

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Edgar Virgilio Pillisa Pilataxi,

Petitioner,

v.

Pamela Bondi, Attorney General,

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

0:26-cv-1746

Department of Homeland Security,

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Agency # 245207729

Immigration and Customs Enforcement,

Daren K. Margolin, Director for Executive
Office for Immigration Review,

Executive Office for Immigration Review,

David Easterwood, Acting Director, St. Paul
Field Office, Immigration and Customs
Enforcement,

and,

Joel Brott, Sheriff of Sherburne County.

Respondents.

INTRODUCTION

1. Respondents are detaining Petitioner in violation of the Fifth Amendment Due Process Clause to the United States Constitution.
2. Respondents previously released Petitioner on an Order of Release on Recognizance in 2023, and Petitioner has complied with those conditions.
3. Respondents unlawfully detained Petitioner at his ICE check-in without an administrative warrant or any sort of pre-detention hearing in violation of the Fifth Amendment's Due Process Clause.
4. The continued detention of Petitioner despite his compliance with his release conditions and absent a bond hearing serves no legitimate purpose and violates the United States Constitution.
5. To remedy this unlawful detention, Petitioner seeks declaratory relief and a writ of habeas corpus in the form of an order for immediate release subject to the conditions of his 2023 Order of Release on Recognizance, or, in the alternative, to hold a bond hearing in which Respondents bear the burden to prove Petitioner poses a danger or flight risk within three days.
6. Pending the adjudication of his Petition, Petitioner seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to-day operations of

U.S. Customs and Immigration's ("ICE") Fort Snelling, Minnesota of the Office of Enforcement and Removal Operations in the State of Minnesota.

JURISDICTION AND VENUE

7. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA").
8. Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.
9. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961–63 (2019); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199, 1209-12 (11th Cir. 2016).
10. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within this District. He is currently detained at the Sherburne County Jail in Elk River, Minnesota.

PARTIES

11. Petitioner is a citizen of Ecuador. Prior to his detention, he was residing in Minnesota.
12. Petitioner is currently in Immigration and Customs Enforcement (“ICE”) custody at the Sherburne County Jail.
13. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the Board of Immigration Appeals (“BIA”) and the immigration judges through the Executive Office for Immigration Review (“EOIR”). Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Petitioner.
14. Respondent Kristi Noem is being sued in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1103(a), routinely transacts business in Minnesota, supervises the St. Paul ICE Field Office, and is legally responsible for pursuing Petitioner’s detention. As such, Respondent Noem is a legal custodian of Petitioner.

15. Respondent Department of Homeland Security (“DHS”) is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens such as Petitioner.
16. Respondent Daren Margolin is the Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the BIA, including bond hearings such as the one to which Petitioner is entitled. He is sued in his official capacity.
17. Respondent Executive Office for Immigration Review (“EOIR”) is the adjudicative authority with jurisdiction over the removal and bond cases of Petitioner. Its authority includes individuals detained in Minnesota, Iowa, North Dakota, and South Dakota. This district is known as the Fort Snelling district.
18. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, which oversees the detention of aliens in the United States. Mr. Lyons is sued in his official capacity. Defendant Lyons is responsible for Petitioner’s detention.
19. Respondent Immigration and Customs Enforcement (“ICE”) is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens, including Petitioner.

20. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The address for the St. Paul Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.
21. Respondent Sheriff Joel Brott is being sued in his official capacity as the Sheriff responsible for the Sherburne County Jail. Because Petitioner is detained in the Sherburne County Jail, Respondent Brott has immediate day-to-day control over Petitioner. As such, Respondent Brott is a legal custodian of Petitioner.

EXHAUSTION

22. No statutory requirement of exhaustion applies to Petitioner's challenge to the lawfulness of his detention. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention."); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019) ("this Court 'follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without

a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.”); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) ((citing *Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992))).

23. Prudential exhaustion is not required when to do so would be futile or “the administrative body . . . has . . . predetermined the issue before it.” *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006).
24. The Board of Immigration Appeals’ published decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) binds the immigration court and denies all noncitizens situated as Petitioner access to bond hearings on the basis that they are subject to detention under 8 U.S.C. § 1225(b)(2)(A).
25. The Board of Immigration Appeals “ha[s] no authority to rule on the constitutionality of the laws enacted by Congress.” *Matter of Fitzpatrick*, 26 I&N Dec. 559, 561 (BIA 2015).
26. Petitioner entered the United States without inspection, was released on monitoring, and is not subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231, but the Immigration Court cannot consider the constitutionality of 8 U.S.C. § 1225(b)(2)(A), as it applies to Petitioner, so the

Immigration Judge cannot hold a bond hearing absent some intervention from the Article III federal courts.

27. As such, exhaustion would be futile here.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

28. Petitioner is a native and citizen of Ecuador.
29. Petitioner entered the United States without inspection in 2023.
30. Respondents encountered Petitioner, processed him, and released him on monitoring.
31. Petitioner has been compliant with his release.
32. Petitioner has no criminal history of the sort that would subject him to mandatory custody under 8 U.S.C. § 1226(c).
33. On February 2, 2026, Respondents took Petitioner into custody at his ICE check-in without providing any administrative warrant.
34. On February 2, 2026, Petitioner filed a petition for writ of habeas corpus with the District of Minnesota in *Edgar P. v. Bondi et al.*, No. 0:26-cv-00953-PAM-ECW, ECF No. 1 (D. Minn. Feb. 2, 2026). Petitioner pled violations of Fifth Amendment Due Process, 8 U.S.C. § 1225(b)(2), and the Administrative Procedure Act. *See id.*
35. On February 13, 2026, the Honorable Paul Magnuson denied the petition on 8 U.S.C. § 1225(b)(2) grounds. Judge Magnuson did not address the count

asserting due process violations. *Edgar P. v. Bondi et al.*, No. 0:26-cv-00953-PAM-ECW, ECF No. 8 (D. Minn. Feb. 13, 2026).

36. The matter was dismissed without prejudice. *See id.*
37. Petitioner is presently held in ICE custody at the Sherburne County Jail in Elk River, Minnesota.

LEGAL FRAMEWORK

38. “‘It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” *Trump v. J.G.G.*, 604 U.S. 673 (2025) ((quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993))).
39. “To determine whether a civil detention violates a detainee’s due process rights, courts apply the familiar three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).” *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1185 (D. Minn. 2025).
40. 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.

41. “The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Id.* at 333 (citing *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).
42. First, “the interest in being free from physical detention by one’s own government” is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner has a liberty interest in remaining out of custody on his conditions of release. *See Ismahan M. v. Bondi*, 0:26-cv-01418-NEB-DTS, ECF No. 10, at *4 (D. Minn. Feb. 20, 2026). “When the government decides to release someone from custody, they make an implicit promise that their liberty will be revoked only if [h]e fails to follow h[is] conditions of release.” *Id.* (first citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (concluding that someone on pre-parole conditional supervision has a liberty interest that entitled them to due process before re-incarceration); then citing *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (concluding the same for probation); and then citing *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (concluding the same for parole)). The first factor favors Petitioner.
43. Second, the risk of erroneous deprivation of that interest is high because Petitioner’s release on conditions was revoked “without providing h[im] with an opportunity to be heard. Without a hearing, neither the government nor [Petitioner] have an opportunity to ascertain whether there is a valid basis to

detain [Petitioner].” *Id.* Respondents already previously determined that there was no need to detain Petitioner, which was why they released him in 2023. *Id.* (citing *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017) (“Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.”), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018)). Petitioner has complied with the conditions of his release—indeed, he was detained while appearing for his scheduled ICE check-in pursuant to his release. Where there is no “opportunity to contest the existence, nature, or significance of [any] supervision violations’ or otherwise make an individualized assessment of the need to re-detain, ... there is a high risk that [Petitioner] has been and will continue to be erroneously deprived of his liberty.” *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 686 (W.D. Tex. 2025). The second factor favors Petitioner.

44. Third, “Respondents’ interest in detaining Petitioner without a hearing or opportunity to be heard is low.” *Ismahan M. v. Bondi*, 0:26-cv-01418-NEB-DTS, ECF No. 10, at *5 (D. Minn. Feb. 20, 2026). Petitioner has complied with all his conditions, so there are no changed circumstances and no interest in re-detaining him without an opportunity to be heard. Where a noncitizen “not abscond from his proceedings ... [n]or is there anything in the record to

indicate that he has committed any crimes or endangered anyone during his three years at liberty in the United States,” the burden to the government is minimal and any concerns about flight and danger “would be squarely addressed if the Court were to grant the petition and order a bond hearing.” *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 687 (W.D. Tex. 2025). The third factor favors Petitioner.

45. Petitioner is entitled to due process even if he is detained under 8 U.S.C. § 1225(b)(2). “[S]tatutes do not lower the constitutional bar” or “override constitutional guarantees.” *Ismahan M. v. Bondi*, 0:26-cv-01418-NEB-DTS, ECF No. 10, at *5 (D. Minn. Feb. 20, 2026).
46. Courts in this district and around the country have sided with Petitioner on this issue—including courts that have found that the petitioner was detained under 8 U.S.C. § 1225(b)(2). See, e.g., *Ismahan M. v. Bondi*, 0:26-cv-01418-NEB-DTS, ECF No. 10 (D. Minn. Feb. 20, 2026) (ordering immediate release pursuant to previous Order of Release on Recognizance on due process grounds after previous habeas petition was dismissed on statutory interpretation grounds); *Ihor D. v. Noem*, No. 26-CV-351 (JMB/DTS), 2026 WL 146507 (D. Minn. Jan. 20, 2026) (detention of parolee violated due process); *Mahad S. v. Noem*, No. 26-CV-476 (JMB/JFD), 2026 WL 177860 (D. Minn. Jan. 22, 2026) (re-detention of a person previously ordered released

under § 1226—without Respondents first formally revoking that order of release or following any procedures prior to making a decision that conflicts with an order of release—violated due process); *Abdirashid H. M. v. Noem*, No. 25-4779 (JRT/EMB), 2026 WL 127698 (D. Minn. Jan. 9, 2026); *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903 (S.D.N.Y. Nov. 26, 2025); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668 (W.D. Tex. 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Camacho-Guierrez v. Thompson et al.*, No. 5:25-CV-01876-MA, 2026 WL 195758 (W.D. Tex. Jan. 16, 2026); *Parada-Hernandez v. Johnson*, No. 3:25-CV-2729-K-BN, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025); *George v. Noem*, No. 3:25-CV-02935-S-BW, 2026 WL 30829 (N.D. Tex. Jan. 5, 2026); *De Law Cruz Salmeron v. Olson*, No. 4:25-CV-198-RGJ, 2026 WL 324486 (W.D. Ky. Feb. 6, 2026); *Hernandez-Parrilla v. De Anda-Ybarra*, No. 2:25-CV-01224-MIS-KK, 2025 WL 3632769 (D.N.M. Dec. 15, 2025); *Cuya-Priale v. Castro*, No. 2:25-CV-01166-KG-DLM, 2025 WL 3564145 (D.N.M. Dec. 12, 2025); *Guerra v. Noem*, No. 1:25-CV-1341, 2025 WL 3204289 (W.D. Mich. Nov. 17, 2025); *E.V. v. Raycraft*, No. 4:25-CV-2069, 2025 WL 3122837 (N.D. Ohio Nov. 7, 2025); *Azalyar v. Raycraft*, No. 1:25-CV-916,

2026 WL 30741 (S.D. Ohio Jan. 2, 2026); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Destino v. FCI Berlin, Warden*, No. 1:25-CV-374-SE-AJ, 2025 WL 4010424 (D.N.H. Dec. 24, 2025); *Serrano v. Albarran, et al.*, No. 25-CV-08408-EKL, 2025 WL 4110874 (N.D. Cal. Nov. 28, 2025).

REMEDY

47. Respondents' detention of Petitioner without an administrative warrant or any sort of hearing in which Petitioner might challenge his detention under 8 U.S.C. § 1225(b)(2)(A) violates the Due Process Clause of the United States Constitution's Fifth Amendment.
48. To remedy this Fifth Amendment violation, Petitioner requests immediate release subject to his 2023 Order of Release on Recognizance, or, in the alternative, a constitutionally adequate custody determination bond hearing in which Respondents bear the burden to illustrate that his continued detention is justified based on danger or flight risk within three days.

CAUSE OF ACTION

COUNT ONE: DECLARATORY RELIEF

49. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

50. Petitioner requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Petitioner's mandatory detention absent any hearing or venue in which Petitioner might challenge that determination or Respondents might justify it under 8 U.S.C. § 1225(b)(2)(A) violates the Fifth Amendment's Due Process Clause such that Respondents must immediately release Petitioner subject to his 2023 Order of Release on Recognizance, or, in the alternative, hold a bond hearing and justify Petitioner's ongoing detention by illustrating that he poses either a danger or a flight risk by clear and convincing evidence within three days, or otherwise release him.

**COUNT TWO: VIOLATION OF THE FIFTH AMENDMENT –
SUBSTANTIVE DUE PROCESS**

51. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
52. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.
53. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

54. As such, Respondents must immediately release Petitioner subject to his 2023 Order of Release on Recognizance, or, in the alternative, hold a bond hearing and justify Petitioner's ongoing detention by illustrating that he poses either a danger or a flight risk by clear and convincing evidence within three days, or otherwise release him.

**COUNT THREE: VIOLATION OF THE FIFTH AMENDMENT –
PROCEDURAL DUE PROCESS**

55. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
56. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.
57. Under the Due Process Clause of the Fifth Amendment, a noncitizen is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained.
58. The mandatory detention provisions at 8 U.S.C. § 1225(b)(2)(A), absent any bond hearing or venue to challenge detention, are unconstitutional as applied to Petitioner under the standard set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

59. As such, Respondents must immediately release Petitioner subject to his 2023 Order of Release on Recognizance, or, in the alternative, hold a bond hearing and justify Petitioner's ongoing detention by illustrating that he poses either a danger or a flight risk by clear and convincing evidence within three days, or otherwise release him.

PRAYER FOR RELIEF

WHEREFORE, Petitioner asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Issue an order restraining Respondents from attempting to move Petitioner from the State of Minnesota during the pendency of this Petition.
3. Issue an order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner.
4. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. § 153.
5. Declare that Petitioner's detention despite his Order of Release on Recognizance and absent a bond hearing violates the Due Process Clause of the Fifth Amendment.
6. Order Petitioner's immediate release subject to the conditions of his 2023 Order of Release on Recognizance.

7. In the alternative, order Respondents to hold a bond hearing in which Respondents bear the burden to justify Petitioner's ongoing detention by clear and convincing evidence of either danger to the public or flight risk within three days, and order that Respondents release Petitioner if they fail to hold the requisite bond hearing within three days.
8. Declare that Respondents' action is arbitrary and capricious.
9. Grant Petitioner reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).
10. Grant all further relief this Court deems just and proper.

DATED: March 5, 2026

Respectfully submitted,

/s/ David Wilson

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**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have discussed the events described in this Petition with Petitioner's family, the attorney in his underlying case, and reviewed relevant documents. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

/s/ David Wilson

Date: March 5, 2026