

JUDGE DAVID GUADERRAMA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED

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CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY
DEPUTY

Victor Zamudio Sanchez,
Petitioner,

v.

Kristi Noem, Secretary, U.S. Department of
Homeland Security; **Mary De Anda-Ybarra**,
Field Office Director, U.S. Immigration and
Customs Enforcement,
Respondents.

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Case No.:

EP 25 CV 040 3

PETITION FOR A WRIT OF HABEAS CORPUS
REQUEST FOR EXPEDITED HEARING
REQUEST FOR ORAL ARGUMENT

This is an action for habeas corpus relief under 28 U.S.C. § 2241 and the Suspension Clause of the United States Constitution. Petitioner seeks an Order releasing him from the custody of U.S. Immigration and Customs Enforcement ("ICE") inasmuch as no legal basis exists for ICE to continue to maintain custody over Petitioner or to continue to detain Petitioner as is further explained herein.

Subject Matter Jurisdiction

1. That this Court has habeas corpus jurisdiction pursuant to 28 U.S.C. §2241 *et seq.*, and Article I, §9, Clause 2 of the United States Constitution ("Suspension Clause"). See INS v. St Cyr, 533 U.S. 289 (2001); Demore v. Kim, 155 L.Ed. 2d 724, 123 S.Ct. 1708 (2003); Zadvydas v. Davis, 533 U.S. 678 (2001).
2. Petitioner is in custody for purposes of habeas corpus relief. He is currently detained in the custody of ICE at its ERO El Paso Camp East Montana Facility ("ERO El Paso") located in El Paso, Texas. As will be explained in more detail, *infra*, Petitioner is currently detained under color of authority of the United States.

Venue

3. That venue lies in the El Paso Division of the U.S. District Court for the Western District of Texas because this is the judicial district in which Petitioner is currently detained by Respondents.

Parties

4. That Petitioner, **Victor Zamudio Sanchez**  is a native and citizen of Mexico.
5. That Respondent, **Kristi Noem**, is the Secretary of Homeland Security and she is being sued in an official capacity. In her official capacity, Respondent Noem is in charge of enforcing the immigration laws of the

United States. It is Respondent Noem's refusal to release Petitioner from custody that is the subject of this petition.

6. That Respondent, **Mary De Anda-Ybarra**, is the Field Office Director of ICE's El Paso Field Office and she is being sued in an official capacity. Respondent De Anda-Ybarra exercises authority over immigration enforcement matters within the El Paso Field Office's jurisdiction. It is Respondent De Anda-Ybarra's decision to not effectuate Petitioner's release that is the subject of this petition.

Statement of Claim

Part I

7. That Petitioner is a native and citizen of Mexico who last arrived in the United States without inspection in or about 1996.
8. That Petitioner concedes that he is an "alien" as that term is defined at 8 U.S.C. §1101(a)(3).
9. That on or about June 16, 2025, Petitioner was arrested by the Florida Highway Patrol in Orange County, Florida and was booked into the Orange County Jail ("OCJ") on a single charge of Operating a Motor Vehicle Without a Valid Driver License in violation of Fla. Stat. §322.03(1).

10. That based upon information and belief, Petitioner submits that

ICE's Office of Enforcement and Removal Operations ("ERO") placed a "detainer" on file with the OCJ.

11. That a "detainer" is described at 8 C.F.R. §287.7(a). This provision states, in pertinent part, that

"[d]etainers are issued pursuant to sections 236 and 287 of the Act and this chapter 1. Any authorized immigration officer may at any time issue a Form I-247, Immigration Detainer-Notice of Action, to any other Federal, State, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that such agency advise the Department, prior to release of the alien, in order for the Department to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible."

12. That on or about July 2, 2025, Petitioner completed his obligations before the Orange County Court with reference to the aforementioned charge of Operating a Motor Vehicle Without a Valid Driver License and was thereafter released from OCJ.

13. That based upon information and belief, Petitioner submits that he was moved from OCJ to the Dade-Collier Training Transition Airport Facility¹ ("DCTTA") through transportation provided by ERO.

14. That upon apprehending an alien, ERO is charged with making an initial custody determination with reference to that alien as provided at 8 U.S.C. §1236 and 8 C.F.R. §236 *et seq.*

¹ This facility is also known as "Alligator Alcatraz."

15. That as is common practice, ERO generally enters a “NO BOND” determination upon its initial apprehension of an alien who arrived in the United States without inspection and/or at a place other than designated.
16. That upon information and belief, Petitioner submits that ERO entered a “NO BOND” initial custody determination with reference to him.
17. That the Code of Federal Regulations provides a process through which an alien can seek a custody redetermination hearing before an Immigration Judge (“IJ”). *See generally* 8 C.F.R. §1003.19.
18. That on or about July 15, 2025, an immigration attorney representing Petitioner filed a Motion for Bond Redetermination through the EOIR² Courts and Appeals System (“ECAS”). ECAS is an electronic case management system operated by EOIR.
19. That the Immigration Court located within ICE’s Krome Service Processing Center (“Krome”) in Miami, Florida thereafter scheduled Petitioner for a custody redetermination hearing to be held before an Immigration Judge (“IJ”) on July 23, 2025.
20. That on or about July 22, 2025, Petitioner’s attorney was preparing a filing to be uploaded through ECAS in an effort to provide additional evidence in support of Petitioner’s request that the assigned IJ set a bond. The attorney noticed that Petitioner’s bond proceedings were no longer

² Executive Office for Immigration Review. This is a component agency within the U.S. Department of Justice and includes both the Office of the Chief Immigration Judge and the Board of Immigration Appeals.

showing as pending in ECAS. As such, no further evidence could be uploaded.

21. That upon noticing the change described in the paragraph above, Petitioner's attorney contacted the Immigration Court at Krome to understand what had transpired with reference to Petitioner's previously pending custody redetermination proceeding.
22. That Petitioner's attorney spoke with an Immigration Court representative and was informed that the custody redetermination proceeding that had previously been scheduled had been withdrawn. Upon further inquiry, counsel was informed that she might obtain additional information by contacting ERO.
23. That Petitioner's attorney sent an email to the Duty Attorney with the Office of the Principal Legal Advisor ("OPLA")³ located in Miami to further inquire as to why Petitioner's request for custody redetermination had been withdrawn.
24. That OPLA responded to the inquiry above by informing counsel that she would have to contact ERO for further information.
25. That custody redetermination hearings are often conducted before EOIR through WebEx, a video conferencing platform specifically designated by EOIR to be used for this purpose.

³ OPLA is an office within ICE that is comprised of attorneys who represent the Department of Homeland Security in administrative removal proceedings and custody redetermination proceedings conducted before EOIR.

26. That on or about July 23, 2025, Petitioner's attorney accessed WebEx for the previously scheduled custody redetermination hearing and waited for the IJ to acknowledge her.
27. That through further inquiry with an IJ and the assigned OPLA attorney, counsel learned that a custody redetermination hearing could not be conducted because Petitioner was not then detained by ICE. Rather, counsel was informed that Petitioner was instead detained within the custody of the State of Florida operating under its color of authority.
28. That while a system of seeking a custody redetermination hearing before an IJ has been created for aliens who are apprehended and currently within ICE custody, this system does not apply to aliens who are not currently detained by ICE. *See Matter of Sanchez*, 20 I&N Dec. 223 (BIA 1990) (concluding that an IJ lacked jurisdiction to consider a custody redetermination request filed by an alien who was in the physical custody of the State of Maryland and considering that an alien is not "in [ICE] custody" based solely on a detainer lodged by the immigration authorities).
29. That the DCTTA facility has received national press attention from the time it was first considered for use as an immigration detention facility through the filing of this complaint. These reports state that this facility is operated by the Florida Department of Emergency Management ("FDEM") and that "Florida will front the costs of the facility and then

‘submit reimbursement requests through FEMA and the Department of Homeland Security.’”⁴

30. That in addition to the numerous articles discussing the use of the DCTTA facility to detain aliens, officials representing the State of Florida have shared that “[e]veryone in this facility is on a final removal order.”⁵

31. That notwithstanding the quoted statement in the paragraph above, Petitioner has NEVER been the subject of a final administrative order of deportation. *See* 8 U.S.C. §1101(a)(47) (defining “order of deportation”).

32. That upon information and belief, Petitioner submits that the FDEM created the DCTTA facility without ever having interacted with the Department of Homeland Security, with ICE or with ERO to create a means through which an alien seeking to challenge his ongoing custody status can seek review of an initial custody determination as required by 8 C.F.R. §1003.19.

Part II

33. That Petitioner was moved from the DCTTA facility to Krome at some point following the initial custody redetermination hearing that was initially scheduled for July 23, 2025.

⁴ <https://www.cnn.com/2025/07/01/us/what-is-alligator-alcatraz-florida> (last accessed August 1, 2025).

⁵ <https://www.miamiherald.com/news/politics-government/state-politics/article311511654.html> (last accessed August 1, 2025).

34. That on or about August 3, 2025, Petitioner's attorney filed a second request for a custody redetermination hearing before the Krome Immigration Court.
35. That a second custody redetermination hearing was scheduled to be heard on August 12, 2025.
36. That counsel for Petitioner again accessed the WebEx portal for the scheduled bond hearing on August 12, 2025. The evening prior, OPLA filed a Form I-830, Notice to EOIR: Alien Address ("Form I-830"), informing the IJ and counsel that Petitioner had once again been relocated to a different detention facility.
37. That upon learning that Petitioner had been moved to a different detention facility, counsel had little choice but to withdraw Petitioner's second custody redetermination request.

Part III

38. That upon learning that Petitioner was detained at ERO El Paso, his attorney filed a third request for a custody redetermination hearing.
39. That this third request for a custody redetermination hearing was received in ECAS on or about August 18, 2025.
40. That on or about August 18, 2025, Petitioner was scheduled for a custody redetermination hearing to be held before an IJ sitting at the El Paso

Immigration Court. This hearing was initially scheduled to occur on August 26, 2025.

41. That on or about August 21, 2025, the El Paso Immigration Court rescheduled Petitioner's custody redetermination hearing for the following day, August 22, 2025.

42. That counsel for Petitioner appeared at the August 22, 2025 custody redetermination hearing via WebEx.

43. That the August 22, 2025 custody redetermination hearing lasted less than five (5) minutes. During this hearing, the IJ posited as follows:

- Petitioner was not eligible for a custody redetermination hearing because a charging document had not yet been issued against Petitioner. The IJ cited to Matter of A-W-, 25 I&N Dec. 45 (BIA 2009), in support of this conclusion;
- Counsel for Petitioner was unfamiliar with the practice of U.S. Immigration and Nationality Law inasmuch as counsel was unaware of Matter of A-W-'s holding.

44. That the IJ provided no opportunity to Petitioner's attorney to review Matter of A-W- or to otherwise consider any argument as to whether this case applied to Petitioner's custody redetermination proceedings. Rather, the IJ unceremoniously ordered counsel to leave the WebEx platform once the IJ concluded that he lacked the authority to conduct a custody redetermination hearing.

Part IV

45. That as of September 17, 2025, Petitioner has been detained in ICE's custody for at least seventy-seven (77) days.
46. That during this period of detention, Petitioner has requested multiple custody redetermination hearings that have, for the reasons discussed herein, resulted in Petitioner remaining detained within ICE's custody.
47. That upon information and belief, Petitioner submits that ICE has made no effort to initiate removal proceedings against him by issuing a Form I-862, Notice to Appear ("NTA").
48. That an NTA is the charging document that is the first step in initiating removal proceedings against an alien. *See generally* 8 U.S.C. §1229.
49. That "[j]urisdiction vests, and proceedings before an Immigration Judge commence, when a charging document is filed with the Immigration Court..." 8 C.F.R. §1003.14(a).
50. That as no charging document has been issued by ICE, no IJ may consider Petitioner's case in removal proceedings.
51. That upon information and belief, Petitioner submits that he is eligible to pursue certain forms of relief from removal were he to be placed in removal proceedings as discussed herein. More specifically, Petitioner submits that he is eligible for consideration of a Form EOIR-42B, Application for

Cancellation of Removal and Adjustment of Status for Certain

Nonpermanent Residents ("Form EOIR-42B"). *See* 8 U.S.C. §1229b(b)(1).

52. That Petitioner's eligibility to pursue the relief described at §1229b(b)(1) is based, in part, on his length of physical presence in the United States and his four (4) U.S. citizen ("USC") children. Petitioner's youngest child was born with Downs Syndrome.

53. That like Petitioner, his spouse entered the United States without inspection and has no lawful immigration status in the United States.

54. That prior to Petitioner's arrest in Orlando, Florida, he was the sole breadwinner for his immediate family. Moreover, Petitioner was also the only person in his immediate family with access to a vehicle.

55. That having been detained for more than two (2) months and denied consideration of his request for custody redetermination, Petitioner's only means of resolving his immigration status is to be issued a charging document and brought before an IJ in removal proceedings. Nevertheless, Petitioner submits that ICE has thus far exhibited no intention on issuing a charging document and placing Petitioner in removal proceedings where he can make application for any form of relief from removal for which he may be eligible to pursue.

56. That Petitioner submits that he has been, and will continue to be, subject to indefinite detention under color of federal law under the circumstances described herein.

Causes of Action

57. **First Claim.** Petitioner's ongoing detention violates Petitioner's substantive and procedural due process rights under the Fifth Amendment of the United States Constitution. U.S. CONST. amend. V.

58. **Second Claim.** Petitioner's ongoing detention violates the Fourth Amendment of the United States Constitution because there are no reasonable, objective grounds for the detention. U.S. CONST. amend. IV.

Exhaustion

59. Petitioner challenges the constitutionality of his ongoing, indefinite and unlawful detention. He does not challenge the Department of Homeland Security's authority to conduct removal proceedings against him or any other action taken by the federal government.

60. The Immigration and Nationality Act ("INA" or Act") provides that

"[e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." 8 U.S.C. §1252(g).

61. While Petitioner notes that the language at §1252(g) prohibits an alien from bringing an action challenging an agency decision to “commence proceedings,” Petitioner submits that his continued detention without any possibility of release while ICE refuses to initiate removal proceedings against him violates his Constitutional rights as otherwise detailed in this complaint.

62. Petitioner has exhausted his administrative remedies. The administrative process allows for no remedy for the injuries inflicted by Respondents’ actions as described herein. Rather, ICE has assumed custody over Petitioner with what would appear to be no intention of ever placing him in administrative removal proceedings before an IJ. Petitioner submits that no administrative remedies exist to consider any of the issues of concern described in this complaint.

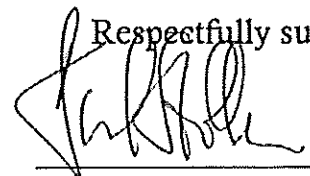
63. To the extent that any administrative process may exist, exhaustion of administrative remedies, which is a prudential requirement, is not required here because any administrative process would be futile, and because Petitioner raises serious Constitutional questions herein.

Prayer For Relief

Petitioner respectfully prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner is currently detained in the custody of Respondents in violation of the Constitution and laws of the United States and that Petitioner is being detained indefinitely without any means of recourse before any administrative agency;
3. Grant temporary and permanent injunctive relief requiring Petitioner to be released from ICE's custody;
4. Award Petitioner his costs and reasonable attorneys' fees in this action as provided by 28 U.S.C. §2412 or other statute; and
5. Grant such further relief as the Court deems just and proper.

Dated: September 17, 2025

Respectfully submitted,


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Table of Contents

Documents in Support of Complaint

**Victor Zamudio Sanchez v.
Kristi Noem, Secretary, U.S. Department of Homeland Security, *et al.***

Exhibit 1: Online detainee locator print-out pertaining to Victor Zamudio Sanchez.