

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

Holding Doney Perdomo-Casana,

Petitioner,

-v-

Todd M. Lyons, Acting Director of US ICE;
Miguel Vergara, San Antonio Field Office
Director, US Immigration and Customs
Enforcement; Daren K. Margolin, Director of
the Executive Office for Immigration Review;
Warden, T. Don Hutto Detention Center,

Respondents.

Case No: 1:26-cv-345

**Petition for Writ of Habeas Corpus
Under 28 U.S.C. § 2241**

INTRODUCTION

Petitioner Holding Doney Perdomo-Casana was unlawfully detained by Respondents on October 2, 2025. Respondents detained Petitioner without due process or warrant, violating both the Immigration and Nationality Act as well as Petitioner's constitutional rights. Without intervention by this Court, Petitioner will be subject to indefinite detention. There is no other avenue for Petitioner to be released from this unlawful detention. For these reasons, Petitioner prays that this Court will grant a writ of habeas corpus.

JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
3. This Court has jurisdiction over the claims asserted in this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1361, and 28 U.S.C. § 1651 because Petitioner asks this Court to compel Respondents, officers of the United States, to perform their duties owed under 8 U.S.C. § 1226(a).
4. The jurisdiction of this Court is also invoked pursuant to 28 U.S.C. §§ 2201-02 which authorizes the issuance of declaratory judgments.
5. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

6. Venue is proper in this District because Petitioner is detained at the T. Don Hutto Detention Center located at 1001 Welch St, Taylor, TX 76574, which is within the jurisdiction of this District.
7. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District.

PARTIES

8. Petitioner is currently detained at the T. Don Hutto Detention Center and has been assigned alien number . Petitioner is under the direct control and in the custody of Respondents and their agents.
9. Respondent Todd M. Lyons is the Acting Director of US ICE. Respondent is the legal custodian of Petitioner and has the direct authority to release Petitioner. Todd M. Lyons is sued in his official capacity.
10. Respondent Miguel Vergara is the San Antonio Field Office Director of US Immigration and Customs Enforcement. Respondent is the legal custodian of Petitioner and has the direct authority to release Petitioner. Miguel Vergara is sued in his official capacity.
11. Respondent Daren K. Margolin is the Acting Director of the Executive Office for Immigration Review (EOIR). He has the legal authority to order an immigration judge to undertake any actions which this Court may order.
12. The Warden of the T. Don Hutto Detention Center is sued as the direct custodian of Petitioner. The Warden's name is not publicly listed on any materials that were available at the time of filing. The Warden is sued in his or her official capacity.

STATEMENT OF FACTS

13. Petitioner entered the United States on or around March 16, 2018 and was immediately detained by US Customs and Border Protection officers. *See* Exhibit A.
14. Petitioner was detained at the time of his entry and processed for expedited removal. He was found to have a credible fear of persecution or torture following an interview with an asylum officer.
15. Subsequently, Petitioner was released from detention pursuant to Section 236 of the Immigration and Nationality Act, 8 U.S.C. § 1226. Petitioner complied with all requirements of his order of release.
16. Petitioner was placed into full removal proceedings under Section 240 of the Immigration and Nationality Act (8 U.S.C. § 1255) rather than being detained for expedited removal proceedings. In these proceedings, Petitioner is entitled to pursue any applications for relief that might entitle Petitioner to lawfully remain in the United States.
17. At this time, Petitioner has an appeal pending before the Board of Immigration Appeals. *See* Exhibit B.
18. Despite these pending proceedings, Petitioner was detained by US Immigration and Customs Enforcement on or around October 2, 2025.
19. Petitioner was unlawfully arrested without a warrant in violation of 8 U.S.C. § 1226(a). Respondents did not undertake *any* legal process before this detention.
20. Following this detention, Petitioner has not been provided with the opportunity to be released, whether through bond, parole, or any other means. Respondents have not considered any alternatives to Petitioner's detention.

21. Having now been detained for more than four months, Petitioner's detention is prolonged.
22. Petitioner continues to be unlawfully detained by Respondents. *See* Exhibit C.

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment Right to Due Process

23. The above paragraphs are realleged and incorporated herein.
24. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.
25. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (*quoting Reno v. Flores*, 507 US. 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 v. Davis*, 533 U.S. 678, 690 (2001).
26. Petitioner's warrantless detention, in violation of 8 U.S.C. § 1226(a), is a deprivation of due process. Respondents have violated both the Immigration and Nationality act as well as longstanding regulations at 8 CFR 236.1(b)(1).
27. Respondents' detention of Petitioner is unjustified because they have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner's detention is justified by either of these goals.

28. Petitioner's indefinite detention without the possibility of bond violates due process here.

See Zadvydas, 533 U.S. at 690 (finding that a "statute permitting indefinite detention of an alien would raise a serious constitutional problem."). Congress did not intend to establish an unlimited detention authority for noncitizens who have been released from detention into the United States. If Respondents argue that unlimited detention without the possibility of release is authorized by statute, Petitioner argues that that interpretation is unconstitutional as applied to Petitioner.

29. Having been unlawfully detained, Petitioner requests the only appropriate relief from this Court: "*release* from unlawful detention". *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020).

30. The warrantless arrest and continued detention are both violations of Petitioner's rights under the Fifth Amendment of the US Constitution.

COUNT II

Violation of the Immigration and Nationality Act

31. The allegations in the above paragraphs are realleged and incorporated herein.

32. The Administrative Procedure Act provides that courts "shall... hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

33. Regulations at 8 CFR § 236.1(c)(9) and (g) require specific procedures to release or revoke the release of an individual. This regulation also limits the authority to make these decisions to specific enumerated officers.

34. At the time Petitioner was detained, Petitioner's release order had not been lawfully revoked.

35. Respondents violated the provisions at 8 CFR § 236.1(c)(9) because they did not make individualized findings specific to Petitioner's circumstances prior to detention.
36. Respondents violated the provisions at 8 CFR § 236.1(c)(9) because Petitioner's custody determination was not rendered by one of the specified officers.
37. Petitioner's detention is unlawful because the Department of Homeland Security violated the regulations and procedures at 8 CFR § 236.1(c)(9).
38. This unlawful detention and violation of existing regulations also violates the Administrative Procedure Act. *See* 5 U.S.C. § 706(2).
39. Petitioner requests release from detention due to having a valid order of release which has not been revoked.

COUNT III

Violation of Petitioner's Fourth Amendment Rights

40. The allegations in the above paragraphs are realleged and incorporated herein.
41. The Fourth Amendment protects "[t]he right of the people to be secure in their persons...against unreasonable searches and seizures." U.S. Const. amend. IV.
42. The Supreme Court has consistently recognized that immigration arrests and detentions are "seizures" within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).
43. The Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein vy. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest

and detention of a person, including of a noncitizen, absent a neutral judicial determination of probable cause violates the Fourth Amendment of the Constitution, *Id.*; *see also Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

44. This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).
45. Congress enacted a strong preference that immigration arrests be based on warrants. *See Arizona v. United States*, 567 U.S. 387, 407-08 (2012). The Immigration and Nationality Act thus provides immigration officers with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). An arresting officer must have “reason to believe” the person is violating the immigration laws and that the person “is likely to escape before a warrant can be obtained.” *Id.* Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).
46. At the time of the unlawful detention, Petitioner had established ties in the United States and pending relief which would enable Petitioner to reside in the United States permanently if approved. Petitioner has never absconded from law enforcement, missed an appointment with ICE, or failed to attend any proceedings in immigration court. Respondents did not undertake and cannot reasonably determine that Petitioner was likely to escape before a warrant could be obtained. *See* 8 U.S.C. § 1357(a)(2).
47. Petitioner’s continued detention without a probable cause determination, well past the 48 hour period, is unlawful. This unreasonable and unlawful seizure is a violation of Petitioner’s Fourth Amendment rights.

COUNT IV

Prolonged Detention

48. The allegations in the above paragraphs are realleged and incorporated herein.
49. Petitioner has been detained since October 2, 2025, an unjustified and prolonged period of time given Petitioner's history of compliance with the conditions of release.
50. "A statute permitting indefinite detention of an alien would raise a serious constitutional problem." *See Zadvydas* at 683. Respondents have interpreted the detention statute here to permit unlimited and unreviewable detention, irrespective of an individual's risk of flight or danger to their community. Such an interpretation violates Petitioner's due process rights under the Fifth Amendment.
51. The Supreme Court has recognized that there is "reason to believe [] that Congress previously doubted the constitutionality of detention for more than six months." *Id.* at 701. This is true even of individuals who have significant criminal records and who have already been ordered removed. *Id.* at 683. Individuals like Petitioner who are not a danger to their community and who have not been removed provide no such justification for prolonged detention.
52. This prolonged detention violates Petitioner's right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

PRAYER FOR RELIEF

Petitioner respectfully asks that the Court:

- A. Assume jurisdiction over this matter;
- B. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

- C. Order that that Respondents not transfer Petitioner from this District during the pendency of this matter;
- D. Order that Respondents not remove Petitioner from the United States until this matter has concluded;
- E. Order that Respondents release Petitioner from detention under the same conditions of release that existed prior to the unlawful detention;
- F. Order that Respondents return all personal property that was confiscated from Petitioner at the time of the unlawful detention; and
- G. Grant any further relief this Court deems just and proper.

VERIFICATION

On Petitioner's behalf, I, Joseph Krebs Muller, verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

/s/ Joseph Krebs Muller

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