UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Jose Alberto GOMEZ-GONZALEZ,
A [redacted]
Petitioner,

v.

MIGUEL VERGARA, Acting San Antonio Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); **BOBBY THOMPSON**, in his official capacity as the Warden of South Texas Detention Facility, ; **TODD LYONS**, in his official capacity as Director of Immigration and Customs Enforcement ("ICE"); **KRISTI NOEM**, in her official capacity as the Secretary of the Department of Homeland Security ("DHS"); and **PAMELA BONDI** as the Acting Attorney General of the United States,

Respondents.

CASE NO. 5:26-cv-598

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

INTRODUCTION

1. Petitioner, Jose Alberto Gomez-Gonzalez (Mr. Gomez or Petitioner), is a 24-year-old college student that was enrolled at Texas State University in San Marcos, Texas. He was majoring in political science with a minor in psychology and was scheduled to graduate in December of 2025.

2. On August 14, 2025, Mr. Gomez, was allegedly pulled over for speeding a couple miles over the speed limit. He was pulled over by a Concho County Deputy Sheriff Abel Quezada (Deputy Quezada) as he was driving on Highway 87 near Eden, Texas. He was heading towards Andrews, Texas to visit his parents before the college semester started.

3. Upon making contact with Deputy Quezada, Mr. Gomez provided his legally issued Texas Driver's license which was tied to his valid work authorization which was accordingly based upon his pending asylum case.

4. Deputy Quezada insisted on knowing his immigration status despite the fact that he had a valid Texas driver's license and insurance. Deputy Sheriff Quezada only issued Mr. Gomez a warning for speeding, but insisted on calling an agent of Immigration and Customs Enforcement (ICE) presumptively because he was working with immigration agents to turn people over to them.

5. According to Deputy Quezada, the ICE Agent stated that Mr. Gomez had an active warrant issued by ICE. However, on August 14, 2025, his case had been administratively closed by an immigration judge in El Paso since October 1, 2015. The automated system[1] for the Executive Office for Immigration Review (EOIR) would have showed that his case was administratively closed by court order. Independently, the ICE Agent could have easily verified that his case was administratively closed through an ICE database. *See generally*, 8 CFR §§ 1003.18(c)(2024); and 1003.1(l)(2024) (granting immigration judges the power to manage their dockets and administratively close cases).

6. Despite the fact that a legal court order had been issued, Mr. Gomez was arrested, but not for a moving violation; rather, he was arrested because an ICE agent told Deputy Quezada that there was an active warrant for him, which in fact was not true.

7. When Mr. Gomez was arrested by Deputy Quezada, his vehicle was towed, and he was then driven to the Tom Green County line where an ICE agent was awaiting him in his civilian vehicle

[1] An online system that allows a person to check their case before the immigration court by inserting the Alien Number and their country of birth available at https://acis.eoir.justice.gov/en/ (Assessed on 01/05/2025).

to take custody of him. The custody of Mr. Gomez was transferred from Deputy Quezada to an ICE Agent.

8. The ICE agent, who is under the control of the Respondents, arrested Mr. Gomez without individualized suspicion or lawful justification, as required by governing statutes and the Fourth Amendment. There was no reasonable suspicion that he was in violation of the immigration laws, as he was not within close proximity of the U.S. Mexican Border. See 8 U. S. C. § 1357(a) (2018); INA § 287(a) (2018). An ICE agent may arrest a non-citizen for being "in the United States in violation of any [immigration] law or regulation," but only if the agent has reason to believe that the non-citizen "is likely to escape before a warrant can be obtained." § 1357(a)(2)(2018).

9. Upon information and belief, the facts show that Deputy Quezada and an ICE agent conspired together to racially profile Mr. Gomez who was driving on a Texas Highway by pulling him over on a pretextual stop. This is so because Deputy Quezada insisted on knowing Mr. Gomez's immigration status rather enforcing highway traffic laws.

10. Nonetheless, Respondents' power to detain remains checked by law, as this country remains governed by constitutional and statutory limits. *Cooper v. Aaron, 358 U.S. 1, 23* (1958) (Frankfurter, J. Concurring) (cleaned up).

11. The writ of habeas corpus is the "fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." *Harris v. Nelson*, 394 U.S. 286, 291 (1969). "The scope and flexibility of the writ – its capacity to reach all manner of illegal detention – its ability to cut through barriers of form and procedural mazes – have always been emphasized and jealously guarded by courts and lawmakers." *Harris v. Nelson* at 291. Hence, "the very nature of the writ demands that it be administered with the initiative and *flexibility* essential to ensure the miscarriages of justice within its reach are surfaced and corrected." *Id.* (emphasis added).

12. As such, Mr. Gomez files this petition because the writ is meant to provide exactly the relief he seeks here: to prevent the Respondents—a whole set of immigration agencies with vast resources, who have at their disposal a punitive detention system and agents roving the streets to arrest immigrants—from setting themselves above the law in order to detain Mr. Gomez in hopes that he will give up and self deport.

13. In Respondents' lawless pursuit of detention bed quotas,[4] Respondents failed to afford Mr. Gomez's due process rights—a bedrock of American freedom by detaining him without reasonable suspicion or probable cause, contrary to the requirements governing warrantless arrests.

14. Moreover, as noted supra, warrantless arrest without probable cause violates both 8 U.S.C. § 1357, which requires reason to believe the person "is likely to escape" before a warrant could be obtained, and ICE's own nationwide policy, to which it is bound pursuant to a settlement agreement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.), which requires consideration of specific factors to determine if someone is likely to escape and documentation of these "specific particularized facts" in the I-213. [5]

15. Mr. Gomez, who entered the U.S. legally in 2012 as a child to seek asylum, has deep longstanding ties to the U.S. He graduated high school, was about to graduate college, and upon graduation, he had a job offer to work at Child Protective Services.

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[4] Jennie Taer, Trump admin's 3,000 ICE arrests per day quota is taking focus off criminals and 'killing morale': insiders warn, NY Post, June 17, 2025, available at https://nypost.com/2025/06/17/us-news/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killing-morale-insiders/ (Assessed on 01/05/2026)(noting that the quotas are undermining the agency's ability to focus on the really serious criminal aliens," citing John Sandweg, a former acting ICE director under President Barack Obama).

[5] Form I-213, entitled "Record of Deportable/Inadmissible Alien" is an "official record prepared by immigration officials when initially processing a person suspected of being in the United States without legal permission."
Ovando v. Noem, Civil Action No. 1:25-cv-03183-RBJ, 2025 U.S. Dist. LEXIS 234204, at *9 n.5 (D. Colo. Nov. 25, 2025), *citing Punin v. Garland*, 108 F.4th 114, 119 (2d Cir. 2024).

16. Mr. Gomez has dreams of going to law school and has never been arrested or charged with crimes of moral turpitude or felonies.

17. No reasonable ICE officer could have reasonably concluded that he was likely to flee before a warrant could be obtained. Respondents did issue an administrative warrant, but after he was detained and arrested, and Respondents did so despite that his case was administratively closed. The record reflects no lawful basis for arrest at the time it occurred.

18. Since the arrest of Mr. Gomez, he was unable to graduate college, was forced to breach his lease on his apartment, lost job opportunities, lost his liberty, and lost money.

19. Mr. Gomez files this petition to vindicate his rights. This Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents' arrest and detention are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing Mr. Gomez's transfer out of this district and order his release.

JURISDICTION

20. This case arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101, *et seq.*, and the Administrative Procedures Act ("APA"), 5 U.S.C. § 701, *et seq.*

21. This Court has subject matter jurisdiction over this petition and may grant pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1331; Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause); the All-Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C § 701; and for injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201.

22. Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to hear habeas petitions by noncitizens who challenge the lawfulness of their detention under federal law. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 292-95 (2018); *Maldonado v. Macias*, 150

F.Supp. 3d 788, 794 (W.D. Tex. 2015), *INS v. St. Cyr*, 533 U.S. 289, 364-65 (2001) ("The writ of habeas corpus has always been available to review the legality of executive detention.").

23. Importantly for jurisdictional questions, Mr. Gomez is not asking this court to review an order of removal, nor, indeed, for any relief having to do with his current proceedings in immigration court. "As we have said before, §1252(b)(9) "does not present a jurisdictional bar" where those bringing suit "are not asking for review of an order of removal," "the decision . . . to seek removal," or "the process by which . . . removability will be determined." *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020), *citing Jennings v. Rodriguez* at 294-5.

24. Mr. Gomez seeks only habeas relief from his current, illegal detention in the way he was arrested, while those immigration proceedings are ongoing, and for this Court to determine as a matter of law that he is entitled to be released or granted a bond hearing before a neutral arbiter. *See also*, *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC at 1-2, 2025 U.S. Dist. LEXIS 188232, at *14-15 (W.D. Tex. Sep. 21, 2025)(stating in part that 8 U.S.C. § 1252(a)(5), § 1252(g), and § 1226(e) do not deprive a Habeas Court of jurisdiction when a Petitioner is challenging his detention under his right to procedural due process).

25. "[T]he [REAL ID] Act does not, however, preclude habeas review of challenges to detention that are independent of challenges to removal orders." *Gutierrez-Soto v. Sessions*, 317 F. Supp. 3d 917, 925 (W.D. Tex. 2018).

26. The Respondents' continued detention of Mr. Gomez constitutes such a "severe restraint[]" on his individual liberty," that he is "in custody in violation of the . . . laws . . . of the United States." *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241; *see also Henderson v. Reno*, 157 F.3d 106, 122 (2d Cir. 1999), *cert. denied sub nom. Reno v. Navas*, 119 S.Ct. 1141 (1999).

VENUE

27. Venue in the Western District of Texas, San Antonio, is proper because Mr. Gomez is presently physically detained at the South Texas Detention Facility, 566 Veterans Drive, Pearsall, TX 78061. Mr. Gomez immediate physical legal custodian is the San Antonio Field Office Director, Respondent Miguel Vergara, who has legal custody over him. Bobby Thompson, is the Warden of the South Texas Detention Facility, and he has the actual physical custody, and thus both Respondents are within the Western District of Texas, San Antonio division.

28. Venue is proper as the Western District of Texas, San Antonio, is the district with the most substantial connection to the parties, witnesses, evidence, attorneys and circumstances underpinning the issues presented herein per 28 U.S.C. § 1391. *See, e.g., Laines v. Bible*, 2018 U.S. Dist. LEXIS 120608.

EXHAUSTION

29. No exhaustion requirement applies to the constitutional claims raised in this Petition because federal courts have carved out an exception to the exhaustion requirement for constitutional challenges to the immigration laws, given that the immigration courts lack jurisdiction to adjudicate such claims. *See, e.g., Haitian Refugee Ctr. v. Smith,* 676 F.2d 1023, 1033 (5th Cir. 1982)(stating in part that district court has jurisdiction to hear a "pattern or practice" claim because ... a district court can wield its equitable powers when a wholesale, carefully orchestrated, program of constitutional violations is alleged), *overruled on other grounds; Rashtabadi v. INS*, 23 F.3d 1562, 1567 (9th Cir. 1994); *Howell v. INS*, 72 F.3d 288, 291 (2d Cir. 1995); *Arango–Aradondo v. INS*, 13 F.3d 610, 614 (2d Cir. 1994); and *Akinwunmi v. INS*, 194 F.3d 1340 (10th Cir. 1999).

30. "Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal." *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007); *see* 8 U.S.C. § 1252(d)(1) ("A court may review a final order of removal only if . . . the alien has exhausted all administrative remedies."); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, at *16.

31. Petitioner has no other remedy at law but to seek habeas relief from this Court. Mr. Gomez has exhausted all his administrative remedies for certain claims, and administrative remedies do not exist for his Constitutional claims. Any proposed immigration court remedies would only force him to give up his asylum claim. Thus, only a Habeas court could adjudicate his constitutional claims.

PARTIES

32. Petitioner, Jose Alberto Gomez-Gonzalez, is a 24-year-old college student and asylum seeker from Mexico. Mr. Gomez is currently in the physical and legal custody of DHS, and subject to immigration court proceedings under the purview of the Department of Justice's Executive Office for Immigration Review.

33. Respondent Miguel Vergara is named in his official capacity as the Acting ICE Field Office Director for San Antonio within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations, and is a legal custodian of Petitioner. Respondent Miguel Vergara's address is Office of Enforcement and Removal Operations, San Antonio Field Office Director, 1777 NE Loop 410, Floor 15, San Antonio, Texas 78217.

34. Respondent, Bobby Thompson is named in his official capacity as the Warden of the

South Texas Detention Facility. In this capacity, Respondent Bobby Thompson detains individuals suspected of civil immigration violations pursuant to a contract with ICE. Respondent Bobby Thompson is the immediate physical custodian responsible for the detention of Mr. Gomez. .

35. Respondent Pamela Bondi is named in her official capacity as the Acting Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review. Respondent is legally responsible for administering Petitioner's removal proceedings and the standards used in those proceedings.

36. Respondent Kristi Noem is named in her official capacity as Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws. Respondent Noem routinely oversees the agencies within the Department of Homeland Security, including ICE, and as such he has hierarchical authority over Acting Field Office Director Miguel Vergara.

37. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and has authority over the actions of Respondent Joel Garcia and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

FACTUAL AND LEGAL BACKGROUND

38. Mr. Gomez was born in Chihuahua City but grew up in the Mexican town of Juan Aldama just outside of Chihuahua City in central Chihuahua State. He fled his town and country as a child because he and his family feared for their lives after [redacted]

[redacted] They also went to the local newspapers to report what had happened [redacted]

40. Subsequently, Mr. Gomez and his family received credible death threats for [redacted] On February 12, 2012, at 12 years-old, Petitioner, Mr. Gomez, entered the U.S. with his family by vehicle to seek asylum through the Presidio, TX port of entry. **See Ex. A [Notice to Appear dated March 23, 2012].**

41. Upon entry, immigration agents treated Mr. Gomez and his family as arriving aliens despite the fact that they had in their possession B1/B2 Border Crossing Cards duly issued by the U.S. Consulate in Mexico.

42. On March 1, 2012, Mr. Gomez and his family were granted temporary humanitarian parole under INA § 212(d)(5)(A). *See Jennings v. Rodriguez,* supra, at 299-300 (stating that the only power that DHS has to release an arriving alien subject to 8 U.S.C. § 1225(b)(2)(A), is the parole authority provided by INA § 212(d)(5)(A) of the INA, 8 U.S.C. § 1182(d)(5)(A)). **See Ex. B [Humanitarian Parole issued to Petitioner dated March 1, 2012].**

43. Notwithstanding the grant of temporary humanitarian parole Mr. Gomez and his family were released from U.S. Customs and Border Protection (CBP) custody after a couple of days. They sought asylum and have been living in the U.S. unimpeded until Mr. Gomez was stopped by Deputy Quezada and taken into custody.

44. On March 23, 2012, the Houston asylum office granted his family a credible fear of persecution and placed them in full INA § 240 proceedings. See 8 U.S.C. § 1225(b)(1)(B)(i)-(ii) (mandating credible fear interviews and stating that the alien shall be detained for further consideration of the asylum application). On the same day, they were served with Notices to Appear ("NTAs"). See, *supra* Ex. A at 2.

45. On October 01, 2015, an El Paso Immigration Judge administratively closed Mr. Gomez's and his family's asylum case using his independent judgment and discretion. **See Ex. C [Order by El Paso Immigration Judge Robert S. Hough dated October 1, 2015].**

46. While living in the U.S., Mr. Gomez graduated high school, enrolled at the Odessa Community College, then later transferred to a four-year university. **See Ex. D at 11-13 [Affidavit by the Petitioner as to his arrest by Deputy Quezada].**

47. He enrolled at the Texas State University, in San Marcos, Texas. He was majoring in political science with a minor in psychology. He was gainfully employed part-time, attended the university full-time, and he had a graduation date of December 2025. **Ex. D at 11, see also Ex. I parole request with school transcripts at 40-45.**

48. Mr. Gomez had his own apartment and worked and completed various interns with an eye to someday attend law school. **See Ex. E at 15 [A certificate of appreciation issued by the Travis County Probate Court Number 1].**

49. On August 14, 2025, without notice or warning, he was arrested by ICE because they need to arrest at least 3,000 persons a day in violation of the Immigration and Nationality Act ("INA") and its regulations, the Administrative Procedures Act ("APA"), and the U.S. Constitution's

Fourth Amendment and Due Process guarantees. **See Ex. F at 17 [A warning ticket issued by Deputy Quezada for going 1-5 miles over the speed limit].**

50. According to Deputy Quezada, Mr. Gomez had an active warrant issued by ICE. However, on August 14, 2025, the date of his arrest, his case had been administratively closed since 2015.

51. As noted, at the time of Mr. Gomez's arrest, the ICE Agent had access to his immigration file and status via an ICE database when Deputy Quezada called him to check on his immigration status, because the system would have shown that his case had been administratively closed since 2015.

52. This is so because the publicly accessible automated system would have shown that on the day that he was pulled over, August 14, 2025, an administrative decision had been issued lawfully by an Immigration Judge in 2015.

53. Despite that a legal order had been issued, Mr. Gomez was not only arrested, but he was driven by Deputy Quezada to the Tom Green County line where an ICE agent was awaiting him in his civilian vehicle. The U.S. Supreme Court has recognized that the Fourth Amendment is violated by prolonged detention solely for the purposes of investigating immigration status. See *Arizona v. United States*, 132 S. Ct. 2492, 2509 (2012)(stating that "Detaining individuals solely to verify their immigration status would raise constitutional concerns.)

54. Mr. Gomez was then transported to the Tom Green County Jail, where ICE agent Montemayor issued an administrative warrant, and placed a detainer on him, issued a new NTA , and he stayed at the jail until August 17, 2025. **See Ex. G at 19-21 [a copy of an I-200 administrative warrant, a detainer issued to the Tom Green Jail to hold for ICE, and a copy of a Notice to Appear without the date that Petitioner entered, compare with Ex. A].**

55. In the early hours of August 17, 2025, he was transported and transferred to the Bluebonnet Detention Center at 400 E. 2nd Street, Anson, Texas.

56. On August 31, 2025, he was moved to the South Texas Detention Facility, 566 Veterans Drive, Pearsall, Texas 78061. Since being detained there, he has transferred between the South Texas Detention Facility and the South Texas ICE Processing Center, both locations have the same address but are considered different facilities. **See Ex. H at 24-26 [Copies of ICE Form I-830E that is filed by ICE before the Immigration Court when a detainee is moved to a new detention center].**

57. Because Petitioner first sought asylum at a port of entry, he is considered an "arriving alien." 8 C.F.R. § 1001.1(q). As an "arriving alien," Mr. Gomez is not entitled to a custody redetermination hearing before an immigration judge ("IJ') under current regulations. 8 C.F.R. § 1003.19(h)(2)(i)(B). Consequently, the only means for release for Mr. Gomez is through a grant of parole by ICE or a grant of habeas from this Court. See 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. §§ 1.1(q), 208.30(e)-(f), 212.5, and 235.3. Mr. Gomez is challenging the mandatory detention statutes as applied to him. 8 U.S.C. §§ 1225(b)(1)(A)(ii); [6] 1225(b)(2)(A) (mandatory detention statutes)

58. On September 30, 2025, Mr. Gomez filed his parole request through his immigration counsel on the basis of his illegal arrest. However, despite strong family ties in the United States and eligibility for relief, to date, ICE has not responded. **See Ex. I [complete copy of his parole request that contains his college transcripts at 40-45].**

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[6] This is the section that reads that the Petitioner is detained after he established a credible fear of persecution and the statute states that he "shall be detained for further consideration of the application for asylum." Nonetheless, he is challenging the indefinite detention of the statutes as applied to him under his unique facts. Both statutes have mandatory detention built in, but § 1225(b)(2)(A) applies to persons deemed applicants for admission or "arriving aliens."

59. Mr. Gomez, through counsel, has followed up on his request, and to date, ICE has not formally responded in writing to his parole request. ICE has not even acknowledged receipt of the request and has issued no substantive decision.

60. Unless habeas or immediate injunctive relief is granted, this college student, who was separated from his family and community, faces indefinite detention, losing the opportunity to graduate college and meaningfully prepare his case for humanitarian relief under the extreme duress of separation from his family. This will only increase the likelihood that he will be removed to Mexico without being reunified with his family, in violation of his Constitutional right to family integrity.

61. Finally, it does not appear that the Respondents considered the reciprocal constitutional rights of Mr. Gomez's right to family integrity. While not dispositive, it weighs heavily on the harm caused by the prolonged detention of this future graduate, and separation of him from his family, university, and friends. The Supreme Court has long recognized a Due Process right to family integrity, that includes a right to education or "right to acquire useful knowledge."[7]

62. The Fifth Circuit has acknowledged that "many aspects of family integrity possess constitutional stature." *See Hodorowski v. Ray*, 844 F.2d 1210, 1217 (5th Cir. 1988). The Fifth Circuit later clarified that while it found that there is a constitutional right to family integrity, its contours may remain unclear in certain cases. *See Morris v. Dearborne*, 181 F.3d 657 (5th Cir. 1999).

[7] The Supreme Court has explained: Without a doubt, [liberty] denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S. Ct. 625, 626 (1923).

63. Pursuant to this Court's inherent powers in habeas corpus proceedings, Mr. Gomez respectfully requests this Court order his immediate release from custody because he has a liberty interest in his freedom from detention after his release from custody for over 13 years, and the Respondents violated his Fourth Amendment Rights, and his substantial and procedural Due Process, as applied to him.

64. The Respondents do not have discretion to violate the Constitution. *Gutierrez-Soto v. Sessions*, at 925. "[T]his Court joins those courts that have found that an individual who has been living in the United States outside parole and is later apprehended is detained under section 1226. *Martinez v. Marich*, No. 25-CV-1110-LJV, 2025 U.S. Dist. LEXIS 268379, at *31 (W.D.N.Y. Dec. 31, 2025).

FIRST CAUSE OF ACTION

Violation of Right to Due Process Pursuant to the Fifth Amendment

65. Petitioner alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

66. In *Bridges v. Wixon*, our U.S. Supreme Court elegantly stated in part, "[O]nce an alien lawfully enters and resides in this country he becomes invested with the rights guaranteed by the Constitution to all people within our borders. Such rights include those protected by the Fourth and the Fifth Amendments and by the due process clause of the Fourteenth Amendment." 326 U.S. 135, 161 (1945). *See also, Wong Wing v. United States*, 163 U.S. 228, 238 (1896) ("It must be concluded that all persons within the territory of the United States are entitled to the protection by [the Fifth] [A]mendment[] . . .

67. Petitioner's continued prolonged detention after an illegal arrest under 8 U.S.C. § 1225(b)(2)(A)(2018) for more than five months, without a custody hearing before a neutral arbiter

violates his right to due process under the Fifth Amendment to the United States Constitution. "It is well established that the Fifth Amendment entitles aliens to due process of law." *Demore v. Hyung Joon Kim*, 538 U.S. 510, 523 (2003) (*quoting Reno v. Flores,* 507 U.S. 292, 306 (1993)). "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. *Zadvydas* 533 U.S. at 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.").[8]

68. Due process therefore requires "adequate procedural protections" to ensure that the government's asserted justification for its conduct infringing on protected interests "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

69. Other than as punishment for a crime, due process permits the government to take away liberty only "in certain special and narrow nonpunitive circumstances . . . where a special justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (quotations omitted). Such special justification exists only where a restraint on liberty bears a "reasonable relation" to permissible purposes. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *see also Foucha v. Louisiana*, 504 U.S. 71, 79 (1992); *Zadvydas*, 533 U.S. at 690. In the immigration context, those purposes are "ensuring the

[8] ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem.") *Wekesa v. United States Atty.*, No. 22-10260, 2022 U.S. App. LEXIS 32359, at *4 (5th Cir. Nov. 22, 2022), unpublished, James L. Dennis, Circuit Judge, dissenting, *citing Zadvydas* at 693.

appearance of aliens at future immigration proceedings and preventing danger to the community." *Zadvydas*, 533 U.S. at 690 (quotations omitted).

70. Those substantive limitations on detention are closely intertwined with procedural due process protections. *Foucha*, 504 U.S. 78-80. Noncitizens have a right to adequate procedures to determine whether their detention in fact serves the purposes of ensuring their appearance or protecting the community. Id. at 79; *Zadvydas*, 533 U.S. 692; *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 949 (9th Cir. 2008). Where laws and regulations fail to provide such procedures, the habeas court must assess whether the noncitizen's immigration detention is reasonably related to the purposes of ensuring his appearance in immigration court or protecting the community. *Zadvydas*, 533 U.S. at 699.

71. In *Zadvydas*, the U.S. Supreme Court found that six months is a presumptively reasonable period during which ICE may detain aliens in order to effectuate their removal. *Id.* at 702. "Once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* at 701. In *Clark v. Martinez*, 543 U.S. 371 (2005), the Supreme Court held that its ruling in *Zadvydas* applies equally to inadmissible aliens. *Id.* at 386. Therefore, detention under § 1225(b)(2)(A) is subject to a reasonable time limitation. *Maldonado*, 150 F. Supp. 3d at 805.

72. The Due Process Clause of the Fifth Amendment requires that any deprivation of Mr. Gomez's liberty be narrowly tailored to serve a compelling government interest. Although ICE has an interest in detaining Mr. Gomez to effectuate his removal, it cannot do so in an unconstitutional manner. *Gutierrez-Soto v. Sessions*, at 925.

73. *In Maldonado*, detainment of twenty-six months under § 1225(b)(2)(A) was found to be unreasonable regardless of the reasonableness standard used. *Id.* at 809-10. Here, as in *Maldonado*,

the Petitioner was deemed an "arriving alien" because he presented himself at the port of entry to seek asylum. He further received a positive credible fear finding and therefore was no longer subject to expedited removal proceedings. *Id.* at 810.

74. Based on these facts in *Maldonado*, the court found that the Petitioner's detention was unreasonable because he had been held in "immigration detention for more than two years, having committed no crime in his attempt to seek asylum in this country, and without any opportunity for an individualized review of his detention by an immigration judge." *Id.* at 811.

75. In this case, Mr. Gomez, has been in the United States for over 13 years. As noted, on March 1, 2012, he was granted parole and was living in the U.S. without incident, until he was arrested, and detained in an arbitrary manner, without any notice of the basis for Petitioner's arrest and continued detention, and not based on a rational and individualized determination of whether Petitioner should be detained based on the individual facts and circumstances pertaining to whether Petitioner was a flight risk or unlawfully present in the United States, or a danger to the community.

76. As such, Mr. Gomez's mandatory detention is unreasonable. *Maldonado* held that an individualized bond hearing was the appropriate remedy in such a case to provide a safeguard against indefinite detention. *Id.* at 812. Respondents have exceeded their authority under the pertinent regulations to detain Mr. Gomez, and an individualized bond hearing is justified on the facts of this case.

77. Mr. Gomez had been released under parole and had been allowed to live unimpeded in the United States for over 13 years, was allowed to work, to live with his family, to attend college, and to assimilate into the community and establish a life here.

78. The Fifth Amendment to the U.S. Constitution provides: "No person shall…be deprived of life, liberty, or property, without due process of law…." *See Wong Wing v. U.S.*, 163 228, at 238

("These provisions are universal in their application to all persons within the territorial jurisdiction, without regard to any difference of race, of color, or nationality…).

79. Mr. Gomez has a liberty interest in his freedom from detention and he should be given a meaningful opportunity to be released and to finish his degree and meaningfully prepare his asylum case. *See Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (Once an alien gains admission to our country and begins to develop the ties… his constitutional status changes). Due process also requires notice and "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (*quoting Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

80. Thus, Mr. Gomez's detention violates the Due Process Clause of the U.S. Constitution as applied to his unique and specific facts.

SECOND CAUSE OF ACTION

Mr. Gomez's detention violates the INA and applicable regulations

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

82. Mr. Gomez's detention violates the INA and its regulations, in that he passed his credible fear interview, and he has established that he is eligible to seek asylum, has longstanding community ties; lost his right to his education, meanwhile, the Respondents have utterly failed to provide him with any meaningful opportunity to present argument or evidence in favor of his release, nor did they make any individualized determination that he poses a flight risk or danger.

THIRD CAUSE OF ACTION

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2)(i)
Warrantless Arrest Without Probable Cause of Immigration Violation

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

84. Under the Administrative Procedures Act (APA), a court shall "hold unlawful and set aside agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

85. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless arrest only if that officer has "reason to believe" that an individual is in the United States in violation of the immigration laws. A "reason to believe" is equivalent to "the constitutional requirement of probable cause." *Au Yi Lau v. United States Immigration & Naturalization Serv.*, 144 U.S. App. D.C. 147, 445 F.2d 217, 222 (1971) (stating that both aliens and citizens enjoy Fourth Amendment protection). *Id.* at 223.

86. 8 C.F.R. § 287.8(b)(2) requires that before detaining an individual for questioning, an immigration officer must have "a reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States." See also, *United States v. Quintanilla-Chavez*, No. SA-25-CR-388-XR, 2025 U.S. Dist. LEXIS 210411, at *31-32 (W.D. Tex. Oct. 20, 2025).

87. Respondents' warrantless arrest of Mr. Gomez, based on no information beyond his race is "final agency action" that is "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2) and federal regulations. 5 U.S.C. §§ 704, 706(2)(C).

88. Respondents' detention of Petitioner, without any reasonable suspicion of a qualifying offense, violates the APA and Respondents' authority under 8 C.F.R. § 287.8(b)(2).

89. Under the APA, "final agency action for which there is no other adequate remedy in a court [is] subject to judicial review." 5 U.S.C. § 704. The reviewing court "shall…hold unlawful and set aside agency action, findings, and conclusions found to be—(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or "unsupported by substantial evidence." 5 U.S.C. §§ 706(2)(A), (E). Thus, Mr. Gomez's detention under the facts alleged here is and continues to be arbitrary and capricious under the APA.

90. Separate from the APA, Respondents' warrantless arrest of Mr. Gomez without probable cause that Petitioner had committed an immigration violation is ultra vires.

91. Finally, Mr. Gomez does not seek monetary damages, thus for the purposes of the APA, § 702 waives the government's sovereign immunity because his claim is only for equitable relief release from prolonged confinement.

FOURTH CAUSE OF ACTION

Violation of the Fourth Amendment of the United States Constitution Unreasonable Seizure

92. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

93. Respondents had no basis to detain Mr. Gomez and inquire about his immigration status other than his race and apparent ethnicity. The absence of any individualized, articulable facts supports the inference that race or apparent ethnicity impermissibly informed the stop and arrest.

94. Deputy Quezada insisted to investigate his immigration status and did not care about enforcing highway traffic laws when he prolonged his detention on the orders of an ICE Agent.

95. The Fourth Amendment provides that "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. CONST. AMEND. IV.

96. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979).

97. The Supreme Court has recognized that the Fourth Amendment is violated by prolonged detention solely for the purposes of investigating immigration status. See *Arizona v. United States*, at 2509 (2012)(stating that "Detaining individuals solely to verify their immigration status would raise constitutional concerns."); see, *e.g.*, *Arizona* v. *Johnson*, 555 U.S. 323, 333 (2009); *Illinois* v. *Caballes*, 543 U.S. 405, 407, (2005) ("A seizure that is justified solely by the interest in issuing a warning ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission").

98. Under the Immigration and Nationality Act ("INA") § 287(a)(2) only allows immigration officials to make a warrantless arrest if they have "reason to believe" that the person is likely to escape before a warrant could be obtained. *See De La Paz v. Coy*, 786 F.3d 367, 376 (5th Cir. Tex. 2015)(stating that an "arrest shall be made [by ICE Agents] only when the designated immigration officer has reason to believe that the person to be arrested has committed an offense against the United States or is an alien illegally in the United States.").

99. The *De La Paz* Court further stated,. ..." even if an agent has reasonable belief, before making an arrest, there must also be "a likelihood of the person escaping before a warrant can be obtained for his arrest"), citing to 8 U.S.C. § 1357(a)(2)(5).

100. Reasonable suspicion for an immigration stop cannot be based "on broad profiles which cast suspicion on entire categories of people without any individualized suspicion of the

particular person to be stopped." *United States v. Rodriguez Sanchez*, 23 F.3d 1488, 1492 (9th Cir. 1994). Rather, reasonable suspicion must be "particularized and objective," *United States v. Arvizu*, 534 U.S. 266, 273 (2002).

101. Except at the border and its functional equivalents, the Fourth Amendment to the U.S. Constitution prohibits Respondents and their proxies from conducting a prolonged detention to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States.

102. Likewise, the Fourth Amendment prohibits Respondents from making an arrest without probable cause to believe that a person is a noncitizen unlawfully in the United States.

103. Race or apparent ethnicity, standing alone, cannot form the basis for reasonable suspicion. *United States v. Brignoni-Ponce*, 422 U.S. 873, 886-87 (1975). Because probable cause is a more demanding standard than reasonable suspicion, race or apparent ethnicity, standing alone, is also necessarily insufficient to form the basis for probable cause. *United States v. Brignoni-Ponce*, 422 U.S. 873, 885-87 (1975) (holding that [] "Mexican ancestry" alone did not constitute reasonable suspicion to support stops by Border Patrol agents, even near the border, because "[l]arge numbers of native-born and naturalized citizens have the physical characteristics identified with Mexican ancestry.*) citing* Justice Sotomayor, dissent, *Noem v. Perdomo*, 222 L.Ed.2d 1213, 1223 (2025).

104. Thus, the Fourth Amendment prohibits the Respondents from targeting persons on the sole basis of their race or ethnicity. *See Hernandez v. Texas,* 347 U.S. 475, 476 (1954) (identifying Mexicans as a suspect class and reversing criminal conviction of defendant of Mexican descent). Such racially motivated detentions and deportations are unconstitutional. 978. [There is nothing] . . . vaguely suspicious about the presence of persons who appear to be of Latin origin in New Mexico where over one-third of the population is Hispanic." *United States v. Orona-Sanchez*, 648 F.2d 1039, 1042 (5th Cir. 1981); *United States v. Rubio-Hernandez*, 39 F. Supp. 2d 808, 836 (W.D.

Tex. 1999) (stating that "given the percentage of Hispanic people that make up the population of [West Texas]," Latin American origin alone was not enough to demonstrate an individual was undocumented or concealing unauthorized immigrants); *United States v. Zertuche-Tobias*, 952 F. Supp. 803, 821, n. 54 (S.D. Tex. 1996) (declining to rely on Latino ethnicity in a stop).[9]

105. Respondents, through Deputy Quezada, had no basis to detain Mr. Gomez and inquire about his immigration status other than his race and apparent ethnicity when he was only pulled over for speeding. No other salient factors existed to suggest that Petitioner might not be a citizen of the United States. This is so because he presented a valid Texas Driver's License that was duly issued to persons that are legally in the U.S.

106. The facts support that Deputy Quezada was conspiring with an ICE Agent to stop, prolong, then arrest motorists that look undocumented. Because Respondents prolonged his detention, and arrested the Petitioner because of his race, Respondents did not have reasonable suspicion, and the detention violated the Fourth Amendment.

107. Deputy Quezada prolonged Mr. Gomez's detention because he was initially only stopped for allegedly speeding and he showed a valid Texas Driver's license that only a legal immigrant can obtain in Texas when the Department of Public Safety (DPS) and ICE share information via the Systematic Alien Verification for Entitlements (SAVE) Program. [10]

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[9] See also, *United States v. Chavez-Villareal*, 3 F.3d 124, 127 (5th Cir. 1993) ("[W]e accord no weight to Chavez-Villareal's failure to look at the patrol cars and very little his Hispanic appearance; his license plates indicate that he was from a state with a substantial Hispanic population…the stop herein violated the Fourth Amendment.").

[10] available at: https://www.dps.texas.gov/internetforms/forms/dl-62.pdf (assessed on 1/22/2026).

108. On the day of Mr. Gomez's warrantless arrest, his immigration case was administratively closed an no trained reasonable officer would have concluded that he would abscond before a warrant could be obtained.

109. Moreover, Respondents filed a new Notice to Appear (NTA) as if the respondent had only recently entered the United States. See Ex. G at 21 [wherein the NTA does not contain a date of entry, compare with Ex. A at 2]. No reasonable officer would detain, arrest, recharge a person as Mr. Gomez who already has a longstanding immigration process within the immigration court. In essence, Respondents did not care about a duly issued court order and tried to circumvent the system by treating Petitioner as if he was a recent arrival to the U.S.

110. ICE is bound not only by statute and due process, but also by its national policy adopted pursuant to settlement agreement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.). Under this policy, ICE must consider a delineated list of factors before making an arrest, including (a) the officer's ability to determine the individual's identity; (b) knowledge of the individual's prior escapes or evasions of immigration authorities; (c) the individual's attempts to flee to avoid being discovered by immigration; and (d) the individual's ties to the community, such as a family, home, or employment. Settlement Agreement, *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.), available at: https://immigrantjustice.org/sites/default/files/content-type/page/documents/2025-01/Nava_Settlement_ICE_Warrantless_Arrest-Vehicle_Stop_Policy_2021.pdf (Assessed on 01/14/2026).

111. Respondents' prolonged detention and interrogation of Mr. Gomez without reasonable suspicion and his subsequent arrest without probable cause violate the Fourth Amendment to the U.S. Constitution.

112. At the time that Mr. Gomez was seized on the highway for allegedly going a couple miles over the speed limit, at no time did Deputy Quezada or the ICE Agent produce a warrant, explain why he was being questioned and was not allowed to go, or provide any documents of any kind.

113. At the time that Mr. Gomez was transferred to the custody of an ICE agent, and he did not ask Mr. Gomez any questions about his family, employment, or community ties. Furthermore, the ICE agents did not conduct an individualized assessment of whether Mr. Gomez was a flight risk.

114. At the time that Mr. Gomez was seized at the Green County Line, the ICE agent failed to conduct an individualized assessment of whether Mr. Gomez was a danger to the community.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Order Petitioner's release from custody so that he may be reunited with his family;
3. Issue a Writ of Habeas Corpus ordering Petitioner's release from immigration detention pending final resolution of this habeas proceeding;
4. In the alternative, issue a Writ of Habeas Corpus and order Petitioner's release within 3 business days unless Respondents schedule a hearing before a neutral immigration judge to provide Mr. Gomez a constitutionally adequate process to challenge his detention;
5. Issue a declaration that Petitioner's ongoing detention violates the Due Process Clause, the INA, and the APA;
6. Grant such further relief as the Court deems just and proper.

Dated: January 30, 2026

Respectfully submitted,

/S/ Eduardo Beckett

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

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and reviewed his corroborating documentation. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: January 30, 2026

/S/ Eduardo Beckett

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above-entitled Verified Habeas Petition was filed electronically with the Clerk of the Court on this **30th day of January, 2026,** using the CM/ECF system, which office will, in turn, send notification to the following who are registered CM/ECF users:

- United States Attorney's Office for the Western District of Texas, San Antonio Division: AUSA, Attorney for Respondents (Business address is United States Attorney's Office, 601 NW Loop 410, Suite 600, San Antonio, Texas 78216). **By serving the AUSA it is notifying the following Respondents:**

Miguel Vergara, ICE Field Office Director,
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
1777 NE Loop 410, Suite 1500
San Antonio, TX 78217

Bobby Thompson, Warden of the South Texas Detention Facility
GEO Group
566 Veterans Drive
Pearsall, TX 78061

Kristi Noem, Secretary of the Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE,
Washington D.C. 20528-0525

Todd Lyons, Acting Director of ICE
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/S/ Eduardo Beckett
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