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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

DENIS JOSE GONZALEZ DIAZ,

Petitioner,

v.

LADEON FRANCIS, Field Office Director of
Enforcement and Removal Operations,
ATLANTA Field Office, Immigration and
Customs Enforcement; Kristi NOEM,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; Warden,
Folkston D. Ray James ICE Processing Center,
in their official capacities

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Agency number: A



INTRODUCTION

1.
Petitioner DENIS JOSE GONZALEZ DIAZ is in the physical custody of Respondents at the Folkston D. Ray James ICE Processing Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) will refuse to hold a bond hearing claiming to have no jurisdiction.

2.
Petitioner came to the United States on or about October 1, 2022. According to the I-213, Petitioner was released into the United States without charging documents “to relieve processing bottlenecks” due to the number of individuals encountered by CBP at that particular time. Petitioner was instructed to appear at ICE within 60 days, which he did on November 7, 2022. A Notice to Appear was issued and mailed to the Petitioner on or about October 21, 2024, providing him with an Immigration Court date in Charlotte, NC on November 19, 2026.

3.
While waiting for his hearing, Petitioner was reporting yearly at the Immigration and Customs Enforcement Office in Charlotte, North Carolina. On November 18, 2025, Petitioner reported as instructed, and was detained during his ICE check in appointment, seemingly for no reason at all. Since then, he has been transferred to the Folkston D. Ray James ICE Processing Center in Georgia.

4.
Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days. Petitioner asks this Court to find that Respondents’ attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing Petitioner’s transfer out of this district.

JURISDICTION

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2 5. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
3 Folkston D. Ray James ICE Processing Center located in Folkston, Georgia.

4 6. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
5 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
6 Constitution (the Suspension Clause).

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

9 **VENUE**

10 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
11 500 (1973), venue lies in the United States District Court for the SOUTHERN DISTRICT OF
12 GEORGIA, the judicial district in which Petitioner currently is detained.

13 9. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
14 Respondents are employees, officers, and agencies of the United States, and because a
15 substantial part of the events or omissions giving rise to the claims occurred in the SOUTHERN
16 DISTRICT OF GEORGIA.

17 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

22 11. Habeas corpus is “perhaps the most important writ known to the constitutional
23 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
24 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

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2 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
3 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

4 **PARTIES**

5 12. Petitioner Denis Jose Gonzalez Diaz is a citizen of Nicaragua who has been in
6 immigration detention since November 18, 2025 and is currently detained at the Folkston D. Ray
7 James ICE Processing Center.

8 13. Respondent Ladeon Fracis is the Director of the Atlanta Field Office of ICE’s
9 Enforcement and Removal Operations division. As such, Ladeon Francis is Petitioner’s
10 immediate custodian and is responsible for Petitioner’s detention and removal. She is named in
11 her official capacity.

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

16 15. Respondent Department of Homeland Security (DHS) is the federal agency
17 responsible for implementing and enforcing the INA, including the detention and removal of
18 noncitizens.

19 16. Respondent Pamela Bondi is the Attorney General of the United States. She is
20 responsible for the Department of Justice, of which the Executive Office for Immigration Review
21 and the immigration court system it operates is a component agency. She is sued in her official
22 capacity.

23 17. Respondent Executive Office for Immigration Review (EOIR) is the federal
24 agency responsible for implementing and enforcing the INA in removal proceedings, including
for custody redeterminations in bond hearings.

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2 18. Respondent Warden of the D. Ray James Correctional Facility is the warden
3 where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his
4 official capacity.

5 LEGAL FRAMEWORK

6 19. Immigration detention should not be used as a punishment and should only be
7 used when, under an individualized determination, a noncitizen is a flight risk because they are
8 unlikely to appear for immigration court or are a danger to the community. *Zadvydas v. Davis*,
9 533 U.S. 678, 690 (2001).

10 20. Noncitizens in immigration proceedings are entitled to Due Process under the
11 Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

12 21. The Immigration and Nationality Act (INA) establishes various procedures
13 through which individuals may be detained pending a decision on whether the noncitizen is to be
14 removed. 8 U.S.C. § 1226(a).

15 22. Removal proceedings described in section 240 of the INA are used to determine
16 whether individuals, such as Petitioner, should be removed from the United States. See 8 U.S.C.
17 § 1229a.

18 23. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a
19 right to apply for asylum to individuals seeking safe haven in the United States. The purpose of
20 the Refugee Act is to enforce the “historic policy of the United States to respond to the urgent
21 needs of persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a),
22 Pub.L. No. 96-212, 94 Stat. 102 (1980).

23 24. The “motivation for the enactment of the Refugee Act” was the United Nations
24 Protocol Relating to the Status of Refugees, “to which the United States had been bound since
1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a

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2 legislative purpose “to give ‘statutory meaning to our national commitment to human rights and
3 humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

4 25. Immigration detention is a form of civil confinement that “constitutes a
5 significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441
6 U.S. 418, 4253 (1979).

7 26. Custody determinations for individuals in 1229a removal proceedings are
8 governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not
9 present a danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678,
10 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

11 27. Custody determinations under § 1226(a) are individualized and based on the facts
12 presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for
13 detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the
14 facts and circumstances.

15 28. Once a determination to release an individual from custody is made, the release
16 order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8
17 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take
18 that individual back into custody by revoking the individual’s release when the facts and
19 circumstances warrant it.

20 29. Revocation and return to custody is authorized only based on individualized facts
21 and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in
22 nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

23 **FACTUAL BACKGROUND**

24 30. Petitioner is a native and citizen of Nicaragua who came to the United States on
or about October 1, 2022.

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2 31. Upon presenting himself at the border, Petitioner was encountered by Customs
3 and Border patrol who released him without issuance of charging documents in order to “relieve
4 processing bottlenecks due a large number of individuals encountered by CBP in multiple
5 locations.” (See I-213). CBP advised Petitioner to report to the nearest ICE office within 60 days
6 of arriving at his destination address.

7 32. Petitioner followed the exact instructions of CBP, and reported to the ICE office
8 in Charlotte, NC on November 7, 2022, per the I-213 narrative.

9 33. Petitioner continued to report as instructed and was issued and mailed a Notice to
10 Appear on October 21, 2024.

11 34. The Notice to Appear contains errors in that it indicates that Petitioner had been
12 admitted (Top of Page 1, third checkbox), but then charges the Petitioner as inadmissible as
13 being an immigrant who at the time of application for admission was not in possession of a valid
14 unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document
15 under 212(a)(7)(A)(i)(I).

16 35. At Petitioner’s Master Calendar Hearing on March 9, 2026, the Department was
17 permitted by the Immigration Court to orally amend the Notice to Appear, indicating that the
18 third check box was an error, and that the appropriate box is “you are an alien present in the
19 United States who has not been admitted or paroled.”

20 36. The Petitioner asserts that he was in complete compliance with his ICE reporting
21 requirements when on November 18, 2025 he reported to the Charlotte ICE office and was taken
22 into custody and transferred to the Folkston D Ray Detention Center. The I-213 also confirms
23 this assertion in that he was released at the border, showed up at ICE within 60 days as
24 instructed, continued to report yearly as instructed, until he was taken into custody on November
18, 2025 for no apparent reason.

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2 37. Petitioner has been gainfully employed and residing in Charlotte, North Carolina
3 with his United States Citizen wife and his two minor United States Citizen step-children ages
4 six and seven.

5 38. Petitioner is neither a danger to the community nor a flight risk, however, the
6 Respondents are holding Petitioner without bond and any request for bond is futile as EOIR
7 Immigration Judges are claiming that they lack jurisdiction to conduct a bond redetermination
8 hearing for similarly situated Petitioners, claiming that they are "applicants for admission." Any
9 appeal to the Board of Immigration Appeals is also futile.

10 39. Upon information and belief, Petitioner has no criminal history.
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CLAIMS FOR RELIEF

COUNT ONE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Abuse of Discretion

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

40. Petitioner restates and realleges all paragraphs as if fully set forth here.

41. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

42. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

43. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

44. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determination that support the revocation of his release from custody.

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2 45. Upon entry, Respondents had already considered Petitioner's facts and
3 circumstances and determined that he was not a flight risk or danger to the community. There
4 have been no changes to the facts that justify this revocation of his release on his own
5 recognizance. The fact that Petitioner has already been granted release by Respondents under the
6 same facts and circumstances shows that Respondents do not consider him, on an individualized
7 basis, to be a danger to the community or a flight risk.

8 **COUNT TWO**

9 **Violation of the Administrative Procedure Act -- 5 U.S.C. § 706(2)(A)**
10 **Not in Accordance with Law and in Excess of Statutory Authority**
11 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

12 46. Petitioner restates and realleges all paragraphs as if fully set forth here.

13 47. Under the APA, a court "shall . . . hold unlawful . . . agency action" that is "not in
14 accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction,
15 authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. §
16 706(2)(A)-(D).

17 48. 8 U.S.C. § 1226(b) authorizes that "[t]he Attorney General at any time may revoke
18 a bond or parole authorized under [8 U.S.C. § 1226(a)]" and rearrest a noncitizen under the initial
19 warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such
20 revocations of release from custody may only be carried out in the "discretion of the district
21 director, acting district director, deputy district director, assistant district director for
22 investigations, assistant district director for detention and deportation, or officer in charge
23 (except foreign)."

24 49. It is a well-established administrative principle that "agency action taken without
lawful authority is at least voidable, if not void *ab initio*." *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d

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2 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see also*
3 *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating
4 agency action because it was taken by unauthorized official).

5 50. On information and belief, Respondents have revoked or are revoking Petitioner's
6 prior custody determination as a result of a categorical policy prepared by and implemented by
7 unidentified government officials in Washington, not through the individual exercise of
8 discretion required by law or by the individuals enumerated by regulation to do so.

9 51. Because Petitioner's revocation of release from custody has been made or will be
10 categorically directed by government officials not authorized by law to make this determination,
11 Respondents' detention of Petitioner is not in accordance with law and in excess of statutory
12 authority.

COUNT THREE
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

52. Petitioner restates and realleges all paragraphs as if fully set forth here.

53. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.

54. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

55. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

56. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents’ revocation of Petitioner’s release violates his right to procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this
Petition should not be granted within three days;
- (3) Declare that Petitioner's detention without an individualized determination
violates the Due Process Clause of the Fifth Amendment;
- (4) Declare that Petitioner's revocation of parole from custody was made in
violation of statute and regulation;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner
from custody, or to hold a bond hearing;
- (6) Issue an Order prohibiting the Respondents from transferring Petitioner from
the district without the court's approval;
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice
Act, and on any other basis justified under law; and
- (8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Date: March 9, 2026

/s/ Matthew O. Boles

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Counsel for Petitioner

Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Matthew O. Boles

Date: March 9, 2026

/s/ Matthew O. Boles