

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

José Manuel Lema Lema (A# )

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,

David Easterwood, Acting Director, St. Paul
Field Office Immigration and Customs
Enforcement,

Warden of the ERO El Paso East Montana,

Joel Garcia, Field Office Director, El Paso Field
Office, United States Immigration and Customs
Enforcement, and

Oscar Ugarte, Sheriff of El Paso County.

Respondents.

Case No. 3:26-cv-00268

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

**REQUEST FOR EMERGENCY
TEMPORARY RESTRAINING
ORDER**

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Mr. José Manuel Lema Lema, “Mr. Lema,” 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 stop any efforts to remove Mr. Lema from the United States, to return him to Minnesota where he was unlawfully taken into custody, and to

release him from ICE detention in Minnesota. In the alternative, Mr. Lema is at minimum entitled to a bond hearing pending the completion of any 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. Lema seeks to challenge this 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”). *Demore 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. Lema is currently 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 district employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas.

PARTIES

7. Petitioner, Mr. Lema, is a citizen of Ecuador and a resident of Minnetonka, Minnesota, who is, currently being held at Camp East Montana, an immigration detention facility, in El Paso, Texas. Petitioner has been in ICE custody and under the direct control of the respondents since on or about January 15, 2026 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. Lema.

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 responsible for Mr. Lema's initial detention, and is legally responsible for pursuing Mr. Lema's detention and removal. As such, Respondent Noem is a legal custodian of Mr. Lema.

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 Mr. Lema's detention.

11. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Mr. Lema. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

12. The unnamed Respondent is the Warden of the Camp East Montana facility, where Petitioner is currently detained. They are the legal custodian of Petitioner and are named in their official capacity.

13. Respondent Joel Garcia is the Field Office Director responsible for the El Paso Field Office of Immigration and Customs Enforcement (ICE) with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Petitioner and is named in his official capacity.

14. Respondent Sheriff Oscar Ugarte is being sued in his official capacity as the Sheriff responsible for the Camp East Montana detention facility. Because Petitioner is detained in the El Paso County facility, Sheriff Ugarte has immediate day-to-day control over Mr. Lema.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

15. Petitioner is a resident of Minnetonka and a citizen of Ecuador, and has lived in the United States since December 2022.

16. Mr. Lema was briefly detained upon entering the United States in 2022 and then was released into the U.S. under the ICE Alternatives to Detention Program.

17. Respondent ICE arrested Mr. Lema without notice, due process, or a warrant on or around January 15, 2026 in or around Minnetonka, Minnesota.

18. This arrest is part of an operation in Hennepin and Ramsey counties called "Operation Metro Surge." This operation has involved hundreds of masked, unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting pedestrians, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants

as possible into custody regardless of the constitutionality of their actions. *See, e.g., Compl., Tincher et. al. v. Noem*, No. 0:25-cv-04669. (D. Minn. 12/17/2025).

19. Since the operation began on December 1, 2025, the number of immigration officials in the Twin Cities metro area has increased fourfold, and with them these new agents have brought a similarly massive increase in unconstitutional, unlawful, and downright violent behavior towards citizens and non-citizens alike. The people of Minnesota—of all races, nationalities, and citizenship status—are united in their shock and fear at the events of the past six weeks, and are begging for the attacks on their community to stop.

20. Given the massive volume of perceived non-citizens being taken off the streets, Respondents are running out of physical space to continue detaining people. Detainees are being held in cramped quarters at the federal building, before being quickly sent to remote locations across Minnesota or to facilities as far away as El Paso, Texas, which is the case for Mr. Lema.

21. In Mr. Lema's case, Petitioner has been brought more than 1,000 miles across the country, from the Bishop Henry Whipple Federal Building in Minneapolis, MN to Camp East Montana in El Paso, Texas.

22. Mr. Lema was intimidated into signing removal papers under duress on January 28, 2026 at Camp East Montana, in violation of his due process rights.

23. Since that signing, Mr. Lema has been inaccessible to his counsel. His location no longer appears in the online ICE Locator and nothing is available regarding his case in the EOIR online case information system.

24. Respondents' detention and anticipated removal of Mr. Lema to Ecuador is unlawful under federal statute and the United States Constitution.

25. Mr. Lema respectfully seeks the opportunity to return home to his family Minnesota 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 this Petition, Mr. Lema further seeks an order restraining the Respondents from again unlawfully detaining or relocating him without due process.

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), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence. *Herrera v. Tate*, 801 F. Supp. 3d 689 (S.D. Tex. 2025) (quoting *Skaftouros v. United States*, 667 F.3d 144, 158 (2d Cir. 2011)). A court considering a habeas petition must “determine the facts, and dispose of the matter as law and justice require.” *Id.* (quoting 28 U.S.C. § 2243).

28. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Juarez v. Bondi*, No. 4:25-CV-03937, 2025 U.S. Dist. LEXIS 233308, at *3 (S.D. Tex. Oct. 27, 2025). When a “‘legal question is fit for resolution and delay means hardship,’ a court may choose to decide the issues itself.” *Pizarro Reyes*, 2025 U.S. Dist. LEXIS 175767, 2025 WL 2609425, at *3 (quoting *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13, 120 S. Ct. 1084, 146 L. Ed. 2d 1 (2000)).

29. “[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).

30. 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. *Matter of 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 metaphorically “seeking admission,” simply because they may have pending claims for asylum or other forms of status.

31. 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 whose detention is discretionary and governed by 8 U.S.C. § 1226(a). *See, e.g., Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 U.S. Dist. LEXIS 201967, at *6 (S.D. Tex. Oct. 7, 2025) (“As almost every district court to consider this issue has concluded, ‘the statutory text, the statute’s history, Congressional intent, and § 1226(a)’s application for the past three decades’ support finding that § 1226 applies to these circumstances.”); *Lopez-Arevelo*, 2025 U.S. Dist. LEXIS 188232, 2025 WL 2691828, at *7 (“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.”); *Rodriguez v. Bostock*, No. 3:25-cv-5240, 2025 U.S. Dist. LEXIS 193611, 2025 WL 2782499, at *1, n.3 (W.D. Wash. Sep. 30, 2025) (“Every district court to address” the statutory question “has concluded that the government’s position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice”); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025

U.S. Dist. LEXIS 194262, 2025 WL 2802947, at *6 (D. Minn. Oct. 1, 2025) (joining the “chorus” of courts in agreement)).

32. Here, Petitioner was apprehended on or about January 15, 2026 within the United States, not at a border while seeking entry.

33. On information and belief, Respondents wrongly assert 8 U.S.C. 1225(b)(2) as a basis for detaining Mr. Lema without a hearing, when instead any detention could only be pursuant to 8 U.S.C. 1226(a), which would have required a warrant.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Respondents are Confining Petitioner without A Valid Legal Basis or any Semblance of Due Process.

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

35. Mr. Lema has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The procedural due process guarantees of the Fifth Amendment ensure that noncitizens cannot be deprived of liberty or property interests without due process of law. *Barrows v. Burwell*, 777 F.3d 106, 113 (2d Cir. 2015) (quoting *Matthews v. Eldridge*, 424 U.S. 319, 332 (1976))). *See also, Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *5 (W.D. Tex. Oct. 16, 2025) (“Petitioner is entitled to the Fifth Amendment’s Due Process Clause protections.”).

36. 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.

37. Here, all three factors favor the petitioner.

38. First, Mr. Lema 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. Lema is wrongfully confined, a direct attack on Petitioner's liberty interests.

39. This Court has already held that "noncitizens acquire a protectable liberty interest when they spend years establishing a life in the interior of the United States, regardless of their citizenship status." *Miranda v. Flores*, No. EP-25-CV-584-KC, 2025 U.S. Dist. LEXIS 270139, at *6 (W.D. Tex. Dec. 10, 2025) (citing *Martinez I*, 2025 U.S. Dist. LEXIS 209332, 2025 WL 2965859, at *4). Petitioner has resided in Minnesota for years with his wife, their daughter, and his stepson. His family, particularly his 12-year-old daughter, has been traumatized by the sudden and unexpected disappearance of her father.

40. Second, Mr. Lema will continue to be deprived of this interest if the current procedure (detaining Mr. Lema without a legal basis) is followed. There is no rational explanation for detaining Mr. Lema. Respondents' presumed, purported basis for detaining Petitioner under 8 U.S.C. 1225(b)(2) is unlawful.

41. Mr. Lema poses no safety threats to the community.

42. The placement of Mr. Lema in detention pending the resolution of ongoing immigration proceedings violates Mr. Lema's constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)

Petitioner's Ongoing Detention Pursuant to 8 U.S.C. § 1225(b)(2) is Unlawful because Petitioner is not Seeking Admission and therefore cannot be held under that Authority

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

44. Respondents violate the Immigration and Nationality Act by attempting to apply mandatory detention through 8 U.S.C. § 1225(b)(2), to Petitioner. Petitioner was nowhere near the border and was not "seeking admission."

COUNT THREE

Violation of the Administrative Procedure Act, 5 U.S.C. § 706

Detaining Petitioner Pursuant to an Unlawful Interpretation of 8 U.S.C. § 1225(b)(2) violates the Administrative Procedure Act

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

46. 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).

47. 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).

48. 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.

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

50. 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.

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

REMEDY

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

53. 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)). Detention here serves no statutory purpose, there is no indication that Petitioner's detention was based on any facts that might indicate that Petitioner should be in custody for some reason.

54. Since Section 1225 does not apply to noncitizens who are in Petitioner’s situation—who have been detained while residing within the United States, 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* 8 U.S.C. § 1226(a).

55. 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”).

56. Respondents will no doubt argue, as they have in similar cases, 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. “[C]ourts across the country have held that this interpretation is either incorrect or likely incorrect.” *Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 U.S. Dist. LEXIS 217585, at *5 (W.D. Tex. Oct. 30, 2025). *See also Buenrostro-Mendez*, 2025 U.S. Dist. LEXIS 201967, 2025 WL 2886346, at *3 (noting that “almost every district court to consider this issue” has rejected the Government’s new interpretation); *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, 784 n.5 (E.D. Mich. Aug. 29, 2025) (collecting cases).

57. Nor here would § 1226(a) have supported a lawful detention in the first instance. Detention under § 1226(a) would require a warrant issued by the Attorney General. To put this plainly: “absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a).” *Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN, 2025 U.S. Dist. LEXIS 184909, at *34 (D. Me. Sep. 21, 2025). Upon information and belief, Respondents had no such warrant.

58. Here, where detention is unlawfully based on 8 U.S.C. 1225(b)(2), which does not apply to Petitioner, release is an appropriate remedy. *See, e.g., Santiago v. Noem*, No. 3:25-cv-361-

KC, 2025 U.S. Dist. LEXIS 195616, 2025 WL 2792588, at *3 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232, 2025 WL 2691828, at *5 (W.D. Tex. Sept. 22, 2025).

59. Furthermore, a custody determination has already been made. Petitioner was released from custody in 2022, as deemed appropriate by the Office of Refugee Resettlement. In that intervening time, no facts appear to indicate that this initial determination to release Petitioner was somehow insufficient, or that Petitioner's circumstances or actions have changed so as to now suddenly warrant re-detention. There is no legal basis for Respondents to attempt to reinstate mandatory detention rather than a bond hearing, following a prior mandatory detention just by recharacterizing a previously released noncitizen as an applicant for admission.

REQUEST FOR ORDER TO SHOW CAUSE

60. 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.

61. 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. Lema prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from any efforts to remove Mr. Lema from the United States;

- (3) Issue an order requiring Respondents to return Mr. Lema to Minnesota where he was unlawfully taken into custody, and to release him from ICE detention in Minnesota;
- (4) Issue an order requiring Respondents to show cause as to why Petitioner should not be released immediately;
- (5) 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
- (6) Grant any other and further relief that this Court may deem just and proper.

Dated: January 30, 2026

Respectfully submitted,

/s/Alexa Balderrama

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**ATTORNEY FOR JOSÉ MANUEL LEMA
LEMA**

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 one of Petitioner's attorneys. I, in conjunction with other attorneys at my law firm, have verified the allegations herein through communications with Petitioner's close family members. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: January 30, 2026

/s/Alexa Balderrama

Alexa Balderrama