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

EDUARDO MOYA-CRUZ
Petitioner,

v.

ANGEL GARITE, in his official capacity as Assistant Field Office Director of Enforcement and Removal Operations, El Paso Field Office, U.S. Immigration and Customs Enforcement;

MARY DE ANDA-YBARRA, in her official capacity as Field Office Director of Enforcement and Removal Operations, El Paso Field Office, U.S. Immigration and Customs Enforcement;

TODD M. LYONS, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;

KRISTI LYNNE ARNOLD NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;

Case No. 3:26-cv-614

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 OR ORDER TO SHOW CAUSE WITHIN 3 DAYS

PAMELA JO BONDI, in her official capacity as United States Attorney General;
And

Warden, in his official capacity, of the ERO El Paso Camp East Montana Detention Facility.

Respondents.

INTRODUCTION

1. Petitioner, Eduardo Moya-Cruz, is a survivor of severe human trafficking who was targeted as a minor and young adult by [redacted] Petitioner subsequently filed a Form I-914, Application for T Nonimmigrant Status, on February 18, 2026, which remains pending with U.S. Citizenship and Immigration Services ("USCIS"). The filing included Petitioner's detailed affidavit, corroborating documentation, and country conditions evidence.

2. Petitioner has been in DHS custody since January 26, 2026, and is detained pursuant to an expedited removal order issued under 8 U.S.C. § 1225(b)(1).

3. Petitioner expressed a credible fear of return to Mexico and disclosed information related to his trafficking to federal agents. Despite these clear trafficking indicators and his pending T-visa application, DHS initiated expedited removal proceedings against Petitioner under 8 U.S.C. § 1225(b)(1), which affords no hearing before a neutral decisionmaker and only the most limited judicial review under 8 U.S.C. § 1252(e).

4. Notably, ICE Directive 11005.3 – which has not been revoked – mandates immigration authorities exercise prosecutorial discretion on behalf of survivors who have victim-based applications pending with the agency. That binding directive was present when DHS apprehended and continued to detain Petitioner despite trafficking indicators.

5. Petitioner suffered human trafficking that puts him at unique and immediate risk of harm if removed to Mexico. He is in the United States because [redacted] threatens retaliation if he does not [redacted] he will be subjected to unusual and severe punishment if returned.

6. Petitioner was also coerced under threat of death (to himself and his family) to transport drugs across the U.S.–Mexico border to act as a decoy for law enforcement so [redacted] Evidence provided to support Petitioner's T-visa application further documents these trafficking methods [redacted] Mexico. Respondents made no effort to assess whether Petitioner's account contained trafficking indicators before detaining him.

7. Petitioner's detention is therefore unlawful because DHS failed to afford Petitioner the procedural protections required by the Due Process Clause. Petitioner's liberty interest here is particularly strong; he is extremely vulnerable as a trafficking survivor, and the chances of erroneous deprivation

are high. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). These factors weigh heavily in favor of granting some meaningful process, which was denied in this case.

8. *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), does not prevent Petitioner from seeking habeas relief. *Thuraissigiam* explicitly states that habeas review remains available to challenge the legality of detention, even though the Court limited review of the expedited removal order itself. Petitioner does not ask this Court to review his removal order. Rather, he asks the Court to remedy his unlawful custody that violates due process and the TVPA.

9. The decision in *Thuraissigiam* did not, and does not, prevent petitioners from asserting as-applied constitutional challenges to detention under expedited removal. Federal courts have continued to accept challenges to detention where, as here, Petitioner is not seeking review of the removal order but rather release from custody. *See*, e.g., *Arroyo v. Diaz*, --- F. Supp. 3d ---- (2026) (permitting habeas challenge to detention where petitioner sought release from custody, not review of expedited removal); *Agarwal v. Lynch*, 610 F. Supp. 3d 990 (E.D. Mich. 2022) (recognizing that a petitioner may pursue an as-applied constitutional challenge arising from expedited-removal proceedings where the claim targets the petitioner's individual circumstances rather than the validity of the expedited-removal system itself).

10. Petitioner has never had the opportunity to appear before an immigration judge or any other neutral arbiter to review his trafficking claims, coercion at the hands of [redacted] threats to his family, or pending application for T Nonimmigrant Status. By failing to consider mandatory protections under the TVPA including those intended to ensure availability to law enforcement, Respondents have made his detention arbitrary and contrary to law.

11. Petitioner's T-visa application includes country conditions evidence proving the elements of trafficking. The descriptions Petitioner provides about his treatment by [redacted] - specifically [redacted] common methods of coercing minors and young adults to smuggle narcotics across the U.S.-Mexico border, patterns of abuse, and threats to kill family members - is consistent with [redacted] Despite submitting this evidence with his T-visa application, Respondents have ignored it.

12. Petitioner's case is not unique, nor are his circumstances outside the scope of protections Congress provided in the TVPA. The TVPA reflects a strong public interest in preventing the removal of applicants for T Nonimmigrant Status, including Petitioner, before their applications are adjudicated. *R.O.A. v. Edlow*, 805 F. Supp. 3d 565, 582-83 (2025). Respondents' detention of a cooperating trafficking victim who submitted a

timely application for T Nonimmigrant Status violates the TVPA and undermines federal efforts to combat human trafficking.

13. Petitioner has no other criminal history that would merit detention if not for conduct directly related to his trafficking experience. He does not pose a danger to the community. Nothing in the record indicates Respondents' interest in mandatory detention under § 1225(b) applies to Petitioner. ICE detained Petitioner because DHS chose to utilize expedited removal without first considering trafficking indicators present in Petitioner's case, his pending T-visa application, or their own guidance on the use of discretion.

14. Finally, Petitioner is not in 8 U.S.C. § 1229a removal proceedings and does not have a final order of removal that could be reviewed by the courts of appeals. He is detained only as an "applicant for admission" whose custody under § 1225(b) may not be challenged through normal channels. This Court has the power to correct Respondents' violations of the Fifth Amendment and federal law prohibiting the detention of trafficking victims.

15. Petitioner is being detained at ERO El Paso Camp East Montana. Every day Petitioner remains in detention, he suffers substantial harm to his mental health as a survivor of brutal cartel-sponsored trafficking. This manner of detention attacks the very statutory protections designed to

protect Petitioner and other survivors. Petitioner respectfully requests that the Court issue a writ of habeas corpus and order his immediate release.

JURISDICTION

16. Petitioner is in the physical custody of Respondents. Petitioner is detained at Camp East Montana in El Paso, Texas.

17. This Court has jurisdiction over this habeas corpus action under 28 U.S.C. § 2241, which authorizes federal courts to grant relief to persons "in custody in violation of the Constitution or laws or treaties of the United States." Petitioner challenges the legality of his ongoing physical detention, not the underlying expedited removal order, and therefore this action falls squarely within the scope of habeas review preserved by § 2241.

18. This Court also has jurisdiction under 28 U.S.C. § 1331, because Petitioner raises claims arising under the Constitution and laws of the United States, including the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, and federal anti-trafficking protections. The Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651, further support this Court's jurisdiction to issue orders necessary to protect its habeas jurisdiction and to provide meaningful relief.

19. Jurisdiction is proper because Petitioner does not seek judicial review of the expedited removal order itself, which is restricted by 8 U.S.C. § 1252(e). Instead, Petitioner seeks review of the lawfulness of his detention, a type of claim that remains reviewable under § 2241 and is expressly preserved even in expedited-removal contexts. *See Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020) (confirming that habeas remains available for challenges to unlawful custody). Accordingly, this Court has jurisdiction to hear and decide this petition.

VENUE

20. Venue lies in the United States District Court for the Western District of Texas, El Paso Division, pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), because Petitioner is presently detained within this judicial district at the ERO El Paso Camp East Montana. A habeas petition must be filed in the district of confinement, and Petitioner's immediate physical custodian is located within this Court's jurisdiction.

21. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers and agencies of the United States, and a substantial part of the events or omissions giving rise to Petitioner's claims—including

his continued detention and the failures to apply required procedural safeguards—occurred within the Western District of Texas, El Paso Division.

REQUIREMENTS OF 28 U.S.C. § 2243 TO SHOW CAUSE

22. Under 28 U.S.C. § 2243, this Court must either grant the writ of habeas corpus or issue an order directing Respondents to show cause "forthwith" why the writ should not be granted. If the Court issues an order to show cause, Respondents must file their return within three days, unless the Court finds good cause to allow a brief extension of time not exceeding twenty days. *Id.* The statute underscores Congress's intention that habeas petitions challenging unlawful custody receive prompt judicial attention.

23. 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

24. Petitioner Eduardo Moya-Cruz is a citizen of Mexico and a survivor of severe human trafficking. Petitioner is currently detained by Respondents at the El Paso Service Processing Center in El Paso, Texas. Petitioner has been in DHS custody since January 26, 2026 and is detained pursuant to an expedited removal order under 8 U.S.C. § 1225(b)(1). Petitioner has filed a Form I-914, Application for T Nonimmigrant Status, which remains pending.

25. Respondent Angel Garite is the Assistant Field Office Director for the El Paso Field Office. As such, he is the immediate physical custodian of Petitioner's. His address is 8915 Montana Avenue, El Paso, Texas 79925. He is named in his official capacity.

26. Respondent Mary De Anda-Ybarra is the Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division. As such, she is Petitioner's immediate custodian and is responsible for his detention and removal. Her address is ICE El Paso Field Office, 11541 Montana Avenue, Suite E, El Paso, Texas 79936. She is named in her official capacity.

27. Respondent Kristi Lynne Arnold Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Respondent Noem's

address is Office of the General Counsel, MS 0485 Department of Homeland Security, 2707 Martin Luther King, Jr. Ave. SE, Washington, D.C. 20528-0525. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

28. Respondent Todd M. Lyons is the acting director of U.S. Immigration and Customs Enforcement (ICE). He is responsible for overseeing the federal agency responsible for Petitioner's detention. His address is U.S. Immigration and Customs Enforcement, Office of the Principal Legal Advisor, 500 12th St. SW, Mailstop 5900, Washington, D.C. 20536. Mr. Lyons has custodial authority over Petitioner and is sued in his official capacity.

29. Respondent Pamela Jo Bondi is the Attorney General of the United States and the senior official of the U.S. Department of Justice. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001. She has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals (BIA). Ms. Bondi has custodial authority over Petitioner and is sued in her official capacity.

30. Respondent Warden is the agent overseeing the ERO El Paso Camp East Montana Detention Facility, where Petitioner is detained. His

address is ERO EL PASO CAMP EAST MONTANA, 6920 Digital Road, El Paso, TX 79936. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

a. Statutory Framework for Expedited Removal Under INA § 235(b)(1)

31. Congress established expedited removal under 8 U.S.C. § 1225(b)(1) as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") to allow certain noncitizens to be removed from the United States by immigration officers without an immigration judge hearing. It applies to those applying for admission who either do not have valid entry documents or who are suspected of falling into certain categories of inadmissibility, specifically fraud or misrepresentation under 8 U.S.C. §§ 1182(a)(6)(C) or 1182(a)(7).

32. If the immigration officer determines that an individual is an applicant for admission who is inadmissible under one of these grounds, "the officer shall order the alien removed from the United States without further hearing or review," 8 U.S.C. § 1225(b)(1)(A)(i), unless the individual expresses either a fear of persecution or a desire to apply for asylum. § 1225(b)(1)(A)(ii). When

an individual expresses such a fear, he or she is referred for a credible-fear interview by an asylum officer.

33. If the asylum officer finds that the individual has a "credible fear of persecution," then he or she is referred to full removal proceedings under 8 U.S.C. § 1229a. § 1225(b)(1)(B)(ii). But if the asylum officer does not find a credible fear of persecution and that determination is affirmed after review, the order of expedited removal "shall become final." § 1225(b)(1)(B)(iii).

34. Expedited removal also carries a mandate of detention. Section 1225(b)(1)(B)(iii)(IV) states that an individual placed in expedited removal "shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." While detained, the individual may be released only if the Secretary "paroles" him or her pursuant to his or her discretionary authority under 8 U.S.C. § 1182(d)(5)(A).

35. In contrast to proceedings under § 1229a, § 1225(b)(1) does not allow for a hearing before an immigration judge, presentation of testimony or other evidence, or development of an administrative record. Furthermore, judicial review of expedited removal orders is extremely limited and arises by statute only in 8 U.S.C. § 1252(e). That provision precludes habeas review except over narrow statutory issues that do not include the merits of the removal order.

36. Those who go through proceedings under § 1225(b)(1) are therefore subjected to a statutory scheme of nearly summary administrative removal authority, mandatory detention, and severely limited judicial review.

b. Limits on Judicial Review Under INA § 242(e)

37. Congress sharply limited judicial review of expedited removal orders in 8 U.S.C. § 1252(e). This provision governs the scope of habeas corpus review available to individuals processed under 8 U.S.C. § 1225(b)(1) and reflects Congress's intent to restrict federal court review of the merits of expedited removal determinations.

38. Section 1252(e)(2) provides that judicial review in habeas proceedings "shall be limited to determinations of" only three issues: whether the individual is an alien, whether the individual was ordered removed under § 1225(b)(1), and whether the individual can establish lawful permanent resident, refugee, or asylee status. This narrow statutory formulation defines the exclusive scope of federal court review in habeas actions arising from expedited removal orders.

39. Courts may not hear whether an alien is inadmissible, whether the individual actually passed a credible-fear interview, or whether the expedited removal order itself was proper. *See* 8 U.S.C. § 1252(a)(2)(A); § 1252(e)(5).

These statutory bars prohibit review on habeas of whether an expedited removal decision was made properly.

40. In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), the Supreme Court held that § 1252(e)'s limitations on judicial review of expedited removal orders under § 1225(b)(1) are constitutional and do not violate the Suspension Clause even if the petitioner only requests additional administrative review or reconsideration of the removal order.

41. While reaffirming this principle, the Court also made clear that habeas corpus is not a mechanism to expand administrative review but traditionally has been used to contest unlawful detention. *Id.* at 115–16. Based on *Thuraissigiam*, courts cannot hear challenges to the expedited removal order, but challenges to the legality of detention are not barred.

42. Accordingly, 8 U.S.C. § 1252(e) establishes a jurisdictional framework that restricts judicial review of expedited removal orders to the narrow inquiries enumerated in § 1252(e)(2), while preserving the longstanding principle that habeas corpus may be used to contest the legality of executive detention. This statutory structure informs the limits and availability of habeas review in cases arising under § 1225(b)(1).

c. Habeas Review of Unlawful Detention Post-*Thuraissigiam*

43. The writ of habeas corpus, codified at 28 U.S.C. § 2241, authorizes federal courts to inquire into the legality of a person's custody. The statute preserves the core historical function of habeas corpus: to test the lawfulness of executive detention.

44. In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), the Supreme Court considered the scope of habeas available to expedited-removal aliens under § 1225(b)(1). The Court ruled that the Suspension Clause does not permit habeas review of the merits of an expedited removal order when a petitioner asks only for additional administrative review or reversal of his removal.

45. The Court also noted that "the writ of habeas corpus has traditionally provided a means to seek release from unlawful detention." *Id.* at 115. Importantly for present purposes, the Court confirmed that habeas' central historical function is to challenge the fact or basis of custody, not to seek greater administrative review of discretionary immigration decisions.

46. *Thuraissigiam* thus makes clear that there are two types of claims: claims which effectively ask courts to review the validity of the expedited removal order itself, and claims that challenge the validity of executive detention. The former are plainly unavailable due to DHS's statutory grant of jurisdiction and Congress's jurisdiction-stripping amendment to 8 U.S.C. §

1252(e). The latter, however, fall within the historical core of habeas and cannot be removed from the scope of § 2241.

47. While the former category of claims is true in the narrowest sense. Congress's comprehensive limits on review of expedited-removal orders does not mean habeas review has been suspended. Federal courts may still issue habeas under § 2241 to determine whether an individual's detention is allowed by the Constitution and laws of the United States.

48. Thus, the relevant precedent clearly distinguishes between (i) challenges to the merits of an expedited removal order, which are prohibited by statute, and (ii) challenges to the legality of executive detention.

d. Constitutional Due Process Standards (*Mathews v. Eldridge*)

49. The Due Process Clause of the Fifth Amendment imposes procedural safeguards when the Government deprives an individual of liberty. In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Supreme Court articulated the framework for determining what process is constitutionally required in a particular context. The Court explained that "due process is flexible and calls for such procedural protections as the particular situation demands." *Id.* at 334.

50. Under *Mathews*, courts evaluate three factors: (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 fiscal and administrative burdens that the additional or substitute procedures would entail. *Id.* at 335. This balancing test governs procedural due process analysis across a wide range of administrative and detention contexts.

51. The first *Mathews* factor focuses on the nature and weight of the individual liberty interest at stake. Physical confinement has long been recognized as a significant deprivation of liberty that triggers core procedural protections under the Fifth Amendment.

52. The second factor examines the adequacy of existing procedures and the risk that those procedures may result in erroneous deprivation. In applying this factor, courts assess whether the statutory framework provides sufficient safeguards to ensure accurate and individualized decision making.

53. The third factor evaluates the Government's interests, including administrative efficiency and the burdens associated with providing additional procedural protections, and requires balancing those interests against the value of such protections.

54. Taken together, the Mathews framework provides the governing constitutional standard for assessing whether immigration detention satisfies the requirements of due process. Although Congress may define procedures and limit judicial review in certain immigration contexts, constitutional due process continues to constrain executive detention authority and requires procedures sufficient to guard against erroneous deprivation of liberty. *See Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020).

e. Statutory Protections for Trafficking Victims Under the TVPA

55. The Victims of Trafficking and Violence Protection Act ("TVPA") is meant to prevent trafficking of persons, and to ensure that victims of such trafficking are identified and protected. 22 U.S.C. § 7101(a), (b). Congress found that trafficked persons can suffer serious harm to their physical and psychological health. *Id.* § 7101(b)(11). Moreover, Congress found that returning victims to the countries where the traffickers are from can subject them to danger or retribution. *Id.* § 7101(b)(4)–(7).

56. Congress sought to address these concerns by passing the TVPA, which created a federal framework requiring agencies to identify trafficking victims and protect and assist them. 22 U.S.C. § 7105.

Congress noted that victims are often from foreign countries. *Id.* § 7101(b)(12). For that reason, they may need assistance during dealings with law enforcement or immigration authorities.

57. The TVPA mandates that agencies shall institute safeguards so that victims of trafficking are not removed from the United States prior to being offered an opportunity to obtain any of such protections including immigration relief. 22 U.S.C. § 7105(b)(1). To that end, DHS and DOJ must implement procedures to identify victims of trafficking and prevent their removal before they have had a chance to access available protections.

58. The TVPA further provides that victims who may be eligible for immigration relief - including T-nonimmigrant status - should be afforded continued presence or deferred action to ensure their availability to law enforcement. 22 U.S.C. § 7105(c)(3). Congress enacted these protections to encourage reporting, ensure victims' safety, and preserve the integrity of federal investigations into trafficking networks.

59. Additionally, Congress instructed immigration enforcement agencies to use techniques designed to lessen the emotional impact of reporting and to give immigration officials guidance on how to base decisions on what is best for victims. *See* 22 U.S.C. § 7105(b)(1)(A)–(F).

Congress intended these protections to clearly differentiate between victims of trafficking and aliens who are subject to the normal immigration enforcement process.

60. In summary, the TVPA establishes mandatory federal protections designed to (1) prevent premature removal of trafficking victims, (2) encourage cooperation with law enforcement, and (3) ensure that immigration-related decisions account for the vulnerabilities and safety needs of survivors. These protections form a critical backdrop to the analysis of any detention or removal action involving a potential trafficking victim.

f. T-Visa Eligibility and Statutory Structure Under INA § 101(a)(15)(T)

61. Congress created the T-nonimmigrant classification in the Trafficking Victims Protection Act of 2000 to provide immigration relief to individuals who have been subjected to severe forms of trafficking in persons. The statutory authority for T-nonimmigrant status is codified at 8 U.S.C. § 1101(a)(15)(T), which defines eligibility criteria and establishes protections designed to stabilize victims and facilitate their cooperation with law enforcement.

62. Under § 1101(a)(15)(T)(i), an applicant must demonstrate that he or she is or has been a victim of a severe form of trafficking in persons. The statute incorporates the definition of "severe forms of trafficking" set forth in the Trafficking Victims Protection Act, which includes sex trafficking induced by force, fraud, or coercion, and labor trafficking involving the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery.

63. The statute further requires that the victim be physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands "on account of" trafficking. This physical-presence requirement is satisfied when the individual's presence in the United States results directly or indirectly from trafficking, including continued presence following escape from traffickers or presence needed for participation in investigative or prosecutorial processes. See 8 U.S.C. § 1101(a)(15)(T)(i)(II).

64. Section 1101(a)(15)(T)(i)(III) provides that, unless the applicant is under eighteen years of age or otherwise exempt, the individual must comply with any reasonable request for assistance in the investigation or prosecution of acts of trafficking. This cooperation requirement

reflects Congress's intent to protect victims while strengthening federal efforts to investigate and dismantle trafficking organizations.

65. The applicant must also demonstrate that removal from the United States would result in "extreme hardship involving unusual and severe harm." 8 U.S.C. § 1101(a)(15)(T)(i)(IV). This hardship standard accounts for the risks victims face if returned to environments controlled or influenced by traffickers, including the threat of retaliation, re-victimization, and severe psychological or medical harm.

66. T-nonimmigrant status confers significant statutory protections, including eligibility for employment authorization and a pathway to lawful permanent residence after three years of continuous presence in the United States or upon completion of the investigation or prosecution of the trafficking offense. See 8 U.S.C. § 1255(l). These benefits reflect a congressional judgment that trafficking victims require stability and protection to recover from trauma and meaningfully participate in law-enforcement efforts.

67. The statutory scheme governing T-visa applications thus establishes a framework designed to protect trafficking victims, ensure their safety, and promote federal investigative and prosecutorial interests. This framework forms an integral part of the legal context

against which immigration detention and enforcement decisions involving potential trafficking victims must be understood.

g. ICE Directive 11005.3 and Agency Obligations Toward Victim-Based Applicants

68. U.S. Immigration and Customs Enforcement ("ICE") issued Directive 11005.3, Using a Victim-Centered Approach with Noncitizen Crime Victims, to guide the agency's enforcement practices when interacting with victims of crime, including survivors of human trafficking. The Directive establishes ICE policy governing the exercise of prosecutorial discretion in cases involving individuals who may be eligible for victim-based immigration relief. In January 2025, DHS and ICE issued updated victim-centered enforcement guidance reaffirming that immigration enforcement actions against noncitizen crime victims may undermine victim safety and cooperation with law enforcement and therefore require careful consideration.

69. Directive 11005.3 directs ICE officers to consider if a person is a victim of trafficking or another qualifying crime and if the person has applied for or may be eligible to apply for victim-based immigration relief such as T or U nonimmigrant status. The Directive acknowledges the agency's understanding that enforcement actions may conflict with

protecting victims, cooperating with law enforcement, and federal anti-trafficking goals.

70. The Directive adds that ICE agents should consider exercising prosecutorial discretion (including with regard to detention, removal, and ongoing enforcement action) when a person is applying for or may be eligible for victim-based immigration relief. The Directive states that this discretion should be exercised so that ICE's immigration enforcement actions are consistent with protections that Congress has built into the Trafficking Victims Protection Act and our immigration laws.

71. ICE policies advise officers that trafficking victims may be uniquely vulnerable, susceptible to retaliation, and highly traumatized. Enforcement actions may also interfere with federal law enforcement investigations or prosecutions of trafficking rings. The Directive instructs officers to take these factors into account.

72. Agency policies, including internal guidance such as Directive 11005.3, have formed part of the legal and policy landscape related to detention and removal decisions affecting immigration respondents, including how ICE exercises its enforcement discretion authority under the Immigration and Nationality Act with respect to potential trafficking victims and other victim-based immigration applicants.

FACTS

73. Petitioner, Eduardo Moya-Cruz, was born on [redacted] in Mexico. At age seventeen, Petitioner began to be [redacted]

74. Petitioner was imprisoned in warehouses [redacted] with weapons and beaten and threatened repeatedly. Petitioner was told that [redacted] would be killed if he did not follow orders. Petitioner was made to smoke inhalants to loosen him up, was forced to eat raw or bloody meat, and was threatened and beaten. [redacted]

75. After Petitioner turned eighteen in July 2015, [redacted] directed him to smuggle drugs across the United States–Mexico border. Petitioner would [redacted] into the United States under threat of death. Petitioner did not voluntarily assist in [redacted] drug trafficking operation.

76. Petitioner was forced to cross the U.S.-Mexico border three times carrying drugs. Upon the first illegal entry into the United States, Petitioner

was caught by U.S. officials who detained him for two days before returning him to Mexico. Immediately after being returned to Mexico, [redacted] found Petitioner. Petitioner was forced to re-cross the border a second time. Once again, Petitioner was caught by U.S. officials. This time Petitioner was detained in the United States for two to three months before being removed to Mexico where [redacted] located him. Petitioner was told to cross into the United States one final time.

77. During Petitioner's third crossing at the direction of [redacted] Petitioner was able to break away from [redacted] Petitioner ran into the desert and avoided [redacted] by walking for two days with the use of a GPS. Petitioner ultimately reached out to a good samaritan that helped him out. After [redacted] came to Petitioner's [redacted] home inquiring about his whereabouts multiple times. Petitioner reasonably fears that he will be killed or otherwise seriously harmed at the hands of [redacted] if returned to Mexico.

78. On February 13, 2026, Petitioner reported his trafficking experiences to the National Human Trafficking Hotline. Petitioner was assigned case number [redacted]. Petitioner signed a declaration under penalty of perjury on February 16, 2026, describing his trafficking history, the force used against him to further [redacted] drug smuggling operation, the physical and mental abuse Petitioner suffered, the harm that Petitioner continues to fear, and what

happened when he escaped from [redacted] after being caught in the United States for a third time.

79. Petitioner filed an I-914, Application for T Nonimmigrant Status together with his declaration and supporting evidence on February 18, 2026. The evidence submitted with Petitioner's application includes independent evidence from other witnesses corroborating Mr. Moya's account and country-conditions evidence detailing [redacted] common trafficking practices that match with Petitioner's personal experiences.

80. Petitioner filed Form I-914, Application for T Nonimmigrant Status, with U.S. Citizenship and Immigration Services on February 18, 2026.

81. Despite the trafficking indicators documented in the record and the pendency of Petitioner's Form I-914 application, ICE continued to detain Petitioner following the filing of that victim-based application.

82. Petitioner has been in DHS custody since January 26, 2026 pursuant to 8 U.S.C. § 1225(b)(1) and has been detained under the expedited removal statute. At the time of the filing of this motion, Petitioner is detained by ICE and awaits a decision on his pending T-visa application. Petitioner filed a report with law enforcement detailing his trafficking experience and has a well-documented history of suffering severe physical and mental abuse.

83. If returned to Mexico, Petitioner fears he will be immediately sexually assaulted, tortured, and killed by [redacted] able to

find him in Mexico after fleeing into the desert upon his third removal from the United States.

CLAIMS FOR RELIEF

COUNT I

Violation of the Fifth Amendment (Procedural Due Process – Unlawful Detention)

84. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

85. The Fifth Amendment prohibits the Government from depriving any person of liberty without due process of law. Civil immigration detention is permissible only when accompanied by constitutionally adequate procedures. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

86. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), due process requires balancing the individual's liberty interest, the risk of erroneous deprivation under existing procedures, and the Government's interest. Federal courts in this District apply *Mathews* to determine whether continued immigration detention is lawful. *See Marceau v. Noem*, 2026 WL 368953 (W.D. Tex. Feb. 9, 2026); *Lopez-Arevalo v. Ripa*, 801 F.Supp.3d 668 (W.D. Tex. 2025).

87. Individuals detained under 8 U.S.C. § 1225(b)(1) receive no individualized custody determination and no opportunity to present evidence relevant to flight risk or danger. Courts in this District have repeatedly held that detention without any individualized review presents a substantial risk of erroneous deprivation. *See Martinez v. Noem*, 2025 WL 2965859 (W.D. Tex. 2025).

88. The Government's interest does not outweigh the need for minimal procedural safeguards. This District has recognized that providing a neutral custody review imposes no meaningful administrative burden and falls squarely within longstanding immigration-detention practice. *See Lopez-Arevalo v. Ripa*, 801 F.Supp.3d 668 (W.D. Tex. 2025).

89. Restrictions on review of expedited removal orders do not bar procedural due process challenges to detention. *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), confirmed that limits on reviewing the removal order do not eliminate habeas review of unlawful custody. Courts in this District have applied this exact distinction post-Thuraissigiam. See *Marceau v. Noem*, 2026 WL 368953 (W.D. Tex. Feb. 2026).

90. Petitioner has never received any individualized custody determination before a neutral decisionmaker. Courts in this District have

granted habeas relief under identical circumstances. *See Vieira v. De Anda-Ybarra*, 806 F.Supp.3d 690 (W.D. Tex. 2025).

91. Under the controlling Mathews balancing test, Petitioner's significant liberty interest, the high risk of erroneous deprivation created by the absence of any custody review, and the minimal administrative burden of providing an individualized determination all require additional procedural safeguards. Courts evaluating detention under the expedited-removal framework have recognized that constitutional due process principles continue to apply to immigration custody. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Marceau v. Noem*, 2026 WL 368953 (W.D. Tex. Feb. 9, 2026).

92. Because Petitioner's detention has occurred without the constitutionally required procedures, his continued confinement violates the Due Process Clause. Habeas relief under 28 U.S.C. § 2241 is therefore appropriate, or, in the alternative, immediate release.

COUNT II

Violation of the Accardi Doctrine (Failure to Follow ICE Directive 11005.3)

93. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

94. Under the *Accardi* doctrine, federal agencies must follow their own rules, policies, and procedures when those rules are intended to guide the exercise of

discretionary authority. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), establishes that agency action taken in disregard of binding internal directives is unlawful. This principle has been consistently recognized in immigration habeas cases you provided, including in the analysis in *Noori v. LaRose*, 807 F.Supp.3d 1146 (W.D. Tex. 2025), where the court reviewed agency adherence to its own parole procedures.

95. ICE Directive 11005.3, *Using a Victim-Centered Approach with Noncitizen Crime Victims*, remains in effect and requires ICE officers to incorporate victim-based considerations when making enforcement decisions involving individuals who may be eligible for T or U nonimmigrant status. The Directive instructs officers to evaluate whether detention or removal would interfere with victim protection, safety, or cooperation with law enforcement.

96. ICE Directive 11005.3 requires officers to consider victim status when making enforcement decisions and to exercise prosecutorial discretion where appropriate. The Directive states that "ICE will exercise prosecutorial discretion in appropriate circumstances to facilitate access to justice and victim-based immigration benefits by noncitizen crime victims," and that, absent exceptional circumstances, ICE will refrain from taking civil immigration enforcement action against individuals known to have pending victim-based immigration applications. ICE Directive 11005.3, *Using a Victim-Centered Approach with Noncitizen Crime Victims*.

97. Despite these requirements, Petitioner filed a Form I-914 application for T nonimmigrant status on February 18, 2026 and remained detained thereafter. ICE has continued to detain Petitioner under 8 U.S.C. § 1225(b)(1) without any documented assessment of the considerations mandated by ICE Directive 11005.3. Courts in this District have recognized that failure to apply

required procedures in custody decisions may support habeas relief under the Accardi doctrine. See Noori v. LaRose, 807 F.Supp.3d 1146 (W.D. Tex. 2025).

98. Because ICE failed to follow its own binding directive in exercising custodial authority over a potential trafficking victim, Petitioner's continued detention is unlawful under the Accardi doctrine and constitutes agency action taken in violation of established procedures. Relief under 28 U.S.C. § 2241 is therefore warranted.

COUNT III

Statutory Violation of the Trafficking Victims Protection Act

99. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

100. Congress enacted the Trafficking Victims Protection Act ("TVPA") to ensure that victims of severe forms of trafficking receive protection, stabilization, and access to immigration relief. *See* 22 U.S.C. § 7105. The statute directs federal agencies to take steps to prevent the premature removal of trafficking victims and to facilitate their ability to seek assistance and cooperate with law enforcement.

101. Section 7105(b)(1) requires federal agencies to implement procedures to identify trafficking victims, protect them from removal during the pendency of victim-based relief, and ensure access to services and legal mechanisms established for their benefit. The statute reflects Congress's determination that trafficking victims face heightened danger and vulnerability, requiring special consideration during immigration enforcement actions.

102. The TVPA further provides that victims who may be eligible for T-nonimmigrant status should be protected from removal before their claims

can be adjudicated and, where appropriate, afforded continued presence or other mechanisms that allow them to remain in the United States. 22 U.S.C. § 7105(c)(3). These protections ensure that victims are not exposed to retaliation, re-traumatization, or renewed exploitation and that their cooperation in investigations is not undermined.

103. Despite these statutory commands, Petitioner has remained detained under 8 U.S.C. § 1225(b)(1) without any indication that DHS considered the protections mandated by 22 U.S.C. § 7105 or the implications of detaining a potential T-visa applicant. Courts in this District consider statutory protections relevant to assessing the lawfulness of detention when those protections are explicitly incorporated into federal law. *See Noori v. LaRose*, 807 F.Supp.3d 1146 (W.D. Tex. 2025).

104. Continued detention under § 1225(b)(1) that disregards the protections established by the TVPA constitutes custody "in violation of the...laws...of the United States" within the meaning of 28 U.S.C. § 2241. Because DHS failed to apply the statutory protections Congress mandated for trafficking victims, Petitioner's detention is unlawful, and habeas relief is warranted.

COUNT IV

Unlawful Detention Under 28 U.S.C. § 2241

105. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

106. Federal courts have authority under 28 U.S.C. § 2241 to grant relief to individuals "in custody in violation of the Constitution or laws or treaties of the United States." This includes immigration detainees held by

U.S. Department of Homeland Security or U.S. Immigration and Customs Enforcement whose confinement exceeds statutory or constitutional limits. The Supreme Court has confirmed that habeas corpus remains available to challenge the legality of executive detention. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).

107. The Western District of Texas has recognized that habeas relief under 28 U.S.C. § 2241 remains available where immigration detention violates constitutional due process or federal statutory requirements. *See Marceau v. Noem*, 2026 WL 368953 (W.D. Tex. Feb. 9, 2026). Courts in this District have also exercised habeas jurisdiction over detention arising in the expedited-removal framework. *See Noori v. LaRose*, 807 F. Supp. 3d 1146 (W.D. Tex. 2025). These cases confirm that § 2241 provides a vehicle to challenge unlawful immigration custody even where review of the removal order itself is limited.

108. Petitioner's custody under 8 U.S.C. § 1225(b)(1) has been imposed without any individualized custody determination, without adherence to the procedures required by ICE Directive 11005.3, and without consideration of the protections established by the Trafficking Victims Protection Act. Detention that disregards constitutional due process requirements or statutory mandates is unlawful under § 2241.

109. Courts in this District have granted habeas relief where immigration detention lacked constitutionally sufficient process or failed to comply with governing legal standards. *See Lopez-Arevalo v. Ripa*, 801 F. Supp. 3d 668 (W.D. Tex. 2025); *Cruz-Reyes v. Bondi*, 2026 WL 332315 (W.D. Tex. 2026); Martinez v. Noem, 2025 WL 2965859 (W.D. Tex. 2025). Courts have likewise exercised habeas jurisdiction over detention arising within the expedited-removal framework. *See Noori v. LaRose*, 807 F. Supp. 3d 1146 (W.D. Tex. 2025).

110. Because Petitioner's confinement violates the Constitution and federal law, his detention is unlawful within the meaning of 28 U.S.C. § 2241. Habeas relief is therefore warranted, and the Court may order his release or require an immediate individualized custody determination before a neutral adjudicator.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter under 28 U.S.C. § 2241;

b. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from immigration custody;

c. In the alternative, order Respondents to provide Petitioner with a prompt, individualized custody determination before a neutral

adjudicator, at which the Government bears the burden of demonstrating by clear and convincing evidence that continued detention is necessary;

d. Enjoin Respondents from transferring or removing Petitioner from the jurisdiction of this Court before the completion of all proceedings in this action, including any ordered custody hearing;

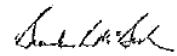
e. Order Respondents to comply with all statutory and procedural protections applicable to trafficking victims, including those set forth in the Trafficking Victims Protection Act and ICE Directive 11005.3, insofar as such compliance is necessary to remedy the unlawful detention at issue;

f. Issue a writ of habeas corpus requiring that Respondents immediately return Petitioner's government-issued identification documents, and any other seized documents or property lawfully issued to him, so as not to impair his liberty upon release;

g. Grant any other and further relief that this Court deems just and proper.

DATED this 4th day of March 2026

Respectfully Submitted,



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Attorney for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

The undersigned counsel submits this verification on behalf of Petitioner. Undersigned Counsel has reviewed documents supporting this Petition for Habeas Corpus and, on the basis of those documents, verifies that the statements in the Petition are true and correct to the best of his knowledge and belief.

DATED: March 04, 2026

/s/Gloria Contreras-Edin/s/
Gloria Contreras-Edin