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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

Sergio Arturo GAMEZ ZUNIGA,

Petitioner,

v.

Camilla WAMSLEY, ICE Seattle Office
Field Director, Kristi NOEM, Secretary
of the U.S. Department of Homeland Security;
Pam BONDI, Attorney General of the
United States, Michael W BANKS, Chief
of US Border Patrol; Rodney S SCOTT
GEO Group, Warden, Tacoma Northwest
Detention Center; Todd LYONS, Acting Director
of WA State Field Office, U.S. Immigration and
Customs Enforcement in their official capacities,
et al.

Respondents.

Case No. 3:25-cv-6109

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

Come now, Sergio Arturo Gamez Zuniga, by and through undersigned counsel, Ji Min Kim, respectfully submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 on his behalf, and alleges as follows: Petitioner is currently in the custody of the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) and is confined at the

Northwest Detention Center in Tacoma, Washington, located in 1623 E. J Street. Petitioner has been held in continuous at Northwest Detention Center in Tacoma since November 9, 2025, without Respondents filing Notice to Appear (“NTA”) or releasing him. Respondent wrongfully detained him since October 2025.

1. Petitioner is a H1B mechanical engineer who currently works for US company as a mechanical engineer. Until today Petitioner’s H1B extension request is pending with Department of Homeland Security.
2. On or about October 2025, Petitioner and his coworker were driving a rural site in Montana. There, a deer ran into their company car. To assess the damage, the petitioner and the coworker decided to park their car at a local motel.
3. There, an unidentified federal employee decided to arrest and detain Petitioner and his coworker and did not issue any other criminal citation.
4. Petitioner was moved from one detention center to the other, finally November 9, 2025, he was moved to NWDC
5. Around Thanksgiving 2025, the respondents issued Notice to appear, (“NTA”) already a month into detention without being informed and knowing any he was being detained
6. At its historical core, the writ of habeas corpus has served as a mean of reviewing the legality of executive detention and it is in that context that its protection has been strongest.” *INS v. St Cyr*, 533 US 289, 301 (2001), superseded on other grounds by statute as stated in *patel vs. US Att’y Gen* 971 F 3d 1258, 1270 (11th Cir 2020). The writ is meant to provide exactly the relief Petitioner seeks here: to prevent the Respondents- a whole set of immigration agencies with vase resources, with their disposal a punitive detention system and agents arbitrary detaining anyone (whether they are here with legal visa or not)

to detain without even filing the charging document with EOIR, and arbitrarily prolonging the detention without due process

7. In Respondent's lawless pursuit of detention quotas, Respondents cast aside Petitioner's due process rights as his charging document still remains unfiled with any judicial system, detaining him without any legal way to be released. In short, in the DHS' mindset pursuit of bodies of stack into overcrowded detention center, Respondent disregarded all laws and procedures that were designed to prevent unnecessary unlawful detention of noncitizens in the United States who pose no danger or flight risk.
8. Had the executive branch followed the US Constitution and all the laws and policies it is required to follow before restraining an individual's liberty, Petitioner, who is here with legal visa to work and who is providing essential services US companies need, would not have been detained at all.
9. Petitioner is unlawfully detained, not having his court date to appear. As of this filing he is being held at the Northwest Detention Center in Tacoma, Washington. He has been in Respondent's custody since October 2025. ICE until today has not charged the charging document with EOIR (DOJ), and he is being detained without any chance of being released, with no court date in sight.
10. The only reason Border Patrol agent arrested Petitioner is because he is a Latino.
11. Absent a warrant, the border patrol may only conduct an immigration arrest where they have probable cause to believe an immigration violation has occurred and there are exigent circumstances in which a person might disappear before a warrant could be secured.
12. Respondent knows and acknowledges Petitioner did not break immigration law when he is present in the United States with H1B working visa, working for the company he was

- sponsored. Respondent did not commit any act of criminal when he pulled over the company car at a local motel to check the damage when a deer collided with their vehicle.
13. Even if the agency did have the proper authority to arrest Petitioner without warrant, the authority would only allow 48 hours of warrantless detention. To detain Petitioner beyond that point the agency is required to make a lawful custody determination or to release him. Until today, again, the agency has not filed this case with Department of Justice (EOIR), purposely preventing the EOIR to have jurisdiction over his custody, or bond. Agency further refused to set any bond for his release.
14. Respondents' failure to file a Notice to Appear has prevented jurisdiction from vesting with the Immigration Court, as required by 8 C.F.R. § 1003.14(a), and has foreclosed Petitioner's ability to seek bond pursuant to 8 U.S.C. § 1226 and 8 C.F.R. § 1236.1. As a result, Petitioner is detained without any procedural mechanism to obtain custody review. As the Supreme Court recognized in *Pereira v. Sessions*, 138 S. Ct. 2105 (2018), the Notice to Appear is the legal instrument that triggers jurisdiction and initiates proceedings. Where no NTA is filed, jurisdiction does not vest and the detainee is deprived of the remedies available in immigration court. His continued confinement therefore violates the Due Process Clause of the Fifth Amendment, as well as governing federal statutes, regulations, and controlling precedent concerning civil immigration detention.
15. Petitioner's detention has become prolonged and potentially indefinite, with no reasonably foreseeable end. Absent timely judicial intervention, Petitioner faces continued confinement without sufficient procedural safeguards to protect against erroneous deprivation of liberty. Accordingly, this Court's exercise of habeas jurisdiction is necessary to remedy an unlawful restraint on Petitioner's freedom.

16. Petitioner asserts that his ongoing detention violates due process and exceeds statutory and constitutional limits on civil confinement. Absent an order from this Court, Petitioner will remain subject to indefinite and unconstitutional restraint of liberty.

17 Accordingly, to vindicate Petitioner's constitutional rights, this Court should grant the instant petition for a writ of habeas corpus. Absent an order from this Court, Petitioner will remain detained without any legal mechanism to request bond or obtain review of his custody status.

18. Petitioner asks this Court to find that his continued detention is unlawful because Petitioner is here with lawful visa to the United States, the Department of Homeland Security failed to file and lodge a Notice to Appear within a reasonable time after arrest, thereby depriving the Immigration Court of jurisdiction and preventing Petitioner from seeking bond and order that Respondents either promptly file and serve a Notice to Appear and provide Petitioner with a constitutionally adequate bond hearing within a specified time, or, in the alternative, order Petitioner's immediate release from custody.

JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
2. 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).

3. 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

1. Venue is proper because Petitioner is detained at Northwest Detention Center in Tacoma, Washington, located in 1623 E. J Street, which is within the jurisdiction of this District.

2. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this District. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

3. 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).

4. 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

1. Petitioner is an H-1B nonimmigrant visa holder who recently submitted request to extend H1B status and such request is pending with the DHS, as evidenced by a receipt notice. Petitioner is currently detained at the Tacoma Detention Center in Tacoma, Washington after he was detained in Montana after a deer hit the company car he was passenger of. He is in the custody, and under the direct control, of Respondents and their agents.
2. Respondent GEO Group is the Warden of Tacoma Northwest Detention Center, and it 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 GEO Group is a legal custodian of Petitioner.
3. Respondent Todd Lyons is sued in his official capacity as the Acting Director of the Washington State Field Office of U.S. Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner and has authority over Petitioner's detention and the ability to effectuate his release.
4. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem 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 and custody. Respondent Noem is a legal custodian of Petitioner.

5. Respondent Pam Bondi is sued in her 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 authority to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals (BIA). Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

1. Petitioner is a 30-year-old citizen of Mexico. He was lawfully admitted to the United States in H-1B nonimmigrant status and has resided and worked continuously in the United States pursuant to that status since January 2025, most accurately in Yorba Linda, California. Petitioner is employed by  where he works in a specialized technical role.
2. In or around June 2025, Petitioner's legal counsel in California advised that his H-1B status was approaching its expiration date and that urgent action was required to maintain lawful status. Petitioner immediately notified his employer and visa sponsor, Javier Lopez, of this issue.
3. Petitioner and his company retained an attorney and refiled the extension application correctly with the proper filing fees and documentation. Until today, this application is pending with DHS. In fact, only few days ago, DHS requested request for additional information such as biometric request.
4. While the renewal application was pending, Petitioner was required by his employer to travel across multiple states to oversee and assist with the installation of a proprietary technology system that he developed. He was also responsible for training field

workers in the implementation of the system at multiple Costco warehouse locations, where proper installation was essential to the commercial success of the product.

4. Petitioner was detained in Montana in October 31st 2025, by law enforcement authorities while traveling for work. Petitioner was taken into custody and transferred to the Tacoma Northwest Detention Center on or about November 9th 2025.

5. DHS has assigned Petitioner an Alien Registration Number (A# Number) but has failed to issue and file a Notice to Appear (NTA) formally initiating removal proceedings against him. Because DHS has not filed an NTA, the Department of Justice (“EOIR”) has not obtained jurisdiction over Petitioner’s case. As a direct result, Petitioner is unable to request a bond hearing or obtain any review of his custody status before an Immigration Judge. As far as DOJ is considered, Petitioner is not “removable” because NTA was not filed. Petitioner has repeatedly sought information regarding the issuance of an NTA and access to a custody determination, but no hearing has been scheduled as no charging document has been filed with EOIR. Petitioner remains confined without any individualized determination of flight risk or danger, and without any explanation as to the duration or basis of his detention.

6. Petitioner has since remained detained despite substantial equities, including long-standing lawful presence, steady employment, community support, and full compliance with immigration procedures once the filing errors were discovered.

7. DHS has placed Petitioner in a state of legal limbo by detaining him without filing an NTA and without providing any avenue for custody review. The failure to issue and file an NTA has deprived the Immigration Court of jurisdiction and foreclosed Petitioner’s sole mechanism to seek release on bond. Respondents’ actions have stripped Petitioner of a

meaningful opportunity to challenge his detention, and has become prolonged and potentially indefinite.

8. The continued confinement of Petitioner under these circumstances violates the Due Process Clause of the Fifth Amendment and governing federal law.

9. Habeas relief is necessary because no other adequate or effective remedy exists.

LEGAL FRAMEWORK

1. Habeas corpus is the proper vehicle to challenge unlawful immigration detention. Under 28 U.S.C. § 2241, federal district courts have jurisdiction to review the legality of noncitizens' detention and to order release where custody violates the Constitution or laws of the United States.

2. The Due Process Clause of the Fifth Amendment prohibits arbitrary civil detention and guarantees that no person may be deprived of liberty without adequate procedural safeguards. Immigration detention is civil in nature and therefore must be reasonably related to legitimate governmental purposes such as ensuring appearance at proceedings or protecting the public.

3. Detention becomes constitutionally unlawful when it is prolonged without individualized findings of flight risk or danger, or where no procedural mechanism exists to challenge custody. In *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011), the Ninth Circuit held that prolonged immigration detention without meaningful custody review violates due process and requires a constitutionally adequate hearing. The Court emphasized that civil detention must be accompanied by procedural safeguards to ensure it does not become punitive or arbitrary.

4. Federal regulations require DHS to initiate removal proceedings through issuance and service of a Notice to Appear (NTA), which vests jurisdiction in the EOIR Immigration Court and provides the only mechanism by which a detained noncitizen may seek review of custody status.

5. Where DHS detains a noncitizen without filing an NTA and forecloses access to bond or custody review, detention is no longer tethered to any lawful process and becomes arbitrary and unconstitutional. In *Franco-Gonzalez v. Holder*, 767 F. Supp. 2d 1034 (C.D. Cal. 2010), the court held that immigration detention without access to meaningful procedures violates due process and that habeas relief is appropriate where detainees lack any avenue to challenge custody. Where detention occurs absent procedural safeguards, federal intervention is warranted.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

1. The allegations in the above paragraphs are realleged and incorporated herein.
2. Petitioner has been detained without issuance of an NTA, without access to bond, and without any individualized determination of flight risk or danger. Petitioner's detention is prolonged and indefinite, with no reasonably foreseeable end.
3. For these reasons, Petitioner's detention, violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1226, 8 C.F.R. §§ 1003.13, 1003.14, and 1236.1 and Implementing Regulations

4. The allegations in the above paragraphs are realleged and incorporated herein.

5. Respondents have failed to initiate removal proceedings through issuance and lodging of a Notice to Appear.

6. By holding Petitioner in detention without filing an NTA, Respondents have deprived the Immigration Court of jurisdiction and foreclosed Petitioner's ability to seek bond.

7. Respondents' continued detention of Petitioner without initiating proceedings exceeds statutory authority under the Immigration and Nationality Act.

8. For these reasons, Petitioner's detention violates 8 U.S.C. § 1226 and 8 C.F.R. §§ 1003.13, 1003.14, and 1236.1.

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 8 C.F.R. §§ 1003.13, 1003.14, and 1236.1;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to:
 - (a) Immediately issue and file a Notice to Appear and provide Petitioner with a constitutionally adequate bond hearing within a time set by this Court;
 - OR**
 - (b) Immediately release Petitioner from custody;
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

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

Respectfully Submitted,



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Counsel for Petitioner

Dated: December 10th 2025

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

I represent Petitioner, Sergio Arturo Gamez Zuniga, 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 10 day of December, 2025.

Ji Min Kim
Attorney at Law
Kai Law Group PS