

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

OSCAR DARIO GALLEGOS OSORIO,

Petitioner,

v.

Case No. 1:25-cv-293-H

MARCELLO VILLEGAS, et al.,

Respondents.

FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Oscar Gallegos Osorio files this First Amended Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 to challenge his continued detention without a bond hearing. This amendment is necessitated by the Fifth Circuit's February 6, 2026, decision in *Buenrostro-Mendez v. Bondi*, which clarifies the statutory framework for detention but confirms that Petitioner's specific status as a parolee exempts him from the mandatory detention mandate of 8 U.S.C. § 1225(b).

I. PARTIES

Petitioner is a citizen of Colombia currently detained by U.S. Immigration and Customs Enforcement (ICE) at the Bluebonnet Detention Center in Abilene, Texas. Petitioner is a resident of Texas and has resided in the United States for several years.

Respondents are federal officials charged with the custody of Petitioner and the enforcement of the immigration laws. Respondent Marcello Villegas is the Warden of the Bluebonnet Detention Center and has immediate physical custody of Petitioner. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security.

II. FACTUAL ALLEGATIONS

Petitioner entered the United States without inspection. However, on September 14, 2022, the Department of Homeland Security exercised its discretion to grant Petitioner parole under 8 U.S.C. § 1182(d)(5)(A). Following this grant of parole, Petitioner was released from custody under 8 U.S.C. § 1226(a). Critically, DHS memorialized this release on Form I-286 (Notice of Custody Determination). This specific form is the mechanism by which DHS processes discretionary releases under Section 1226. Following this documented release, Petitioner remained in the community for nearly three years.

During this time, Petitioner was the beneficiary of a pending I-130 Petition for Alien Relative. Despite Petitioner's compliance with all conditions of his release, Respondents re-detained him in 2025. Respondents have refused to provide Petitioner with a bond hearing, asserting that his detention is now mandatory under 8 U.S.C. § 1225(b)(2)(A). Petitioner's impending removal is compounded by the current suspension of immigrant visas for Colombian nationals, which effectively creates a permanent bar to reentry and the loss of Petitioner's pending I-130 petition. Petitioner has an upcoming merit hearing in the Immigration Court on February 24, 2026.

III. LEGAL CLAIMS

COUNT ONE: VIOLATION OF 8 U.S.C. § 1226(a)

The Fifth Circuit recently held in *Buenrostro-Mendez* that unadmitted aliens present within the United States who have not been admitted or paroled are subject to mandatory detention under § 1225(b)(2)(A). Petitioner is a parolee. Under the Circuit's newly clarified standard, Petitioner is excluded from the mandatory detention mandate of § 1225 because he has been paroled.

Furthermore, the government's own prior use of Form I-286 confirms that Respondents correctly identified Petitioner as a discretionary detainee under Section 1226. The *Buenrostro-Mendez* court observed that individuals subject to mandatory criminal detention under § 1226(c) may not be granted parole. Because DHS did in fact grant Petitioner parole on September 14, 2022, the government has already determined that Petitioner is not subject to the mandatory detention bars of § 1226(c) or the Laken Riley Act. Petitioner's detention is therefore governed by the discretionary bond-eligible framework of 8 U.S.C. § 1226(a).

COUNT TWO: VIOLATION OF FIFTH AMENDMENT DUE PROCESS

Petitioner's continued detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment. The government is using an administrative delay on Petitioner's I-130 adjudication to keep a legal parolee in custody while simultaneously misapplying mandatory detention statutes.

IV. PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Grant the Writ of Habeas Corpus and order Petitioner's immediate release;

2. In the alternative, order Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) within seven days;
3. Stay Petitioner's removal pending the resolution of this petition and his pending I-130

Respectfully submitted

ORTIZ LAW FIRM, PLLC

By: 

Humberto Rivera
State Bar No. 17997
E-Mail: hrivera@ortizfirm.com
1425 Greenway Dr, Suite 150
Irving, TX 75038
Tel: (972) 386-7777
Fax: (214) 943-9356
ATTORNEY FOR PETITIONER

VERIFICATION

I, Humberto Rivera, state that I am the attorney for the Petitioner in this action; that I have read the foregoing First Amended Petition for Writ of Habeas Corpus and know the contents thereof; and that the same is true to my own knowledge, except as to matters therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 9, 2026.

By: 

Humberto Rivera