL FRAMEWORK.....6

CLAIMS FOR RELIEF.....9

VIOLATION OF DUE PROCESS.....10

PRAYER FOR RELIEF.....10

VERIFICATION PURSUANT TO 28 U.S.C. § 2242.....11

EXHIBITS

 A. Mexican Identification Card

 B. DHS Detainee Locator

ADVISORY TO THE COURT

This Petition for Writ of Habeas Corpus is not governed by the Fifth Circuit's February 6, 2026 decision in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496, 25-40701, 2026 U.S. App. LEXIS 3899 (5th Cir. Feb. 6, 2026). That case has no application here. Unlike the petitioners in *Buenrostro-Mendez*, Petitioner is being imprisoned by Respondents **without any stated reason, justification, or lawful predicate whatsoever.**

Respondents have offered no explanation for Petitioner's confinement, no finding of dangerousness, no flight-risk determination, and no legal authority authorizing continued custody. Detention untethered to any articulated cause is the very definition of arbitrary imprisonment and offends the most basic principles of due process. Petitioner's ongoing confinement therefore violates the Due Process Clause of the United States Constitution.

PRELIMINARY STATEMENT

1. Petitioner LUIS DAVID PORTILL-BEJARANO is a 25-year-old citizen of Mexico who is detained by Respondents at the El Paso Processing Center, El Paso, Texas in violation of the Due Process Clause of the Fifth Amendment of the United States Constitution. Petitioner seeks relief under 28 U.S.C. § 2241. Exhibits A, B.

2. Petitioner entered the United States without inspection in or about 2021 and has remained in the United States since that time. He currently resides in Seminole, Texas, with his fiancée, a United States citizen, and her family. Petitioner and his fiancée are expecting their first child.

3. On or about Tuesday, February 3, 2026, Respondents detained Petitioner in Seminole and eventually incarcerated him at the El Paso Processing Center. Exhibit B.

4. Respondents have not provided Petitioner with any reason for his detention. Importantly, Respondents have not initiated removal proceeding before an immigration court with the filing of a "Notice to Appear." See 8 U.S.C. § 1229(a).

5. Petitioner has no means to seek a bond hearing before the immigration judge. *Matter of A-W-*, 25 I. & N. Dec. 45, 47 (immigration judges have only been granted authority to redetermine custody of aliens who have been issued and served with a Notice to Appear in relation to removal proceedings).

6. Petitioner seeks a writ of habeas corpus for immediate release from custody.

CUSTODY

7. Petitioner is in the physical custody of Respondent MARY DE ANDA YBARRA, El Paso Field Office Director for Detention and Removal, Immigration and Customs Enforcement (ICE), and the Department of Homeland Security (DHS).

JURISDICTION

8. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article 1, section 9, clause 2 of the United States Constitution (the Suspension Clause).

9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Western District of Texas, El Paso Division because Petitioner is detained in El Paso County, Texas, within the environs of the El Paso Division.

11. Venue is also proper pursuant to 28 U.S.C. § 1391(e) because (a) Respondents are employees, officers, and agencies of the United States, and (b) a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant a petition for writ of habeas corpus or order a respondent to show cause forthwith, unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, a respondent must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

13. Habeas corpus is “perhaps the most important writ known to the constitutional law... 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

14. Petitioner is a citizen of Mexico. Exhibit 1.

15. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, which is responsible for Petitioner’s detention. Secretary Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

16. Respondent Mary De Anda Ybarra is the Field Office Director of ICE’s Enforcement and Removal Operations division in El Paso, Texas. As such, Respondent is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. She is named in her official capacity.

17. Respondent Todd M. Lyons is the Acting Director of United States Immigration and Customs Enforcement, and responsible for Petitioner’s detention. He is named in his official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. “The major purpose of the exhaustion doctrine is to prevent the courts from interfering with the administrative process until it has reached a conclusion.” *Von Hoffburg v. Alexander*, 615 F.2d 633, 637 (5th Cir. 1980). Because an immigration judge lacks authority to entertain a bond hearing without commencement of removal proceedings, Petitioner has no avenue to pursue an administrative remedy. Any appeal of the denial of the bond hearing “would be a patently futile course of action.” *Fuller v. Rich*, 11 F.3d. 61, 62 (5th Cir. 1994) (per curiam). Therefore, an exception to exhaustion exists and Petitioner’s only remedy is by way of a writ of habeas corpus to this Court.

LEGAL FRAMEWORK

No Application of 8 USC §§ 1225, 1226 to Petitioner

19. The Immigration and Nationality Act (“INA”) prescribes three basic forms of detention for most noncitizens in removal proceedings.

20. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals detained under Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention under Section 1226(c). *See* 8 U.S.C. § 1226(c).

21. Second, the INA provides for mandatory detention of two groups of noncitizens: The first group consists of those who are subject to expedited removal for being apprehended upon arrival near the border or for being unable to show that they have been physically present in the United States for more than two years until a determination has been made as to whether they have a credible fear of persecution. 8 U.S.C. § 1225(b)(1). The second group subject to mandatory detention consists of anyone alleged to be an “applicant for admission” who is “seeking admission” and whom an

“examining immigration officer determines . . . is not clearly and beyond a doubt entitled to be admitted.” *See* 8 U.S.C. § 1225(b)(2)(A).

22. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

23. Petitioner has never been convicted of an offense that triggers Section 1226(c). Nor has he ever been previously removed from the United States or obtained withholding proceedings under Section 1231(a)–(b). Nor have Respondents commenced removal proceedings for Petitioner under Section 1229(a) in order that he can seek a bond hearing under Section 1226.

24. In sum, Petitioner is unlawfully detained by Respondents.

Due Process Violation

25. Respondents’ detention of Petitioner denies due process under the Fifth Amendment.

26. “To determine whether a civil detention violates a detainee’s due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).” *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 U.S. Dist. LEXIS 174415, at *3 (W.D. Tex. Sept. 8, 2025). Those factors are: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335. “The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time.” *Id.* at 348.

a. Private Interest

27. As to the first element, “[t]he interest in being free from physical detention’ is ‘the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Respondents have detained Petitioner since February 3, 2026. A⁷ person’s physical freedom is a paramount liberty

interest, secured not just by statute but by the Constitution. *Id.* This liberty interest applies to noncitizens, although to varying degrees *Martinez v. Hyde*, --- F. Supp. 3d ---, 2025 U.S. Dist. LEXIS 141724 at *8 (D. Mass. July 24, 2025) (citation omitted). “[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.” *Id.* (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958)). “In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely “on the threshold of initial entry.”” *Id.* (quoting *Leng May Ma*, 357 U.S. at 187).

28. Petitioner has lived in the United States since 2021 so “it cannot be denied that he was ‘already in the country.’” *See id.* (quotations omitted). He has established a family and a community here. In custody, he is suffering all the deprivations of incarceration, including loss of contact with friends and family and, most fundamentally, the lack of freedom of movement.

29. Recently, district courts throughout the United States, including this one, have considered due process claims in habeas petitions by noncitizens without lawful immigration status who entered the United States surreptitiously, like Petitioner. *See Aragonés-Frias v. Noem*, No. 3:25-CV-00590-KC, at *1-5 (W.D. Tex. Dec. 5, 2025); *Martinez v. Noem*, No. 3:25-cv-430-KC, 2025 WL 2965859, at *1-5 (W.D. Tex. Oct. 21, 2025); *Lopez-Arevelo v. Ripa*, No. 25-cv-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Lala Barros v. Noem*, No. 3:25-cv-488-KC, 2025 WL 3154059, at *1-6 (W.D. Tex. Nov. 10, 2025); *Erazo Rojas v. Noem*, No. 3:25-cv-443-KC, 2025 WL 3038262, at *1-5 (W.D. Tex. Oct. 30, 2025); *Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588, at *1-14 (W.D. Tex. Oct. 2, 2025); *Sanchez Alvarez v. Noem*, No. 25-CV-1090, 2025 U.S. Dist. LEXIS 2048996 at *1 (W.D. Mich. Oct. 17, 2025); *Choglló Chafra v. Scott*, Nos. 25-CV-437, 438, 439, 2025 U.S. Dist. LEXIS 184909 at *1, 10 (D. Me. Sept. 22, 2025); *Martinez v. Noem*, No. EP:25-CV-430-KC, U.S. Dist. LEXIS 403462 (W.D. Tex. Oct. 21, 2025). Those courts have found that because the

petitioners established a life here—albeit without authorization—they possessed a strong liberty interest in their freedom from detention. *See, e.g.*, These decisions are persuasive and consistent with the longstanding principle that due process applies to those who are present in the interior of the United States, regardless of their citizenship status. *See Leng May Ma*, 357 U.S. at 187.

b. Risk of Erroneous Deprivation

30. Under the second *Mathews* factor, the Court must consider “whether the challenged procedure creates a risk of erroneous deprivation of individuals’ private rights and the degree to which alternative procedures could ameliorate these risks.” *Martinez v. Noem*, 2025 U.S. Dist. LEXIS 403462 at *8 (quoting *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. May 21, 2025)).

31. Detaining Petitioner without a reason creates a certain result that he is deprived of his liberty. Therefore, the second *Mathews* factor weighs in favor of Petitioner.

c. Government’s Interest

32. Respondents’ only possible interest to detain Petitioner serves the misguided policy to detain every non-citizen who is allegedly unlawful in the United States. Petitioner’s constitutional interest in his liberty exists above and apart from the INA. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (“[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.”) (citation omitted). Respondents have not commenced removal proceedings, therefore there are no proceedings for the Government to even possess an interest in ensuring that noncitizens appear for their removal hearings and do not pose a danger to the community. There are no “removal proceedings” for which Petitioner should appear. Thus, the third *Mathews* factor also weighs in favor of Petitioner.

33. Since all *Mathews* factors support Petitioner’s position, detention deprives Petitioner of his constitutional right to procedural due process under the Fifth Amendment of the United States Constitution. Petitioner requests this Court to enter order for his immediate release. ,

CLAIMS FOR RELIEF

VIOLATION OF DUE PROCESS

34. Petitioner incorporates by reference the factual allegations and legal arguments set forth in the preceding paragraphs.

35. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

36. Petitioner has a fundamental interest in liberty and being free from official restraint.

37. Petitioner's due process rights are violated by detention without cause.

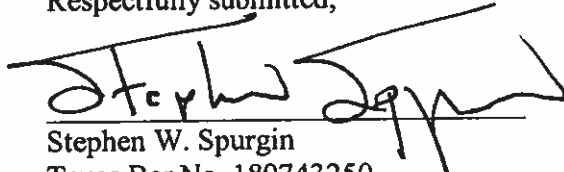
PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring Respondents to release Petitioner immediately.
- c. Grant such other relief that the Court deems proper.

Date: Feb. 14, 2026

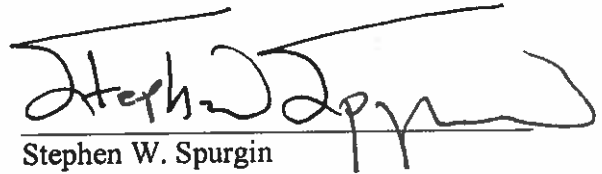
Respectfully submitted,



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

I, Stephen W. Spurgin, am submitting this verification on behalf of Petitioner because I am his attorney and Petitioner is in ICE custody. I have discussed with Petitioner the events described in this Petition and have reviewed the documents corroborating those events. I hereby verify under penalty of perjury that the factual statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Stephen W. Spurgin", is written over a horizontal line.

Stephen W. Spurgin
February 14, 2026

EXHIBIT A

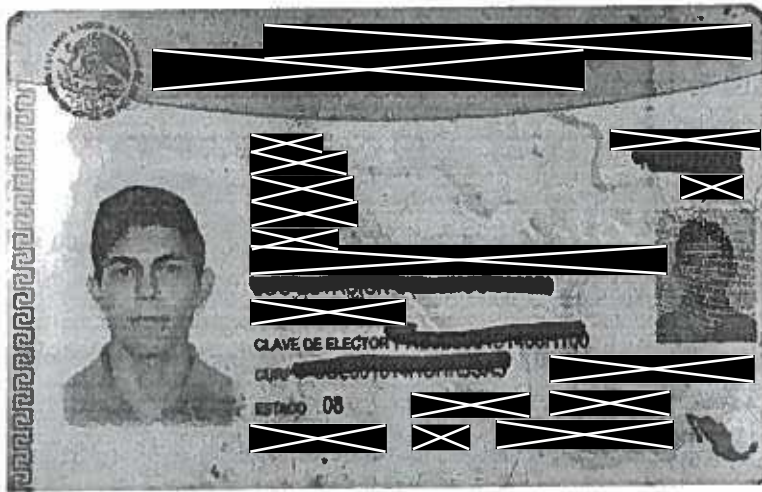


EXHIBIT B



Report

Main Menu

Search Results: 1

LUIS DAVID PORTILLO-BEJARANO

Country of Birth : Mexico

A-Number: 

Status : In ICE Custody

State: TX

Current Detention Facility: EL PASO PROCESSING CENTER

** Click on the Detention Facility name to obtain facility contact information*

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