**UNITED STATES DISTRICT COURT**
**EASTERN DISTRICT OF NEW YORK**

YOHAN MANUEL MARIN ROSARIO,

Petitioner,

-against-

KRISTI NOEM, Secretary of the Department of Homeland Security, TODD LYONS, Field Office Director for U.S. Immigration and Customs Enforcement, ANTHONY J. LAROCCO, Sheriff of the Nassau County Correctional Center,

Respondents.

**Docket No.**

## PETITION FOR WRIT OF HABEAS CORPUS

This is a Petition for a writ of habeas corpus filed on behalf of Petitioner, Yohan Manuel Marin Rosario, seeking relief to remedy his unlawful detention. On February 6, 2017, Mr. Marin Rosario lawfully entered the United States with a B2 tourist visa from Venezuela and on October 17, 2017, filed Form I-589, Application for Asylum and for Withholding of Removal/Convention Against Torture with U.S. Citizenship and Immigration Services ("USCIS"). Mr. Marin Rosario was also granted TPS under section 244 of the Immigration and Nationality Act valid until its recent expiration.

Almost 10 years after filing his Form I-589 Application with USCIS (which is still pending) without USCIS even so much as scheduling an interview for such application, and without a Notice to Appear being issued (because his application is still pending before USCIS), Immigration and Customs Enforcement (ICE) unlawfully detained Mr. Rosario without probable cause and continues to be detained Mr. Rosario without legal basis.

Mr. Marin Rosario is clearly not a flight risk or a danger to the community and has been residing in the community without arrest or incident since February 6, 2017 and has committed no

crimes. His improper detention is in violation of the U.S. Constitution and the Immigration and Nationality Act (INA).

Accordingly, Mr. Marin Rosario petitions this Court for a writ of habeas corpus for his immediate release from ICE custody, or in the alternative for bail to be set for his release.

## CUSTODY

1. Mr. Marin Rosario is in the physical custody of Respondents and Immigration and Customs Enforcement, an agency within the Department of Homeland Security.

2. At the time of the filing of this petition, Mr. Marin Rosario is being detained at the Nassau County Correctional Center located at 100 Carman Avenue East Meadow, NY 11554 ("NCCC"). Upon information and belief, NCCC contracts with the DHS to detain perceived aliens such as Petitioner.

## JURISDICTION & VENUE

3. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

4. Venue lies in the United States District Court for the Eastern District of New York, the judicial district in which Respondents reside or maintain offices, where Petitioner is detained and because a substantial part of the events or omissions occurred here. 28 U.S.C. § 1391(e)

## PARTIES

5. Petitioner, Yohan Manuel Marin Rosario is a national and citizen of Venezuela who has a pending I-589 application for Asylum/Withholding/CAT with USCIS, is a resident of Nassau County, NY, and is currently detained in ICE Custody at a facility located at the Nassau County Correctional Center located at 100 Carman Avenue East Meadow, NY 11554.

6. Respondent, Kristi Noem, is the Secretary of State of the United States Department of Homeland Security with an address at U.S. Department of Homeland Security, Washington, DC 20528.

7. Respondent, Todd Lyons, is the acting Director of U.S. Immigration and Customs Enforcement with an address at 500 12th St. SW, Washington, D.C. 20536.

8. Respondent Anthony J. LaRocco is the Sheriff of the Nassau County Correctional Center located at 100 Carman Avenue East Meadow, NY 11554, who is Petitioner's immediate custodian and resides in the judicial district of the United States Court for the Eastern District of New York.

## STATEMENT OF FACTS

9. Petitioner, Yohan Marin Rosario is a national and citizen of Venezuela.

10. On February 6, 2017, Yohan Marin Rosario lawfully entered the United States with a B2 tourist visa from Venezuela. *See* Exhibit 1, U.S. Customs & Border Protection I-94.

11. On October 17, 2017, Petitioner filed Form I-589, Application for Asylum and for Withholding of Removal/Convention Against Torture with U.S. Citizenship and Immigration Services (USCIS), Receipt No. ZNY1700227300. *See* Exhibit 2, USCIS Form I-589 Acknowledgment of Receipt.

12. To date, Petitioner's I-589 Application for Asylum and for Withholding of

Removal/Convention Against Torture is still currently "pending with USCIS," and he is waiting for an interview to be scheduled, as listed in the USCIS case online website, https://egov.uscis.gov. *See* Exhibit 3, USCIS Case Status.

13. On March 16, 2018, Mr. Marin Rosario filed his initial Application for an Employment Authorization Document with USCIS (which was approved from April 16, 2018 until April 15, 2020), and a renewal application on January 31, 2020 (which was approved from April 21, 2020 until April 20, 2022). *See* Exhibit 4, USCIS I-765 EAD Approval Notice; Exhibit 5, USCIS I-765 EAD Approval Notice.

14. On April 19, 2021, Mr. Marin Rosario also applied for Temporary Protected Status (TPS) – Venezuela with USCIS and on October 27, 2021, he was granted TPS under section 244 of the Immigration and Nationality Act valid until September 9, 2022. *See* Exhibit 6, USCIS I-821 TPS Approval Notice.

15. On October 27, 2022, Mr. Marin Rosario applied to re-register for Temporary Protected Status (TPS) – Venezuela with USCIS which was granted TPS from September 10, 2022 until September 10, 2025. *See* Exhibit 7, USCIS I-821 TPS Approval Notice.

16. On November 6, 2025, Mr. Marin Rosario paid his Annual Asylum Fee to USCIS, which was accepted and processed by USCIS. *See* Exhibit 8, Annual Asylum Fee Receipt Notice.

17. Upon information and belief, on February 13, 2026 at approximately 8:00 a.m. Mr. Marin Rosario was waiting to pick up a delivery in the Walmart parking lot located at 1220 Old Country Rd., Westbury, New York 11590 when two vehicles pulled up and blocked his car from the front and back. Without probable cause, Mr. Marin Rosario was taken from his vehicle and immediately handcuffed, detained and transported to the East Meadow Correctional Unit for ICE processing. *See* Exhibit 9, ICE detainee locator with Nassau County Correctional Center

Information.

18. Mr. Marin Rosario is not a danger to the community or a flight risk. He has never been arrested or convicted of any crime within the United States or Venezuela.

19. Prior to his detention, Mr. Marin Rosario was working, paying his taxes, and providing for his family.

## CLAIMS FOR RELIEF

### COUNT ONE

20. Petitioner re-alleges the allegations contained in paragraph "1" through paragraph "19" as if fully set forth herein.

21. Petitioners' detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

### COUNT TWO

22. Petitioner re-allege the allegations contained in paragraph "1" through paragraph "21" as if fully set forth herein.

23. Petitioner's arrest was unlawful as made without probable cause to believe that he is an alien and without probable cause to believe that he is a flight risk, as required by 8 U.S.C. 1357(a)(2) and C.F,R, 287.8(c)(2)(ii); *Ramirez Ovando, et al. v. Noem, et al.*, No. 1:25-cv-03183-RBJ, 2025 U.S. Dist LEXIS 234204 (Judge R. Brooke Jackson, D. Colo. Nov. 25, 2025).

### COUNT THREE

24. Petitioner re-allege the allegations contained in paragraph "1" through paragraph "23" as if fully set forth herein.

25. Petitioner's detention is unlawful because he is not subject to detention pursuant to 8 U.S.C. § 1225.

**COUNT FOUR**

26. Petitioner re-allege the allegations contained in paragraph "1" through paragraph "25" as if fully set forth herein.

27. Petitioner's continued detention violates the Immigration and Nationality Act and the U.S. Constitution.

28. Petitioner timely filed an I-589 application for Asylum/Withholding/CAT with USCIS, which has been pending since October 17, 2017. Without even scheduling an interview on such application with USCIS, and without a Notice to Appear being issued, Petitioner was unlawfully arrested and detained in violation of law.

**PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an order directing Respondents to show cause why the writ should not be granted;
3. Issue a writ of habeas corpus ordering Respondents to release Mr. Marin Rosario on his own recognizance or under parole, a low bond or reasonable conditions of supervision show;
4. Award Petitioner reasonable costs and attorney's fees; and,
5. Grant any other relief which this Court deems just and proper.

Dated: February 13, 2026

MONTEIRO & FISHMAN LLP

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**VERIFICATION OF COUNSEL**

I, Michael Fishman, Esq., an attorney at law hereby certify that I am familiar with the case of the named petitioner based upon review of the file documents and discussions and that the facts as stated above are true and correct to the best of my knowledge and belief, except those made upon information and belief, and as to those, I have a good-faith basis to believe they are true.

/s/ Michael Fishman, Esq.