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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
MINNEAPOLIS DIVISION

Petitioner, **Jose Jobell Reyes Diaz**	Case No. 0:26-cv-2839
v.	**PETITION FOR WRIT OF HABEAS CORPUS**
Jail Administrator, Kandiyohi Jail ; **Peter Berg,** Director of St. Paul Field Office, U.S. Immigration and Customs Enforcement; **Markwayne Mullin,** Secretary of the U.S. Department of Homeland Security; and **Todd Blanche** Attorney General of the United States, in their official capacities,	Case No.
Respondents.	

INTRODUCTION

1. Petitioner Jose Jobell Reyes Diaz is currently detained, upon information and belief, at the Kandiyohi Detention Center in Willmar, Minnesota in the custody of Immigration and Customs Enforcement. He has been detained since February 4, 2026 and has been incorrectly deemed eligible for bond and subject to mandatory detention under current Department of Homeland Security ("DHS") policy. Accordingly, to vindicate Petitioner's

statutory and constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

2. Absent an order from this Court, Petitioner will remain unlawfully detained for the duration of his removal proceedings.

3. Petitioner asks this Court to find that Petitioner to assume jurisdiction over this matter, and immediately release from unlawful detention.

JURISDICTION

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

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

6. 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.

VENUE

7. Venue is proper because Petitioner is detained, at the Kandiyohi Detention Center in Willmar, Minnesota which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the petition for Writ of Habeas Corpus or issue an Order to Show Cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an Order to Show Cause 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.* (emphasis added).

9. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

10. Petitioner is a noncitizen. He is a Honduran national and citizen.. Currently, Petitioner is detained, upon information and belief, at the Kandiyohi Detention Center in Willmar Minnesota. He is in the custody, and under the direct control, of Respondents and their agents.

11. Respondent Jail Administrator has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Jail Administrator is a legal custodian of Petitioner.

12. Respondent Peter Berg is sued in his official capacity as the Director of the St. Paul Field Office of U.S. Immigration and Customs Enforcement. Respondent Olson is a legal custodian of Petitioner and has authority to release him.

13. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner.

14. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, 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 BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

15. Petitioner Jose Jobell Reyes Diaz is a citizen of Honduras . Mr. Reyes Diaz has a minimal record and has resided peacefully in the U.S. since approximately June of 2014, when he entered the country without inspection. He resides with his Legal Permanent Resident wife in South Dakota. Throughout his time living in the U.S., he has been working to support his family.

16. Petitioner entered the United States on or about June of 2014 "without inspection and unknown location".

17. On or about October 31, 2019 , Petitioner's Legal Permanent Resident Nora Bautista Portillo, filed a Form I-130, Petition for Alien Relative, on Petitioner's behalf.

18. USCIS approved the I-130 petition on September 26, 2026. A copy of the approval notice is attached as Exhibit A.

19. Because unlawful presence, Petitioner was required to file a Form I-601 Application for Waiver of Grounds of Inadmissibility.

20. Petitioner filed Form I-601 on January 9, 2023 and USCIS approved the I-601 waiver on August 1, 2025. A copy of the approval notice is attached as Exhibit B.

21. Despite the approval of both the I-130 and the I-601, DHS issued a Notice to Appear (NTA) dated May 14, 2026 initiating removal proceedings against Petitioner under section . A copy of the NTA is attached as Exhibit C.

22. Because the I-130 and I-601 are approved, Petitioner is prima facie eligible to pursue lawful permanent resident status, but DHS has continued detention and has treated Petitioner as if he/she has no viable immigration relief and no basis for lawful status.

23. U.S. Immigration and Customs Enforcement ("ICE") and/or other federal agents acting on ICE's behalf arrested Mr. Reyes Diaz May 14, 2026 and taken into ICE custody.

24. Mr. Reyes Diaz is currently being held in the Kandiyohi Detention Center in Minnesota, pending full removal proceedings. He is eligible for relief from removal,.

25. Despite his I 130 and I601 waiver of inadmissibility approvals, the Department of Homeland Security (DHS) has issued a Notice to Appear (NTA) and continues to detain Petitioner as if he/she remains without a valid basis to pursue lawful status.

26. Petitioner has family ties, lengthy residence, minimal criminal history, community connections, and is the provider for his family.

27. Petitioner's continued detention, under these circumstances and in light of the approved immigrant petition and waiver, is unreasonable, arbitrary, and violates due process.

28. . Petitioner has a viable adjustment-of-status pathway under INA § 245.These adjudications establish: a bona fide qualifying relationship; DHS's recognition that any inadmissibility is waivable; prima facie eligibility for lawful permanent residence, and; a strong incentive to appear for all future proceedings.

29. The approved I-130 confirms a bona fide qualifying relationship and establishes that Petitioner has an immediate or near-term immigrant visa classification available.

30. The approved I-601 waiver demonstrates that DHS has already exercised favorable discretion to waive certain grounds of inadmissibility on the basis of extreme hardship to qualifying relatives.

31. Together, these approvals show that Petitioner is now in a strong position to obtain lawful permanent resident status. Far from being someone with "no relief," Petitioner has existing, concrete relief that depends on continued participation in the immigration process. This drastically reduces any rational fear that Petitioner will abscond. Courts have recognized that eligibility for immigration relief and strong family ties are critical factors in assessing flight risk and the need for detention. See Matter of Guerra, 24 I. & N. Dec. 37, 40 (BIA 2006) (listing factors, including family ties, length of presence, and likelihood of relief, as relevant to custody/bond).

32. Petitioner challenges the legality of his/her detention under the U.S. Constitution, the Immigration and Nationality Act (INA), and applicable regulations. Petitioner seeks immediate release from custody.

LEGAL FRAMEWORK

33. The Fifth Amendment's Due Process Clause specifically forbids the government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. amend. V.

34. The Due Process Clause of the Fifth Amendment to the U.S. Constitution "applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001).

35. The Eighth Circuit has applied *Zadvydas* and recognized the constitutional limits on both post-order and other forms of immigration detention. *See Jama v. ICE*, 543 F.3d 278, 280–81 (8th Cir. 2008) (recognizing that *Zadvydas* constrains detention when removal is not significantly likely in the reasonably foreseeable future); see also *Bah v. Cangemi*, 489 F. Supp.

2d 905, 916–22 (D. Minn. 2007) (applying *Zadvydas* and ordering release when detention became unreasonable), aff'd in relevant part, 548 F.3d 680 (8th Cir. 2008).

36. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas,* 533 U.S. at 678.

37. The Eighth Circuit has emphasized that once those purposes are no longer served or become speculative, detention is unlawful. See Jama, 543 F.3d at 280–82 (detention must end when there is no significant likelihood of removal in the reasonably foreseeable future).

38. The Supreme Court, thus, "has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979). Further, "the interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld,* 542 U.S. 507, 529, 531.

39. *Jennings v. Rodriguez*, 583 U.S. 281 (2018), held that statutes like § 1226(c) and § 1225(b) do not contain an automatic bond-hearing requirement as a matter of statutory interpretation, but the Court expressly left open the possibility of as-applied constitutional challenges to prolonged detention. See id. at 309–11. Thus, detainees remain free to argue, through habeas corpus, that their specific, prolonged detention violates the Fifth Amendment.

40. . In recent decades, the U.S. immigration system has implemented this balance of due process protections through a network of three mutually exclusive detention statues.

41. First, at the border, individuals "seeking admission" who are placed into removal proceedings are subject to detention without a bond hearing under 8 U.S.C. § 1225(b)(2). See Jennings v. Rodriguez, 583 U.S. 281, 287 (2018) (describing § 1225 as relating to "borders and

port of entry"). Detained individuals falling under this statue may request release through humanitarian parole under 8 U.S.C. § 1182(d)(5)(A).

42. Second, noncitizens arrested inside the U.S. are generally placed into removal proceedings under 8 U.S.C. § 1229a, during which an Immigration Judge (an "IJ")—and later potentially the Board of Immigration Appeals (the "BIA") and a U.S. Court of Appeals—will decide whether or not the person should be deported. During § 1229(a) proceedings, a noncitizen may apply for forms of relief such as asylum, withholding of removal, or cancellation of removal. The IJ will hold a series of hearings to determine if the individual is eligible for relief or eligible for deportation, which can take months or years.

43. While § 1229(a) proceedings are ongoing, noncitizens are generally subject to the detention authority of 8 U.S.C. § 1226. See Jennings, 583 U.S. at 288-89 (describing § 1226 detention as relating to people "inside the United States" and "present in the country"). Most of these individuals are eligible for release on bond and conditions under § 1226(a), and they are consequently entitled to a custody redetermination (a "bond hearing") before an IJ to decide whether they should be detained or released. See 8 C.F.R. §§ 1003.19(a), 1236.1(d).

44. Third, if a noncitizen completes their removal proceedings and all appeals, and is ordered removed, they are subject to detention under 8 U.S.C. § 1231 while the government attempts to remove them.

45. Petitioner's detention has become unreasonably prolonged and no longer bears a reasonable relation to its purported purpose (e.g., ensuring Petitioner's appearance at removal proceedings or protecting the public).

46. The existence of an approved I-130 and I-601 shows that Petitioner has a significant prospect of lawful status and a strong incentive to appear for immigration proceedings, undermining any rational basis for continued detention.

47. The government has failed to provide Petitioner with an adequate, individualized custody determination or a meaningful chance to show that he/she is neither a flight risk nor a danger to the community.

48. As a result, Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment.

49. Under the INA and applicable regulations, including but not limited to 8 U.S.C. §§ 1226, 1231, and related regulations, immigration detention must comply with statutory limits and must be reasonably related to its purposes.

50.. Several courts have held that when immigration detention becomes prolonged, due process requires an individualized hearing before a neutral decisionmaker, at which the government must justify continued detention by clear and convincing evidence of flight risk or danger. *See, e.g.:Casas-Castrillon v. DHS*, 535 F.3d 942, 949–52 (9th Cir. 2008) (holding that prolonged detention during removal proceedings required an individualized bond hearing before an immigration judge, with the government bearing the burden of proving danger or flight risk). *Diouf v. Napolitano* (Diouf II), 634 F.3d 1081, 1086–87, 1091–92 (9th Cir. 2011) (holding that noncitizens facing prolonged detention under 8 U.S.C. § 1231(a)(6) are entitled to a bond hearing where the government must prove danger or flight risk). *Guerrero-Sanchez v. Warden York Cty. Prison*, 905 F.3d 208, 219–26 (3d Cir. 2018) (recognizing right to bond hearing for prolonged detention under § 1231(a)(6)).*Reid v. Donelan*, 819 F.3d 486, 494–500 (1st Cir.

2016), vacated on other grounds, 14 F.4th 252 (1st Cir. 2021) (discussing constitutional limits on prolonged detention under § 1226(c)).

52. By detaining Petitioner despite his/her eligibility for immigration relief and the existence of approved I-130 and I-601 applications, DHS is acting in excess of its statutory authority and contrary to the structure and intent of the INA.

53. ICE's actions are arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

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 violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1226, and/or 5 U.S.C. § 706;

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;

(5) Enjoin Respondents from removing, transferring, or otherwise facilitating the removal of Petitioner from the District of Minnesota before the ordered bond hearing;

(6) Immediately release Mr. Jose Jobell Reyes Diaz from custody or in the alternative, set a bond hearing.

(7) Once bond is set, the Department of Homeland Security is prohibited from filing Form EOIR-43 staying the bond;

(8) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(9) Grant any further relief this Court deems just and proper.

Respectfully submitted, Dated: June 3, 2026

/s/ *Danielle Oxendine Molliver*
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Counsel for Petitioner

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

I represent Petitioner, Mr. Reyes Diaz and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated 3rd day of January, 2026.

s/ *Danielle Oxendine Molliver*
Attorney for Petitioner