

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Enrique Aquileo Contreras Martinez,

Petitioner,

v.

Cause No. _____

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

Tod Lyons, Acting Director, U.S.
Immigration and Customs
Enforcement (ICE)

Marcos Charles, Acting Executive
Associate Director, ICE and Removal
Operations

Bret A. Bradford, ICE Houston Field
Office Director

Pamela Bondi, U.S. Attorney General

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241 AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Petitioner Enrique Aquileo Contreras Martinez, through counsel, seeks a writ of habeas corpus under 28 U.S.C. § 2241, challenging the legality of his continued detention by Immigration and Customs Enforcement (“ICE”), despite being granted a bond by an immigration judge. ICE has not allowed the Petitioner or his family to pay the bond which has resulted in his continued custody. Accordingly, the Petitioner is left with no recourse but to file this a writ of habeas corpus and seek a restraining order to allow proper payment of his immigration bond and his release from custody.

PARTIES

1. Petitioner, Enrique Aquileo Contreras Martinez, is a non-citizen who is currently detained by ICE at the Montgomery Processing Center in Conroe, Texas. He was granted an immigration bond on July 22, 2025.
2. Defendant Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She is the cabinet-level secretary responsible for all immigration enforcement in the United States. She is sued in her official capacity only.
3. Defendant Todd Lyons is the Acting Director of U.S. Immigration and

Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States. He is sued in his official capacity only.

4. Defendant Marcos Charles is the Acting Executive Associate Director of ICE Enforcement and Removal Operations. He is the head of the ICE office that carries out arrests of noncitizens and removals from the United States. He is sued in his official capacity only.
5. Defendant Bret A. Bradford is the ICE Houston Field Office Director. He is the head of the ICE office that unlawfully facilitated the removal of Petitioner, and such arrest and removal took place under the direction and supervision of his predecessor in office.
6. Defendant Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees. She is sued in her official capacity only.

JURISDICTION

7. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241 and 28 U.S.C. § 1331, Federal Question Jurisdiction, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. §

2241, and the All Writs Act, 28 U.S.C. § 1651.

CUSTODY

8. Petitioner is under the Physical custody of the Respondents and is currently detained at the Montgomery Process Center Detention facility in Conroe, Texas.

VENUE

9. Venue is proper in this court, pursuant to *28 USC §1391(e)*, in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where the Petitioner is detained.

REQUIREMENTS SET FOR IN 28 U.S.C 2243

10. 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).

11. 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).

LEGAL FRAMEWORK

i. Immigration Bond and Appeal Process

12. Under 8 C.F.R. § 1003.19 an Immigration Judge is authorized to review the and redetermine custody of a detained non-citizen.

13. An order of an immigration judge for release of a non-citizen on bond may be stayed with DHS filing of an EOIR form 43 – Notice of Intent to Appeal. *See* 8 C.F.R. § 1003.19(i)(2)

14. DHS must file an appeal within 10 days or the stay of the order lapses and the non-citizen may be bonded out of custody according to the order of the immigration judge. *See* 8 C.F.R. § 1003.6(c)(1).

FACTS

15. Petitioner was taken into immigration custody on or about July 10, 2025.

16. On July 22, 2025, an Immigration Judge ordered Petitioner released on a bond of \$8,000, finding Petitioner was not a flight risk or danger to the community. (*Ex 1 Bond Order*)

17. On July 22, 2025, after the hearing, DHS immediately filed a Notice of Intent to Appeal Custody Redetermination on EOIR Form 43. (*Ex 2 Notice of Appeal*) Filing of the notice created an automatic stay of the

bond grant for 10 days.

18. Per statute DHS has 10 days to file their formal appeal with the Board of Immigration Appeals.

19. On July 30, 2025, DHS filed an appeal on the bond grant; however, it was rejected by the Board of Immigration Appeals as improperly filed. No corrected appeal was filed. (*Ex 3 BIA Rejection*)

20. After the lapse of the 10-day period DHS.

21. DHS's failure to file an appeal to the Immigration Judge's bond order to the Board of Immigration Appeals within the regulatory timeframe resulted in the order becoming final and enforceable.

22. Petitioner's mother and attorney attempted to pay his bond numerous times through the online ICE bond portal; however, the portal would not accept the payment. (*Ex 4 Attempt to Pay Bond and Ex 5 Affidavit*)

23. On August 8, 2025, Petitioner's mother went to the local ICE office at 126 Northpoint and attempted to post his bond with certified funds. She was told by ICE after waiting for over two hours that her son was not eligible for bond and that they would not accept the certified funds. This was despite bringing the bond order by the immigration judge. (*Ex 5 Affidavit*)

24. Despite numerous attempts by Petitioner's family and counsel to post bond, ICE has refused to process the bond payment or effectuate release,

claiming bureaucratic or non-legal obstacles.

CAUSE OF ACTION I

Unlawful Detention in Violation of 8 U.S.C. § 1226 and INA Regulations

25. Petitioner incorporates by reference paragraphs 1 – 24.
26. Petitioner's continued detention violates 8 U.S.C. § 1226(a), which authorizes detention subject to bond where ordered by an immigration judge.
27. DHS has no lawful authority to disregard a final, unappealed bond order.

CAUSE OF ACTION II

Due Process U.S. Constitution, 5th Amendment

28. Petitioner incorporates by reference paragraphs 1 – 24.
29. The Fifth Amendment guarantees liberty and requires that immigration detention be reasonably related to a legitimate governmental purpose. Petitioner's detention, in light of the bond order, is arbitrary and capricious.
30. Under the Fifth Amendment to the United States Constitution, those threatened with the loss of liberty or property due to actions by the federal government are entitled to due process of law.
31. DHS's continued detention of Petitioner and refusal to accept bond after a judicial release order is a deprivation of liberty without due process.

CAUSE OF ACTION III

Habeas Corpus Under 28 U.S.C. § 2241

32. Petitioner incorporates by reference paragraphs 1 – 24.
33. Petitioner is in custody in violation of federal law and the Constitution.
34. No valid basis exists to continue detention once bond has been granted and not appealed.

REQUEST FOR RELIEF

Petitioners pray for judgment against Respondents and respectfully request that the Court enters an order:

1. Issue a writ of habeas corpus directing Respondent to immediately release Petitioner from detention.
2. Enjoin Respondents from further obstructing or denying the bond processing;
3. Declare that Petitioner's continued detention violates federal law and the Constitution;
4. Award reasonable attorney's fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.
5. Grant any other relief the Court deems just and proper.

Respectfully submitted,

August 13, 2025

/s/Javier Rivera

Javier Rivera, Esq.
Lead Counsel for Petitioner
Texas Bar No. 24070508
Rivera & Shirhatti, PC
PO Box 848
Houston, Texas 77001
jrivera@rsimmilaw.com
(P): (832) 991-1105

/s/ Varsha Shirhatti

Varsha Shirhatti, Esq.
Co-Counsel for the Petitioner
Texas Bar No. 24093143
Rivera & Shirhatti, PC
PO Box 848
Houston, Texas 77001
vshirhatti@rsimmilaw.com
(P): (832) 991-1105

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

I represent Petitioner, Enrique Aquileo Contreras Martinez, 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 this 13th day of August, 2025.

/s/ Javier Rivera
Javier Rivera