UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ENDERSON NOEL DELGADO-TAMARIZ, Petitioner, v. KEVIN RAYCRAFT, Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; ROBERT LYNCH, Warden, North Lake Processing Center; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General, in their official capacities, Respondents.	Case No. 1:26-cv-00804 **PETITION FOR WRIT OF HABEAS CORPUS**

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PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. The Court should grant Mr. Enderson Delgado-Tamariz's petition for writ of habeas corpus and order his immediate release because his redetention

violates his Due Process protections. Mr. Delgado-Tamariz has been found ineligible for a bond hearing in Immigration Court because he was previously released from custody after being detained while entering the United States. Exhibit D.

2. Although Respondents did not issue a parole document to Petitioner when they released him from custody on December 16, 2021, the only legal mechanism for releasing a noncitizen encountered while entering the United States is parole. *Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025).

3. After being released, Mr. Delgado-Tamariz filed his asylum application, was issued employment authorization, complied with the conditions on his release from custody by regularly reporting to DHS, and waited for his next Immigration Court hearing. His asylum claim remains pending with the Immigration Court.

4. Mr. Delgado-Tamariz's redetention and the termination of his parole or release is unlawful. *See Rondan Jarrett v. Raycraft*, No. 1:26-cv-244, ECF No. 16, PageID.18-27 (W.D. Mich. Feb. 6, 2026); 8 C.F.R. § 212.5(e)(2)(i). The Court should therefore order his immediate release from Respondents' custody under the conditions that existed before his redetention and enjoin Respondents from redetaining him absent a material change in circumstances unless the Respondents can satisfy the requirements of due process.

5. In the alternative, if Mr. Delgado-Tamariz's detention is governed by 8 U.S.C. § 1226(a), not § 1225, the Court should order Respondents to provide him with a bond hearing in Immigration Court at which ICE must prove that he is a flight risk or a danger to the community by clear and convincing evidence. *See Soto-Medina v. Lynch*, No. 1:25-cv-01704, ECF No. 8, PageID.77-88 (W.D. Mich. Jan. 21, 2026).

JURISDICTION

6. Petitioner is in the physical custody of Respondents at the North Lake Processing Center in Baldwin, Michigan.

7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause). *See Rosales-Garcia v. Holland*, 322 F.3d 386, 394 (6th Cir. 2003).

8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. *See Ly v. Hansen*, 351 F.3d 263, 266 (6th Cir. 2003) *vacated on other grounds by Hamama v. Adducci*, 946 F.3d 875 (6th Cir. 2020).

VENUE

9. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction of, and is in the

immediate custody of, Respondent Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in the Western District.

REQUIREMENTS OF 28 U.S.C. §§ 2241 and 2243

11. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the Petition is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days is allowed. *Id.*

12. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

13. Petitioner Enderson Delgado-Tamariz is a citizen of Venezuela and has been in immigration detention since approximately February 3, 2026.

14. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

15. Respondent Robert Lynch is the warden of the North Lake Processing Center where Petitioner is detained by ICE. The North Lake Processing Center holds immigration detainees pursuant to a contract with ICE.

16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

17. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

18. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive

Office for Immigration Review and the immigration court system it operates are component agencies. She is sued in her official capacity.

FACTS

19. Petitioner Enderson Delgado-Tamariz, with his family, arrived in the United States on December 14, 2021. They fled their native Venezuela because their lives were in danger.

20. Respondents detained Mr. Delgado-Tamariz and his family at the border before releasing them so that they could apply for asylum.

21. They timely applied for asylum application, received employment authorization, and were waiting for a hearing on the merits of his asylum application. Exhibit C. Respondents placed Mr. Delgado-Tamariz in removal proceedings by issuing a Notice to Appear. Exhibit A.

22. When Respondents released Mr. Delgado-Tamariz, they required him to regularly report to DHS, which he did in full awareness of the risk of detention at these DHS check-in appointments. Exhibit B.

EXHAUSTION

23. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. I.N.S.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of

administrative exhaustion is therefore purely discretionary. *Shurney v. I.N.S.*, 201 F. Supp. 2d 783, 789 (N.D. Ohio 2001).

24. In making that decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

25. In general, courts do not require exhaustion "(1) where such requirement would subject an individual to an unreasonable or indefinite time frame for administrative action, (2) where the administrative agency lacks the competence to resolve the particular issue presented, or (3) the exhaustion of administrative remedies would be futile because the administrative body is shown to be biased or has pre-determined the issue before it." *Shurney*, 201 F. Supp. 3d at 789.

26. Exhaustion here is futile because the agency has already determined that individuals such as Petitioner are ineligible for bond hearings in Immigration Court. 8 C.F.R. § 1003.19(h)(2)(i)(B); *see also Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

27. Further, "the BIA does not have jurisdiction to adjudicate constitutional issues . . . ." *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d

Cir. 2002). Therefore, any administrative proceedings would be futile because petitioner raises a constitutional due process claim. *Marogi v. Jenifer*, 126 F. Supp. 2d 1056, 1060 (E.D. Mich. 2000).

LEGAL FRAMEWORK

28. The only legal mechanism for releasing a noncitizen encountered while entering the United States is parole. *Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025).

29. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or is a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

30. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

31. The INA establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. §§ 1225 and 1226(a).

32. Custody determinations for individuals detained while entering the United States are governed by 8 U.S.C. § 1225. An individual may be released if he does not present a danger to persons or property and is not a flight risk.

Zadvydas v. Davis, 533 U.S. 678, 690 (2001); 8 C.F.R. §§ 212.5(b) and 235.3(b)(2)(iii).

33. Custody determinations are individualized and based on the facts presented in those cases. Unlike 8 U.S.C. § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, 8 C.F.R. §§ 212.5(b) and 235.3(b)(2)(iii) require a case-by-case review of the facts and circumstances.

34. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the individual's release when the facts and circumstances warrant it.

35. Termination and return to custody is authorized only based on the individualized facts and circumstances. 8 C.F.R. § 212.5(e). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9); *see also Qasemi v. Francis*, 25-cv-10029 at *22 n.6 (S.D.N.Y. Dec. 17, 2025). Parole may be terminated and the noncitizen redetained if the purpose of the parole is accomplished or humanitarian reasons and the public benefit no longer warrant parole. 8 C.F.R. § 212.5(e)(2)(i).

36. Here, the purpose of the parole has not been accomplished because Mr. Delgado-Tamariz's asylum application remains pending with the Immigration Court.

37. There is nothing to suggest that the humanitarian reasons or public benefit that justified the original parole no longer applies.

38. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment. Due process further requires that the burden of proving that a noncitizen is a flight risk or poses a danger to the community is placed on ICE. *See Soto-Medina v. Lynch*, No. 1:25-cv-01704 (W.D. Mich. Jan. 21, 2026) (ECF No. 8, PageId.77-78); *see also Hernandez-Lara v. Lyons*, 10 F.4th 19, 24 (1st Cir. 2021); *Velasco-Lopez v. Decker,* 978 F.3d 842, 847 (2d Cir. 2020). Longstanding agency rules require ICE to establish a sufficient change in circumstances. *See Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981); *see also Bumbila Iza v. Arnott*, No. 6:25-cv-3392 at *5 (W.D. Mo. Jan. 8, 2026) (ordering immediate release); *Mejia Orozco v. Lyons*, No. 1:25-cv-01762 at * 6 and n.5 (E.D. Va. Dec. 1, 2025).

39. The Sixth Circuit has long recognized that immigration detention must remain reasonable in both purpose and duration. *Ly*, 351 F.3d at 269; *Rosales-Garcia v. Holland*, 322 F.3d 386, 412 (6th Cir. 2001). Detention grounded in contradictory findings does not meet that standard. Since the bond denial rests

on inconsistent factual premise, Petitioner's continued detention is constitutionally unreasonable and violates due process.

40. Habeas relief is warranted to remedy the ongoing due process violation. Federal courts have authority to grant habeas relief where immigration detention violates the Constitution. 28 U.S.C. § 2241; *Jennings v. Rodriguez*, 583 U.S. 281, 292 (2018). This Court has already exercised that authority in this case by granting Petitioner's initial habeas petition.

41. Accordingly, the Court should grant the habeas petition and order Petitioner's immediate release, or in the alternative, require a bond hearing consistent with constitutional due process requirements.

CLAIMS FOR RELIEF

COUNT I

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Abuse of Discretion
Violation of 8 U.S.C. § 1225; 8 C.F.R. §§ 212.5(e) and 235.3(b)(2)(iii)

42. Petitioner re-alleges and incorporates by reference the above paragraphs.

43. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

44. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision

that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

45. By categorically terminating Petitioner's release without consideration of his individualized facts and circumstances, Respondents have violated the APA.

46. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support the revocation of his release from custody.

47. Respondents have already considered Petitioner's facts and circumstances and determined that he was not a flight risk or danger to the community. There have been no changes to the facts that justify this termination of his release on his own recognizance. The fact that Petitioner has already been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider him, on an individualized basis, to be a danger to the community or a flight risk.

COUNT II

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Not in Accordance with Law and in Excess of Statutory Authority
Violation of 8 U.S.C. § 1225; 8 C.F.R. §§ 212.5(e) and 235.3(b)(2)(iii)

48. Petitioner re-alleges and incorporates by reference the above paragraphs.

49. Under the APA, a court "shall . . . hold unlawful . . . 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).

50. Custody determinations are individualized and based on the facts presented in those cases. Unlike 8 U.S.C. § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, 8 C.F.R. §§ 212.5(b) and 235.3(b)(2)(iii) and requires a case-by-case review of the facts and circumstances. Revocation and return to custody is authorized only based on the individualized facts and circumstances. 8 C.F.R. § 212.5(e). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9); *see also Qasemi v. Francis*, 25-cv-10029 at *22 n.6 (S.D.N.Y. Dec. 17, 2025). Parole may be terminated and the noncitizen redetained if the purpose of the parole is accomplished or if the

humanitarian reasons and the public benefit no longer warrant parole. 8 C.F.R. § 212.5(e)(2)(i).

51. It is a well-established administrative principle that "agency action taken without lawful authority is at least voidable, if not void ab initio." *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), *citing SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).

52. On information and belief, Respondents have revoked or are revoking Petitioner's prior custody determination as a result of a categorical policy prepared by and implemented by unidentified government officials in Washington, not through the individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.

53. Because Petitioner's revocation of release from custody has been made or will be categorically directed by government officials not authorized by law to make this determination, Respondents' detention of Petitioner is not in accordance with law and in excess of statutory authority.

COUNT III

Violation of the INA

54. Petitioner re-alleges and incorporates by reference the above paragraphs.

55. If Petitioner was not paroled into the United States, then Respondents are unlawfully detaining Petitioner without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

56. If he was not paroled into the United States, then Section 1225(b)(2) does not apply to Petitioner, who previously entered the country and has long been residing in the United States prior to being redetained by Respondents.

57. If he was not paroled into the United States, Petitioner should be subject to the detention provisions of § 1226(a) and therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

58. Due process further requires that the burden of proving, by clear and convincing evidence, that a noncitizen is a flight risk or poses a danger to the community is placed on ICE. *See Soto-Medina v. Lynch*, No. 1:25-cv-01704 (W.D. Mich. Jan. 21, 2026) (ECF No. 8, PageId.77-78); *see also Hernandez-Lara v. Lyons*, 10 F.4th 19, 24 (1st Cir. 2021); *Velasco-Lopez v. Decker,* 978 F.3d 842, 847 (2d Cir. 2020). Longstanding agency rules require ICE to establish a sufficient

change in circumstances. *See Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981); *see also Bumbila Iza v. Arnott*, No. 6:25-cv-3392 at *5 (W.D. Mo. Jan. 8, 2026) (ordering immediate release); *Mejia Orozco v. Lyons*, No. 1:25-cv-01762 at * 6 and n.5 (E.D. Va. Dec. 1, 2025).

59. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner, if he was not paroled into the United States, results in Petitioner's unlawful detention without the opportunity for a bond hearing and violates the INA.

COUNT IV

Violation of Fifth Amendment Right to Due Process Procedural Due Process

60. Petitioner re-alleges and incorporates by reference the above paragraphs.

61. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V. "Freedom from imprisonment – from government custody, detention, or other form of physical restraint – lies at the heart of the liberty that the Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

62. Petitioner has a fundamental interest in liberty and being free from official restraint.

63. The government's continued detention of Petitioner based on contradictory findings of the Court violates Petitioner's right to due process.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Declare that Petitioner's continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

c. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner. In the alternative, order Respondents to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within five days, with at least 24 hours notice, at which time the government will have the burden to demonstrate dangerousness and flight risk by clear and convincing evidence;

d. Enjoin Respondents from transferring Petitioner outside of this District during these proceedings;

e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief that this Court deems just and proper.

DATED March 12, 2026.

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