

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION**

LUIS LOPEZ-QUINTERO,

Petitioner,

v.

MARCELLO VILLEGAS, *in his official capacity* as Facility Administrator of Bluebonnet Detention Center;

ROBERT CERNA, *in his official capacity* as Acting Field Office Director of the ICE Dallas, Texas Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; U.S. Department of Homeland Security;

TODD M. LYONS, *in his official capacity* as Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

MARKWAYNE MULLIN, *in his official capacity* as Secretary, U.S. Department of Homeland Security, and her successors in office; and

TODD BLANCHE, *in his official capacity* as Acting Attorney General of the United States;

Respondents.

Civil Action No. 1:26-CV-173

PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

INTRODUCTION

1. Petitioner is a citizen of Venezuela who has resided in the United States since on or about June 28, 2023.
2. Upon entering the United States on June 28, 2023, Petitioner was detained. However, on

August 9, 2023, Petitioner was released on his own recognizance with certain conditions, including yearly check-in appointments with U.S. Immigration and Customs Enforcement (“ICE”). *See* Exhibit A.

3. Petitioner has consistently attended his yearly ICE check-in appointments at the Dallas, Texas Field Office of Enforcement and Removal Operations.
4. Even though Petitioner has consistently attended his ICE check-in appointments, on January 15, 2026, ICE waited at Petitioner’s home until he came home from work. Petitioner was then detained.
5. Petitioner has been in physical custody since January 15, 2026.
6. Petitioner is currently detained at the Bluebonnet Detention Center at 400 East 2nd Street, Anson, Texas.
7. On January 16, 2026, Petitioner’s immigration counsel requested that he be released on bond through a custody redetermination. On January 28, 2026, Immigration Judge Abdias Tida denied this bond request by stating that the Immigration Court lacked jurisdiction. *See* Exhibit B.
8. Petitioner was released from physical custody on or about August 9, 2023, subject to ICE supervision and mandatory reporting requirements. On January 15, 2026, ICE re-detained Petitioner, and he has remained in continuous physical custody since that date without any opportunity for an individualized custody determination before a neutral decisionmaker. This prolonged detention, without adequate procedural safeguards, violates the Due Process Clause of the Fifth Amendment.
9. This Petition presents a purely constitutional challenge to the legality of Petitioner’s prolonged detention without an individualized bond hearing. Petitioner does not challenge

the Government's authority to initiate or pursue removal proceedings, but rather challenges the absence of constitutionally required procedural safeguards. Accordingly, this Court retains jurisdiction under 28 U.S.C. § 2241. Petitioner brings this claim as an as-applied constitutional challenge to the duration of his detention and the absence of constitutionally adequate procedural safeguards.

CUSTODY

10. Petitioner is currently in the custody of Immigration and Customs Enforcement ("ICE") at Bluebonnet Detention Center at 400 East 2nd Street, Anson, Texas. He is therefore in "custody" within the meaning of the habeas corpus statute. *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

11. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*
12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
13. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Such jurisdiction extends to constitutional challenges to the legality of continued detention that are independent of any challenge to removal proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281, 292–93 (2018).
14. Federal courts routinely exercise habeas jurisdiction to remedy unconstitutional

immigration detention where no adequate procedural safeguards exist. *See, e.g., Zadvydas*, 533 U.S. at 687.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
16. Petitioner is “in custody” for the purpose of § 2241 because Petitioner was arrested and detained by Respondents.
17. Petitioner has been in continuous physical custody for purposes of 28 U.S.C. § 2241 since January 15, 2026. Prior to that date, although he was released from physical detention, he remained subject to ICE supervision and mandatory reporting requirements. Petitioner was re-detained on January 15, 2026, and has remained detained since that time.
18. Prior to his re-detention, Petitioner remained subject to ICE supervision and mandatory reporting requirements. These facts provide context for the Government’s decision to re-detain him despite his demonstrated compliance.
19. The Supreme Court has long held that habeas “custody” extends beyond physical incarceration to include situations where an individual is subject to substantial restraints on liberty. *See Jones v. Cunningham*, 371 U.S. 236, 243 (1963) (parole constitutes custody because it imposes significant restraints on freedom); see also *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973) (release subject to conditions constitutes custody for habeas purposes). Petitioner is plainly in custody based on his current physical detention.

20. Petitioner's current detention—beginning January 15, 2026—constitutes “custody” within the meaning of 28 U.S.C. § 2241. *See Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

VENUE

21. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because Petitioner is currently detained in Anson, Texas, at the Bluebonnet Detention Center.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

22. The Immigration Judge expressly denied jurisdiction to conduct a bond hearing, rendering any further administrative pursuit of custody review categorically unavailable and therefore futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999).

23. It would be futile for Petitioner to seek a custody redetermination hearing before an Immigration Judge because of the BIA's recent decision holding that anyone who has entered the U.S. without inspection is now considered an “applicant for admission” who is “seeking admission” and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA's decision in *Yajure Hurtado* renders exhaustion futile). Nonetheless, Petitioner sought a bond determination and Immigration Judge Abdias Tida refused him bond on January 28, 2026, finding that he lacked jurisdiction to review the issue of bond eligibility. *See Decision of Immigration Judge*, Exhibit B.

24. Additionally, the agency does not have jurisdiction to review Petitioner's claim of

unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 119 S. Ct. 936 (1999) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to review” constitutional claims).

PARTIES

25. Petitioner is from Venezuela and has resided in the U.S. since 2023. He is currently detained in the Bluebonnet Detention Center in Anson, Texas.
26. Respondent Marcello Villegas, is sued in his official capacity as Facility Administrator of the Bluebonnet Detention Center. In his official capacity, Respondent Marcello Villegas is Petitioner’s immediate custodian.
27. Respondent Robert Cerna is sued in his official capacity as Acting Field Office Director, Dallas Field Office, Enforcement and Removal Operations, ICE. In his official capacity, Respondent Cerna is the legal custodian of Petitioner.
28. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.
29. Respondent Markwayne Mullin, and/or successors, is sued in his official capacity as Secretary of Homeland Security. As the head of the U.S. Department of Homeland Security, the agency tasked with enforcing immigration laws, Secretary Mullin or successor is Petitioner’s ultimate legal custodian.
30. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States. As Acting Attorney General, he has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

LEGAL BACKGROUND AND ARGUMENT

31. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.
32. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested, charged with, or convicted of certain crimes and are subject to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same).
33. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) as well as other recent arrivals deemed to be “seeking admission” under § 1225(b)(2).
34. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).
35. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended in 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
36. Following the enactment of the IIRIRA, the U.S. Department of Justice’s Executive Office of Immigration Review (“EOIR”) drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants

for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).

37. Thus, in the decades that followed, most people who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge (“IJ”), unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

38. For decades, long-term residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.

39. In July 2025, however, ICE began asserting that all individuals who entered without inspection should be considered “seeking admission” and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

40. On September 5, 2025, the BIA issued a precedential decision adopting this interpretation, departing from the INA’s text, federal precedent, and existing regulations. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

41. While the Fifth Circuit in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026),

addressed the statutory interpretation of 8 U.S.C. § 1225(b)(2)(A), it expressly did not resolve the constitutional due process limitations on prolonged detention. Additionally, courts within this District have recognized that the failure to provide an individualized bond hearing may violate procedural due process. *Eneke v. Noem*, 2026 U.S. Dist. LEXIS 24958 (N.D. Tex. Feb. 6, 2026); *Parada-Hernandez v. Johnson*, 2025 U.S. Dist. LEXIS 249952 (N.D. Tex. Oct. 29, 2025), *report and recommendation adopted*, 2025 U.S. Dist. LEXIS 234517 (N.D. Tex. Dec. 2, 2025).

42. Accordingly, even if Petitioner is properly classified under § 1225(b)(2)(A), the Constitution independently requires a meaningful opportunity to challenge continued detention. The absence of such a process renders Petitioner's detention unconstitutional as applied.

43. Prolonged civil immigration detention without an individualized hearing raises serious constitutional concerns and requires adequate procedural safeguards. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

44. Civil immigration detention must remain reasonably related to its nonpunitive purposes and may become unconstitutional when it is excessive in relation to those purposes.

45. The absence of any meaningful opportunity to challenge continued detention renders Petitioner's confinement unconstitutional as applied. Petitioner has been subjected to prolonged detention without any individualized determination of flight risk or danger, in violation of the Due Process Clause.

STATEMENT OF FACTS

46. Petitioner is a citizen of Venezuela.

47. Petitioner has resided in the U.S. since 2023.

48. Petitioner is presently in removal proceedings. Although an Immigration Judge ordered removal on March 10, 2026, the removal order is not final because Petitioner timely appealed to the Board of Immigration Appeals on April 8, 2026.
49. Petitioner's only criminal history pertains to criminal trespass when he initially entered the country on June 28, 2023. However, subsequently, on August 9, 2023, he was paroled from ICE custody and released on his own recognizance.
50. Petitioner has consistently attended his yearly ICE check-in appointments at the Dallas, Texas Field Office of Enforcement and Removal Operations.
51. Even though Petitioner has consistently attended his ICE check-in appointments, on January 15, 2026, ICE waited at Petitioner's home until he came home from work. Petitioner was then detained.
52. Petitioner has been in physical custody since January 15, 2026.
53. Petitioner is currently detained at the Bluebonnet Detention Center at 400 East 2nd Street, Anson, Texas.
54. Petitioner's re-detention is particularly arbitrary given that Respondents previously determined that release under supervision was appropriate. Petitioner complied with all conditions of release, including regular ICE reporting requirements, and lived and worked in the community without incident. Despite this demonstrated compliance, Petitioner was re-detained without any individualized determination that circumstances had changed or that detention was necessary to mitigate flight risk or danger, and without any opportunity to challenge that determination before a neutral decisionmaker.
55. On January 16, 2026, Petitioner's immigration counsel requested that he be released on bond through a custody redetermination. On January 28, 2026, Immigration Judge Abdias

Tida denied this bond request by stating that the Immigration Court lacked jurisdiction. *See* Exhibit B.

56. Petitioner was released from physical detention on or about August 9, 2023, subject to ICE supervision. He was re-detained on January 15, 2026, and has remained in continuous physical custody since that time without any individualized bond hearing. This prolonged deprivation of liberty violates the Due Process Clause of the Fifth Amendment.

57. This Petition presents a purely constitutional challenge to the legality of Petitioner's prolonged detention without an individualized bond hearing. Petitioner does not challenge the Government's authority to initiate or pursue removal proceedings, but rather challenges the absence of constitutionally required procedural safeguards. Accordingly, this Court retains jurisdiction under 28 U.S.C. § 2241. Petitioner brings this claim as an as-applied constitutional challenge to the duration of his detention and the absence of constitutionally adequate procedural safeguards.

58. Without relief from this Court, Petitioner faces continued detention without a bond hearing.

59. Each additional day of Petitioner's detention constitutes irreparable harm, as it results in the ongoing deprivation of his fundamental liberty interest without due process of law.

COUNT I
Violation of Fifth Amendment Right to Due Process

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

61. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.

62. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).
63. Under the framework set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the absence of any individualized custody hearing during Petitioner’s prolonged physical detention—now nearing three months of continued physical detention—violates due process as applied to the specific circumstances of this case.
64. Petitioner’s private interest in freedom from detention is profound. The interest in being free from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”).
65. The arbitrariness of Petitioner’s continued detention is underscored by the Government’s prior determination that release under supervision was appropriate. Petitioner complied with all reporting obligations and remained in the community without incident. The Government’s decision to re-detain him—without any individualized reassessment of necessity and without affording any opportunity to challenge that decision—demonstrates the substantial risk of erroneous deprivation of liberty in the absence of constitutionally adequate procedures.
66. The Government’s interest in detaining Petitioner without providing any individualized hearing is minimal. Immigration detention is civil and nonpunitive, and its purposes—ensuring appearance and protecting the community—can be addressed through less restrictive means. The Government cannot justify continued detention without first

providing a constitutionally adequate procedure to assess those interests. *See Zadvydas*, 533 U.S. at 690.

67. Petitioner has no history of violent criminal conduct and has consistently complied with all ICE reporting requirements prior to his re-detention on January 15, 2026. He was living and working in the community and appeared for all required check-ins. These facts demonstrate that continued detention without any individualized determination of flight risk or danger presents a substantial risk of erroneous deprivation of liberty.
68. Furthermore, the “fiscal and administrative burdens” of providing Petitioner with a bond hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
69. Considering these factors, Petitioner respectfully requests that this Court order his immediate release or, at a minimum, require Respondents to provide a prompt individualized bond hearing before a neutral decisionmaker within five (5) days, at which the Government bears the burden of proving by clear and convincing evidence that continued detention is justified.
70. To date, Petitioner has received no individualized custody determination by any neutral decisionmaker. The Immigration Judge expressly declined jurisdiction to consider bond, and no alternative process has been provided. The complete absence of any procedural mechanism to challenge ongoing detention renders Petitioner’s confinement unconstitutional as applied. This absence of process is not merely inadequate—it is constitutionally impermissible.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner not be transferred outside the jurisdiction of this Court during the pendency of this action, as such transfer would frustrate this Court's jurisdiction;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why the Petition should not be granted within three days;
- (4) Declare that Petitioner's detention is unlawful;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release him from custody, or, in the alternative, order Respondents to provide him with an individualized bond hearing before an Immigration Judge or other neutral decisionmaker with authority to order release within five (5) days at which the Government bears the burden of proof by clear and convincing evidence; and,
- (6) Grant him any further relief this Court deems just and proper.

Date: April 12, 2026

Respectfully Submitted,

/s/Daniel A. Lorber

Daniel A. Lorber

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Attorney for the Petitioner

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

I represent the Petitioner, LUIS LOPEZ-QUINTERO, and submit this verification on his behalf because Petitioner is detained and unable to sign. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this 12th day of April, 2026.

/s/Daniel A. Lorber
Daniel A. Lorber