

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Martin Rodriguez Hernandez,

Petitioner,

v.

Cause No. _____

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

Todd 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 Martin Rodriguez Hernandez, 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, Martin Rodriguez Hernandez, 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, and ICE has refused to accept payment on that bond. (Ex 1 Bond Order)
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 CFR 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 CFR 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 CFR 1006(C)(1)*.

FACTS

15. Petitioner was taken into immigration custody on or about June 24, 2025.

16. On July 22, 2025, an Immigration Judge ordered Petitioner released on a bond of \$15,000, 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. Filing of the notice created an automatic stay of the bond grant for 10 days. (*Ex 2*

E-43)

18. Per statute DHS had 10 days to file their formal appeal with the Board of Immigration Appeal.
19. No appeal was ever filed by DHS. (*Ex 3 Attorney EOIR Portal*)
20. 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.
21. After the lapse of the 10-day period DHS must accept payment of the bond and release upon proper receipt of funds and obligor application.
22. Petitioner's wife and attorney attempted to pay his bond numerous times online ICE bond portal however the portal would not accept the payment. This was despite bringing the bond order by the immigration judge. (*Ex 4 Payment Attempts*)
23. 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.
24. Petitioner is the main source of income for the family, and his family cannot financially survive without his assistance. (*See Ex. 4 Affidavit*)

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. Petitioners 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, and refusal to accept payment on a bond order signed by an immigration judge, 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. Declare that Petitioner's continued detention violates federal law and the Constitution;
- 3. Enjoin Respondents from further obstructing or denying the bond processing;
- 4. Compel the release of Petitioner upon payment of bond and submission of appropriate bond application.
- 5. Award reasonable attorney's fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.
- 6. Grant any other relief the Court deems just and proper.

Respectfully submitted,

/s/Javier Rivera
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Martin Rodriguez Hernandez, 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 3rd day of September, 2025.

/s/ Javier Rivera
Javier Rivera