

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

FILED
JAN 22 2026
CLERK, U.S. DISTRICT COURT
BY WESTERN DISTRICT OF TEXAS
DEPUTY CLERK

Juan Daniel Vicente Perez,

Petitioner,

v.

Pamela Bondi, Attorney General,

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

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Marisa Flores, Director, El Paso Field Office
Immigration and Customs Enforcement, and

Curtis Taylor, Major General, U.S. Army at
Camp Bliss.

Respondents.

EP 26CV0133
Case No.

VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Mr. Juan Daniel Vicente Perez, ("Mr. Vicente Perez"), by and through Next Friend Bryan Osvaldo Vicente Vicente, Petitioner's first cousin, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement ("ICE") to release Mr. Vicente Perez from ICE detention, or in the alternative to enjoin their

transfer to a facility outside of the Western District of Texas and to provide him with a bond hearing pending the completion of his immigration proceedings.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Mr. Vicente Perez seeks to challenge his custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Denmore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Mr. Vicente Perez is detained within the Western District of Texas.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

PARTIES

7. Petitioner is a citizen of Guatemala and a resident of Richfield, Minnesota who is currently being held at the ERO El Paso Camp East Montana detention facility in El Paso, Texas. Petitioner is under the direct control of the respondents and has no scheduled release date.

8. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Mr. Vicente Perez.

9. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the Western District of Texas, supervises the ICE field offices, and is legally responsible for pursuing Mr. Vicente Perez's detention and removal. As such, Respondent Noem is a legal custodian of Mr. Vicente Perez.

10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

11. Respondent Marisa Flores is being sued in her official capacity as the Field Office Director for the El Paso Field Office for ICE within DHS. In that capacity, Field Office Director Marisa Flores has supervisory authority over the ICE agents

responsible for detaining Mr. Vicente Perez. The address for the El Paso Field Office is 1541 Montana Ave, Suite E, El Paso, Texas, 79936.

12. Respondent Major General Curtis Taylor is being sued in his official capacity as the Commanding General responsible for the ERO El Paso Camp East Montana Detention Center within the U.S. Army Fort Bliss. Because Petitioner is detained in the ERO El Paso Camp East Montana Detention Center, Major General Taylor has immediate day-to-day control over Petitioner.

NEXT FRIEND

13. Next Friend Bryan Osvaldo Vicente Vicente brings this habeas corpus action as next friend of Petitioner, Mr. Vicente Perez, who is currently detained by U.S. Immigration and Customs Enforcement.

14. A next friend does not become a party to the habeas action but instead prosecutes the case on behalf of the detained individual, who remains the real party in interest. *Whitmore v. Arkansas*, 495 U.S. 149, 163 (1990).

15. For a court to have jurisdiction over a habeas petition filed by a next friend, the application for habeas corpus must “set forth an adequate reason or explanation of the necessity of the ‘next friend’ device.” *Weber v. Garza*, 570 F.2d 511, 514 (5th Cir. 1978).

16. First, the next friend must explain and be able to support with proof “why the real party in interest cannot appear on his own behalf to prosecute the action.” *Soto v. Sowell*, No. CV H-25-1362, 2025 WL 2822000, at *3 (S.D. Tex. Oct. 3, 2025) (quoting *Whitmore*, 110 S. Ct. at 1727). Second, that the next friend “is ‘truly

dedicated to the best interest of the person on whose behalf he seeks to litigate” *Id.* Lastly, the next friend must have “some significant relationship with the real party in interest.” *Id.*

17. Here, the detainee is unable to prepare, sign, or file this petition because they are held in ICE custody at ERO El Paso Camp East Montana without reliable access to legal materials or translation services, and they face pending removal. Petitioner cannot speak English, and he is incredibly isolated—he has not been able to make contact with any of his loved ones outside of the detention facility after having been brought to El Paso. These conditions make meaningful access to the courts impossible absent next-friend intervention.

18. Next friend [your name] is [describe how related to petitioner], has a significant relationship with [him/her/them], and is acting solely in the Petitioner’s best interests, not to assert [him/her/them] own rights or interests. [Your name] therefore satisfies the requirements for next-friend standing under *Whitmore* and *Soto*, and this Court has jurisdiction to consider the petition.

19. In the alternative, if this Court requires additional proof to establish the facts supporting next friend status, Next Friend [NEXTFRIEND NAME] respectfully requests the opportunity to submit additional affidavits attesting to the facts above.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

20. Petitioner is a resident of Richfield and a citizen of Guatemala. He is 21 years old, and has lived in the United States for six years.

21. Prior to January 13, 2026 Petitioner had never had contact with immigration officials. He came here as a minor when his mom died and his dad abandoned him.

22. He has no criminal record.

23. Petitioner was in his car at approximately 7:15 a.m. in the morning when he called his girlfriend in a panic, reporting that he was being surrounded by officers. They broke the windows of his car, even though he was trying to cooperate with them. They dragged him out of his vehicle and placed him under arrest.

24. Mr. Vicente Perez was taken initially to the Whipple, 1 Federal Drive, Fort Snelling, Minnesota. He has not been able to call his family since he has been detained, but his loved ones have been able to locate him online in ERO El Paso Camp East Montana in El Paso, Texas.

25. Detaining Mr. Vicente Perez is an expensive and pointless endeavor. Mr. Vicente Perez respectfully seeks the opportunity to return to his home in Richfield and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

26. Pending the adjudication of his Petition, Mr. Vicente Perez further seeks an order restraining the Respondents from transferring him to a location outside of the Western District of Texas, so that he may remain within the jurisdiction of this Court and accessible to his legal counsel and family support networks.

STANDARD OF LAW

27. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by US Courts 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). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 22441(c)(3).

28. The Court must grant a petition for writ of habeas corpus or issue an order to show cause 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.*

29. Courts have jurisdiction to hear habeas petitions filed by noncitizens who have no final removal order, whose challenges to their arrest and detention are “independent of any future removal order.” *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *3 (W.D. Tex. Sept. 22, 2025). Nor is a petitioner required to first exhaust administrative remedies where, as here, petitioner is not appealing a final order of removal. *Id.* at 6.

30. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

31. In July of 2025, Respondent DHS began ignoring the decades-long consensus of how 8 U.S.C. § 1225(b)(2) should be interpreted, which the Board of Immigration Appeals (“BIA”) articulated in a subsequent ruling. *In re: Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025). Respondents suddenly claim that individuals who have been residing within the United States for more than two years are somehow “seeking admission,” simply because they may have pending claims for asylum or other forms of status.

32. However, this Court and the majority around the country have made clear that 8 U.S.C. § 1225(b)(2) only authorizes detention for noncitizens who are at the border seeking physical entry at the time of detention, not those who have lived within the United States for more than two years, and whose detention is discretionary and governed by 8 U.S.C. § 1226(a).

In recent weeks, courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect. See *Lopez-Campos v. Raycraft*, — F. Supp. 3d —, — n.5, 2025 WL 2496379, at *8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting twelve such decisions); see, e.g., *Jimenez v. FCI Berlin, Warden*, — F. Supp. 3d —, — & n.9, 2025 WL 2639390, at *10 & n.9 (D.N.H. Sept. 8, 2025). That includes courts in the Fifth Circuit. *Lopez Santos*, 2025 WL 2642278, at *5; *Kostak v. Trump*, No. 25-cv-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025).

Lopez-Arevelo, 2025 WL 2691828, at 8.

33. Only under certain circumstances are immigrants subject to ongoing detention without a bond hearing. See, e.g., 8 U.S.C. § 1226(c) (individuals with certain criminal convictions may be detained without a bond hearing for the pendency

of removal proceedings¹) and 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) (authorizing mandatory detention of immigrants in expedited removal proceedings).

34. Otherwise, the “default rule” is that detention of immigrants already present in the United States and subject to pending removal proceedings is governed by 8 U.S.C. § 1226(a) and its implementing regulations. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) (distinguishing between mandatory detention for noncitizens “seeking to enter the country” under § 1225(b), and noncitizens who, per § 1226, are “already in the country” and thus who are entitled to bond hearings pursuant to pending the outcome of their removal proceedings, subject to criminal record exceptions). Under this default rule, detention is not mandatory, and immigrants are constitutionally entitled to a bond hearing. *See Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200 (W.D. Tex. Jan. 8, 2026).

35. Petitioner has no criminal record, has been in the United States for well over two years, and was apprehended within the United States, not at a border while seeking entry. Respondents wrongly assert 8 U.S.C. § 1225(b) as a basis for detaining Mr. Vicente Perez without a hearing, when instead his detention could only be pursuant to 8 U.S.C. § 1226.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

¹ Even when detained under 1226(c), immigrants retain due process rights and are entitled to a hearing if the period of detention becomes unreasonable. *See, e.g., Pedro O v. Garland*, 543 F.Supp.3d 733 (D. Minn. 2021) (finding a year-long mandatory detention pursuant to 8 U.S.C. § 1226(c) without an individualized hearing to violate an immigrant’s due process rights).

Petitioner is being deprived of an adequate and meaningful process to challenge his ongoing confinement.

36. Petitioner realleges and incorporates by reference the allegations contained above.

37. Mr. Vicente Perez has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

38. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

39. Here, all three factors favor the petitioner.

40. First, Mr. Vicente Perez has a significant private interest at stake. A person's interest in freedom from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”). Mr. Vicente Perez currently experiences the gambit of deprivations that come with

physical detention, including separation from his family and community, and inhibitions to participate fully in pending immigration proceedings.

41. Second, Mr. Vicente Perez will continue to be deprived of this interest if the current procedure (detaining Mr. Vicente Perez without a legal basis) is followed. With his lack of criminal record, there is no rational explanation for detaining Mr. Vicente Perez. Even if he were detained properly under 8 U.S.C. § 1226(a), he has a strong likelihood of meeting the criteria for being released on bond. 8 CFR §§236.1(c)(8), 1236.1(c)(8) (2020); *In re Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999).

42. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Mr. Vicente Perez poses no safety threats to the community. Releasing him, or holding a hearing to release him on bond, would in fact *save* the government the resources and expense of continuing to imprison him.

43. The placement of Mr. Vicente Perez in detention pending the resolution of his immigration proceedings violates Mr. Vicente Perez's constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

Petitioner's Ongoing Detention, without the Opportunity for a Bond Hearing, Violates his Statutory Right to a Hearing as Guaranteed by 8 U.S.C. § 1226(a).

44. Petitioner realleges and incorporates by reference each and every allegation contained above.

45. Respondents violate the Immigration and Nationality Act by attempting to apply mandatory detention through 8 U.S.C. § 1225(b)(2), to Petitioner.

46. Mr. Vicente Perez is detained, notwithstanding his pending immigration proceedings, without being afforded an opportunity to advocate for his release back into his community as the law requires.

COUNT THREE

Violation of the Administrative Procedure Act

Petitioner's Ongoing Detention Pursuant to 8 U.S.C. § 1225(b)(2), when they are not an Applicant Seeking Admission, is a violation of the Administrative Procedure Act.

47. Mr. Vicente Perez re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

48. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

49. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens could properly be

detained under § 1226(a), but would then be eligible for release on bond unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

51. Nonetheless, the Board has adopted a policy and practice of applying § 1225(b)(2) to Petitioner and others in the same position.

52. Respondents through its recent administrative decision failed to articulate any reasoned explanations for new interpretation of the Act. The Board's decision represents a change in the agencies' policies and positions that negates the plain language of the Act, the will of Congress, and decades of administrative precedent.

53. The application of § 1225(b)(2) to Mr. Vicente Perez is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

REMEDY

54. An available remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be released.

55. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 687, 690 (2001) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

56. A noncitizen seeking only to challenge the legality of their detention, not the substance of their removal proceedings in immigration court, may properly ask a federal court to find jurisdiction over such a request pursuant to 28 U.S.C. § 2241. See, e.g., *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1154–55 (D. Minn. 2025).

57. Since Section 1225 does not apply to noncitizens who are in Petitioner’s situation—who have been detained while residing within the United States for more than two years, as opposed to those who are detained while in the process of physically entering the United States, the law that Respondents are using to detain Petitioner simply does not apply so as to authorize Petitioner’s detention. *See Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

58. When a habeas petitioner’s detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the “typical remedy” for “unlawful executive detention”).

59. Respondents will no doubt argue, as they have in similar cases before this Court, that if the Court rules that Petitioner should have been detained pursuant to § 1226, instead of § 1225, then the remedy is a bond hearing as opposed to outright release. *See, e.g., Ahmed A.* Civ. No. 25-4776, Doc. No. 9. at 9-10. However, this Court rejected this argument, saying that:

[A] bond hearing presupposes lawful detention authority under § 1226. Where that authority has not been invoked or established, ordering a bond hearing would treat the absence of statutory authority as a mere procedural irregularity rather than a substantive defect ... Where the record shows

Respondents have not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings.

Id. at Doc. No. 10 at 6.

60. Here, where detention is unlawfully based on 8 U.S.C. 1225, which does not apply to Petitioner, release is an appropriate remedy.

REQUEST FOR ORDER TO SHOW CAUSE

61. Within three days, unless good cause for a delay is shown, “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

62. Next Friend Bryan Osvaldo Vicente Vicente, on behalf of Petitioner, respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court’s order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

WHEREFORE, Mr. Vicente Perez prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from moving Petitioner outside of the jurisdiction of the Western District of Texas;
- (3) Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately, or in the alternative afforded a bond hearing;

- (4) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days; and
- (5) Grant any other and further relief that this Court may deem just and proper.

Date:


Brian Osvaldo Vicente Vicente

Minneapolis MN 55411


Next Friend to Petitioner
Not An Attorney

**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's cousin and acting on Petitioner's behalf as a Next Friend. I have personal knowledge of the factual assertions in this petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date:



Bryan Osvaldo Vicente Vicente

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

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Office Immigration and Customs
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Curtis Taylor, Major General, U.S.
Army at Camp Bliss.

Respondents.

**CERTIFICATE OF SERVICE
FOR SERVICE BY MAIL**

Case No. Not Yet Assigned

I hereby certify that on 1/15/26, I caused a copy of the Verified Writ of Habeas Corpus and Civil Cover Sheet to be served by first class mail, postage paid, to the following:

US Attorneys Office
700 E. San Antonio, Suite 200
El Paso, Texas 79901

Date:

Signature

Printed Name: Bryan Vicente

Bryan Vicente
3006 Russett Ave N
Minneapolis, MN
55411



FILED

JAN 22 2024

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY CM
DEPUTY CLERK

US District Court Clerk's Office
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