

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

WILVEN DUOWAL FARIAS MIJARES,

Petitioner,

v.

MIGUEL VERGARA, Field Office Director of
Enforcement and Removal Operations, San
Antonio Field Office, Immigration and Customs
Enforcement; KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; PAMELA BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; WARDEN OF
KARNES COUNTY IMMIGRATION
PROCESSING CENTER,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, WILVEN DUOWAL FARIAS MIJARES, with A number 

 is a native and citizen of VENEZUELA. He has been detained at the Karnes County Immigration Processing Center since approximately October 22, 2025, during the pendency of his removal proceedings and administrative appeal. Since his detention, he has never received an individualized custody determination or meaningful procedural review assessing whether his continued detention is necessary.

2. Petitioner was ordered removed by an Immigration Judge on February 3, 2026, and timely filed an appeal with the Board of Immigration Appeals. The appeal remains pending, and the removal order is not yet administratively final.

3. Petitioner has now been detained for a prolonged period without ever receiving a bond hearing or any neutral custody determination. The Government has never been required to justify his detention before an immigration judge, and no tribunal has evaluated whether detention remains necessary. Prolonged civil detention without individualized review violates fundamental due process protections.

4. As Petitioner's detention has grown prolonged during the pendency of his ppeal, the continued deprivation of liberty without any individualized custody determination violates due process. When civil immigration detention becomes prolonged, the Constitution requires a meaningful custody hearing at which the Government bears the burden of proving that continued detention is necessary to prevent flight or danger.

5. Civil immigration detention is constitutionally permissible only for the limited purpose of effectuating removal and ensuring appearance at proceedings. When detention becomes prolonged without meaningful procedural safeguards, it ceases to be regulatory and

1 becomes punitive in violation of the Due Process Clause. The Constitution does not permit the
2 Government to impose prolonged detention without providing a neutral and individualized
3 determination that continued confinement is necessary.

4 6. Petitioner has remained continuously detained for months without any bond
5 hearing, without any finding that he poses a danger or flight risk, and without any meaningful
6 review of whether detention remains necessary.

7 7. At a minimum, due process requires a meaningful custody hearing at which the
8 Government bears the burden of justifying continued detention. No such process has been
9 provided here.

10 8. Petitioner therefore seeks habeas relief to remedy his unconstitutional prolonged
11 detention and to vindicate his rights under the Fifth Amendment to the United States
12 Constitution.

13 **JURISDICTION**

14 9. Petitioner is detained during the pendency of his appeal and challenges the
15 constitutionality of his prolonged civil detention without an individualized custody
16 determination.

17 10. Since Petitioner's removal order is under active administrative appeal, detention
18 is governed by the pre-final order constitutional framework, and this Court retains jurisdiction to
19 review the constitutionality of prolonged detention during administrative review.

20 11. Petitioner is detained in civil immigration custody at the Karnes County
21 Immigration Processing Center in Karnes City, Texas, within the Western District of Texas, San
22 Antonio Division. He has been continuously detained since approximately October 22, 2025,
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1 during the pendency of his removal proceedings, without receiving an individualized custody
2 determination or meaningful procedural review justifying his continued detention.

3 12. This action arises under the Constitution of the United States and the Immigration
4 and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq. Petitioner challenges the legality and
5 constitutionality of his ongoing civil immigration detention, which has become unreasonably
6 prolonged and unsupported by individualized procedural safeguards, in violation of the Due
7 Process Clause of the Fifth Amendment.

8 13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
9 corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the United
10 States Constitution (Suspension Clause). This Court is authorized to grant relief pursuant to 28
11 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act,
12 28 U.S.C. § 1651.

13 14. This petition does not challenge the validity of the removal order, nor does it seek
14 review of the immigration court’s decision. Instead, Petitioner challenges only the legality and
15 constitutionality of his continued civil immigration detention during the pendency of his
16 administrative appeal.

17 15. Habeas corpus is the proper vehicle to challenge unlawful civil immigration
18 detention, including challenges to prolonged detention that violates constitutional due process
19 protections. Petitioner therefore properly invokes this Court’s jurisdiction to remedy his unlawful
20 prolonged detention and to vindicate his rights under the Fifth Amendment.

21 **VENUE**

22 16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
23 500 (1973), venue lies in the United States District Court for the Western District of Texas,
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1 because Petitioner is detained at the Karnes County Immigration Processing Center in Karnes
2 City, Texas, which is within the jurisdiction of this District.

3 17. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e), because
4 Respondents are officers, employees, or agencies of the United States, a substantial part of the
5 events or omissions giving rise to his claims occurred in this district, and no real property is
6 involved in this action.

7 **PARTIES**

8 18. Petitioner, WILVEN DUOWAL FARIAS MIJARES, is a citizen of Venezuela.
9 He has been detained since October 22, 2025, and is currently detained at the Karnes County
10 Immigration Processing Center in Karnes City, Texas. He is in the custody, and under the direct
11 control, of Respondents and their agents.

12 19. Respondent, MIGUEL VERGARA, is the Director of the San Antonio Field
13 Office of ICE's Enforcement and Removal Operations division. As such, MIGUEL VERGARA,
14 is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He
15 is named in his official capacity.

16 20. Respondent, KRISTI NOEM, is the Secretary of the Department of Homeland
17 Security. She is responsible for the implementation and enforcement of the Immigration and
18 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
19 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

20 21. Respondent, THE DEPARTMENT OF HOMELAND SECURITY (DHS), is the
21 federal agency responsible for implementing and enforcing the INA, including the detention and
22 removal of noncitizens. DHS oversees ICE and the detention of noncitizens. DHS is a legal
23 custodian of Petitioner.
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1 22. Respondent, PAMELA BONDI, is the Attorney General of the United States. She
2 is responsible for the Department of Justice, of which the Executive Office for Immigration
3 Review and the immigration court system it operates is a component agency. She is sued in her
4 official capacity.

5 23. Respondent, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR), is
6 the federal agency responsible for implementing and enforcing the INA in removal proceedings,
7 including for custody redeterminations in bond hearings.

8 24. Respondent, WARDEN OF THE KARNES COUNTY IMMIGRATION
9 PROCESSING CENTER, has immediate physical custody of Petitioner. He is sued in his official
10 capacity.

11 **LEGAL FRAMEWORK**

12 25. Pursuant to 28 U.S.C. § 2243, a federal court reviewing a petition for writ of
13 habeas corpus must either grant the writ or issue an order directing the respondent to show cause
14 why the writ should not be granted. Habeas corpus is the proper vehicle to challenge unlawful
15 civil immigration detention that violates statutory or constitutional limits. See 28 U.S.C. § 2241.

16 26. Since Petitioner's removal order is currently under administrative appeal, the
17 removal order is not yet final, and the post-removal detention framework under *Zadvydas v.*
18 *Davis* does not govern this case. See *Buenrostro v. Bondi*, No. 25-20496, 2026 WL 323330, at *9
19 (5th Cir. Feb. 6, 2026).

20 27. Nevertheless, the Constitution independently limits civil immigration detention.
21 Even where detention is statutorily authorized, prolonged detention without meaningful
22 procedural safeguards becomes excessive and violates due process.
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1 28. Detention during the pendency of an administrative appeal must remain
2 reasonably related to its regulatory purpose. When detention becomes prolonged and the
3 Government fails to provide an individualized custody determination evaluating flight risk or
4 danger, continued detention becomes constitutionally suspect.

5 29. Pre-removal civil immigration detention must remain reasonably related to its
6 non-punitive purpose and must be accompanied by adequate procedural safeguards. Although the
7 Immigration and Nationality Act authorizes detention during removal proceedings, the Fifth
8 Amendment requires that prolonged civil detention be supported by a meaningful individualized
9 custody determination.

10 30. The Supreme Court has confirmed that noncitizens may challenge prolonged
11 immigration detention through constitutional habeas corpus. *Jennings v. Rodriguez*, 583 U.S.
12 281, 308–09 (2018). Civil detention becomes constitutionally suspect when its duration grows
13 unreasonable and the Government fails to provide adequate procedural protections.

14 31. Freedom from physical restraint lies at the core of the liberty protected by due
15 process. When detention becomes prolonged and the Government fails to provide an
16 individualized custody hearing evaluating danger or flight risk, continued detention becomes
17 excessive, arbitrary, and unconstitutional.

18 32. Federal courts retain authority to review the constitutionality of prolonged or
19 unjustified immigration detention through habeas corpus, even where the governing statute does
20 not expressly provide procedural protections. See *Jennings v. Rodriguez*, 583 U.S. 281, 308–09
21 (2018) (confirming availability of constitutional habeas challenges to immigration detention).
22 Due process requires that civil detention be supported by more than the mere existence of
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1 statutory detention authority; it requires ongoing justification and procedural safeguards
2 sufficient to ensure that confinement does not become excessive, arbitrary, or punitive in nature.

3 33. Although immigration statutes authorize detention during removal proceedings,
4 the Fifth Amendment imposes constitutional limits. When pre-removal detention becomes
5 prolonged and the Government fails to provide an individualized custody determination,
6 continued detention becomes excessive and unconstitutional. Civil detention must remain
7 reasonably related to its regulatory purpose and cannot become punitive in nature.

8 34. Numerous federal courts recognize that prolonged immigration detention without
9 a meaningful bond hearing violates due process and requires judicial intervention through habeas
10 corpus. At a minimum, due process requires a neutral custody hearing where the Government
11 bears the burden of proving that continued detention is necessary.

12 **CLAIMS FOR RELIEF**

13 **Violation of Fifth Amendment Right to Due Process**

14 35. Petitioner re-alleges and incorporates by reference all preceding paragraphs as
15 though fully set forth herein.

16 36. The Due Process Clause of the Fifth Amendment prohibits the Government from
17 depriving any person of liberty without due process of law. This protection applies to noncitizens
18 in civil immigration detention.

19 37. Petitioner has now been detained for a prolonged period without ever receiving an
20 individualized custody determination during the prolonged period of detention following the
21 issuance of a non-final removal order pending appeal. No immigration judge has evaluated
22 whether detention remains necessary, and the Government has never been required to prove that
23 Petitioner presents a danger or flight risk. Continued detention under these circumstances is
24 arbitrary, excessive, and unconstitutional.

1 38. Petitioner, WILVEN DUOWAL FARIAS MIJARES, a native and citizen of
2 Veneuela, has been detained at the Karnes County Immigration Processing Center in Karnes
3 City, Texas since approximately October 22, 2025. Since then, Respondents have continued to
4 detain Petitioner without providing any meaningful individualized custody determination,
5 hearing, or procedural review assessing whether continued detention is justified.

6 39. Respondents have not found that Petitioner poses a danger to the community or a
7 flight risk, nor have they articulated any legitimate basis demonstrating that continued detention
8 meaningfully advances the civil purpose of effectuating removal.

9 40. Civil immigration detention is lawful only so long as it remains reasonably related
10 to its nonpunitive purpose and is accompanied by adequate procedural safeguards. Where
11 detention continues without individualized justification and without meaningful review, it
12 becomes arbitrary and excessive in relation to its stated purpose.

13 41. By continuing to detain Petitioner without adequate procedural safeguards,
14 Respondents have violated Petitioner's right to due process under the Fifth Amendment.

15 **PRAYER FOR RELIEF**

16 Wherefore, Petitioner respectfully requests this Court to grant the following:

- 17 (1) Assume jurisdiction over this matter;
- 18 (2) Declare that Petitioner's prolonged detention during the pendency of his administrative
19 appeal violates the Due Process Clause of the Fifth Amendment;
- 20 (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- 21 (4) In the alternative, order Respondents to provide an immediate individualized bond or
22 custody hearing with the burden on the Government to justify continued detention;
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1 (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on
2 any other basis justified under law; and

3 (6) Grant any further relief this Court deems just and proper.
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5 DATED this 23rd day of February 2026

6 Respectfully,

7 *Lorena Villalon*

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