

JUDGE LEON SCHYDLER
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

Jaime Tello Santiago,

Petitioner,

Case No. _____

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 26CV0134

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Mr. Jaime Tello Santiago, by and through Next Friend
Brian Alexis Tello Aguilar, Petitioner's US Citizen son, 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. Tello Santiago from ICE detention or 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. Jaime Tello Santiago 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. Tello Santiago 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 Mexico and a resident of Bloomington, Hennepin County, 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. Tello Santiago.

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 Fort Snelling ICE Field Office, and is legally responsible

for pursuing Mr. Tello Santiago's detention and removal. As such, Respondent Noem is a legal custodian of Mr. Tello Santiago.

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. Tello Santiago. 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 Brian Alexis Tello Aguilar brings this habeas corpus action as next friend of Petitioner, Mr. Tello Santiago, 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. Next-friend standing is appropriate to remedy a situation where the detainee cannot prosecute the action on their own, due to lack of access to the courts or a similar disability. *Id.* at 163–64.

16. 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).

17. 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.*

18. Here, the detainee is unable to prepare, sign, or file this petition because he is being held in ICE custody at Ero El Paso Camp East Montana without reliable access to legal materials or translation services, and facing

pending removal. Petitioner speaks Spanish, and speaks only minimal English—far from fluent. These conditions make meaningful access to the courts impossible absent next-friend intervention, especially given that Mr. Tello Santiago could be deported at a moment’s—or without any—notice.

19. Next friend Brian Alexis Tello Aguilar is the US Citizen son of petitioner, has a significant relationship with him, and is acting solely in the Petitioner’s best interests, not to assert his own rights or interests. Brian Alexis Tello Aguilar therefore satisfies the requirements for next-friend standing under *Whitmore* and *Soto*, and this Court has jurisdiction to consider the petition.

20. In the alternative, if this Court would like more proof to establish the facts supporting Next Friend status, Mr. Tello Santiago respectfully requests the opportunity to submit additional affidavits attesting to the facts above.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

21. Petitioner is a resident of Minneapolis and a citizen of Mexico. He has lived in the United States continuously since 2002.

22. Mr. Tello Santiago entered without inspection, and has had no contact with immigration authorities prior to this time.

23. Mr. Tello Santiago Minneapolis, Minnesota. He has three US Citizen Children in Minneapolis, Minnesota. Two of his children are under the age of

18 and Mr. Tello Santiago is a provider and caregiver to them and has a close and loving relationship with all three of his children.

24. Mr. Santiago was suddenly apprehended by men who are believed to be agents of Respondent ICE on January 9th, 2026 while in a Sam's Club Gas station in Bloomington.

25. From there, it is believed, based on all available information at the time of the filing of this petition, he was taken to Fort Snelling Immigration Office in St. Paul, Minnesota, where he spent one to two nights before being flown to his current location in Texas.

26. Mr. Tello Santiago was able to speak briefly to his family when he was held at Fort Snelling. His family has only been able to speak to him for a few minutes since his arrival in El Paso. His family located him online, but has been unable to ascertain his A number or the status of any deportation proceedings.

27. Mr. Tello Santiago poses no risk to society and has strong connections to his community in Hennepin County, including his family, his three children and his friends. Mr. Tello Santiago is law abiding and has no criminal record or issues with law enforcement.

28. Detaining Mr. Tello Santiago is an expensive and pointless endeavor. Mr. Tello Santiago respectfully seeks the opportunity to return to his home in

Bloomington and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

29. Pending the adjudication of his Petition, Mr. Tello Santiago further seeks an order returning him to the State of Minnesota, so that he may return to the jurisdiction of this Court and accessible to his legal counsel and family support networks.

STANDARD OF LAW

30. 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).

31. 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.*

32. 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.

33. “[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).

34. Only under certain circumstances are noncitizens 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 proceedings) and 8 U.S.C. § 1225(b) (authorizing mandatory detention of immigrants seeking admission from outside the United States).

35. Otherwise, the “default rule” is that 8 U.S.C. § 1226(a) and its implementing regulations apply to noncitizens “already present in the United States” and subject to pending removal proceedings. *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.

36. Despite this clear, longstanding distinction between noncitizens seeking entry from outside the country, to whom 1225(b) applies, and noncitizens who have been living in the United States for more than two years subject to the default 1226(a), Respondents have decided to openly create a new interpretation of these rules contrary to how Courts and ICE themselves have interpreted immigration law since 1996. *Lopez Arevelo*, 2025 WL 2691828 at 7. Now, Respondents are saying that 1226(a) does not apply to anyone.

37. This departure involves a drastic expansion of the interpretation of mandatory detention so as to apply to individuals who have been living in the country for years, not just those seeking admission at the border.

38. The BIA’s position change (described in *In re: Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025))) flies in the face of existing Supreme Court precedent, where it is clear and understood that the Government’s authority to detain certain noncitizens who are already in the country, and subsequent requirement to afford them a bond hearing, comes from 8 USC 1226, *not* 1225. *Jennings*, 583 U.S. at 281-82.

39. Not only that, but a majority of courts across the country since BIA has attempted to take over for Congress through a new interpretation of several decades of precedent have rejected this expansion, resoundingly and repeatedly:

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.

40. Here, Petitioner fits the ‘default rule’ as someone without a criminal record who has been in the United States for more than two years, (in fact, more than twenty), and is thus entitled to a bond hearing.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

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

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

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

43. 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.

44. Here, all three factors favor the petitioner.

45. First, he 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. Jaime Tello Santiago currently experiences the gambit of deprivations that come with physical detention, including separation from his

family and his community, and future inhibitions to participate fully in his now pending immigration proceedings.

46. Second, Mr. Tello Santiago will continue to be deprived of this interest if the current procedure (detaining Mr. Tello Santiago without a hearing) is followed. With his lack of criminal record, Mr. Tello Santiago 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). Even if he is not subsequently released, he still has a legal and constitutional interest in the hearing itself, in being heard.

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

48. The placement of Mr. Tello Santiago in detention pending the resolution of his asylum proceedings violates his 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

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

50. When a decision in an asylum application is pending on appeal and an immigrant is being detained pursuant to 8 U.S.C. § 1226(a), that immigrant is entitled to a bond hearing pursuant to 8 CFR §§236.1(c). Respondents violate the Immigration and Nationality Act by attempting to apply the mandatory detention statute 8 U.S.C. § 1225(b)(2), to Petitioner.

51. Mr. Tello Santiago is detained, notwithstanding his pending asylum application, without being afforded an opportunity to advocate for his release back into his community as the law requires.

REQUEST FOR ORDER TO SHOW CAUSE

52. 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.

53. Next Friend, 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. Tello Santiago prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order that Petitioner not be deported outside of the United States while this matter is pending;
- (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: 1/14/2026

Signed by:

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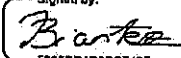
Brian Alexis Tello Aguilar
3800 Oakland Ave S
Minneapolis, MN, 55407
Briantello1000@gmail.com
612-834-5089

*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 son 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: 1/14/2026

Signed by:

590FBD4BDB6742F...

Brian Alexis Tello Aguilar

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

Jaime Tello Santiago
Petitioner,

v.

Pamela Bondi, Attorney General,

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

**CERTIFICATE OF SERVICE
FOR SERVICE BY MAIL**

Case No. Not Yet Assigned

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

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

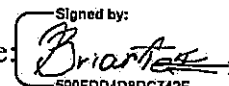
Curtis Taylor, Major General, U.S.
Army at Camp Bliss.

Respondents.

I hereby certify that on 01/14/2026, 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: 01/14/2026

Signed by:
Signature: 
590FDD4D8DC742F...

Printed Name: Brian Tello Aguilar