Alida Soileau, Colorado Bar #57976
alida@lucerolawllc.com
Lucero Law, LLC
P.O. Box #554
Montrose, Colorado 81402
Telephone: +1 (970) 765-0925

Attorney for Petitioner

**UNITED STATES DISTRICT COURT**

**DISTRICT OF COLORADO**

**Denver Division**

E-C-T-, an adult,

Petitioner,

v.

GREGORY DAVIES, Acting Denver Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE"); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM, Secretary of the Department of Homeland Security ("DHS"); U.S. DEPARTMENT OF HOMELAND SECURITY; and PAMELA BONDI, Attorney General of the United States,

Respondents.

Case No. N/A

Agency No. [redacted]

**PETITION FOR WRIT OF HABEAS CORPUS**

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

## INTRODUCTION

1. Petitioner E-C-T- is a national of Mexico, who came to the United States for a better life.

2. Petitioner E-C-T- was detained at about 12:30-1:00 PM on March 17, 2026, by Respondent. He was being driven by his attorney from the Montrose County Justice Center (courthouse). Respondent pulled over the attorney, and Respondent did so without any reasonable suspicion for a traffic stop. Petitioner was forcefully removed from his attorney's car, and agents then proceeded to arrest him. His attorney requested that agents show her the warrant for arrest, which was found to not be signed by a judge, but, was signed by an immigration officer.

3. Petitioner was then detained in Grand Junction and was thereafter transferred to the contract GEO detention facility in Aurora Colorado.

4. Petitioner through his immigration attorney, more than 3 days later, was attempting to petition for an immigration bond under INA § 236(a)(2)(A). However, as Respondents have failed to initiate proceedings against Petitioner, this was impossible. Due to Respondents failure to commence removal proceedings against Petitioner in immigration court, Respondents have essentially removed Petitioner's ability to apply for bond and are detaining Petitioner for an indefinite period without charges, in violation of the Fifth Amendment requirement of Due Process.

5. It appears that Respondents do so based not on Petitioner's personal circumstances or individualized facts but because of Respondents' interpretation of President Trump's whim and categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process.[1]

[1] *See, e.g.,* NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514 (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 2 million trials.").

6. Petitioner's wife is currently pursuing a U-Visa under 8 CFR § 214.14 as a victim of domestic violence in a previous relationship. As her spouse, Respondent is eligible for a U-3 visa under, 8 U.S.C. 1101(a)(15)(U), and therefor would have solid grounds to be granted an immigration bond.

7. Respondents cannot evade the law. The U.S. Constitution requires the Respondents to provide Petitioner, at a minimum, with the rights provided to Petitioner by the U.S. Constitution.

8. In *County of Riverside*, the U.S. Supreme Court ruled that individuals arrested without a warrant (as was the case here) must receive a probable cause determination within 48 hours. This "48-hour rule" defines "prompt" under the Fourth Amendment. Intervening weekends or complicated pretrial proceedings are not legitimate reasons for delay. *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991).

9. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant Petition for a Writ of Habeas Corpus, order Petitioner's release, and immediately issue an Order preventing Petitioner's transfer out of this district.

**JURISDICTION**

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

11. 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).

12. 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., the All Writs Act, 28 U.S.C. §

1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

**VENUE**

13. Venue is proper because Petitioner is in Respondents' custody in Aurora, Colorado. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

14. For these same reasons, divisional venue is proper under Local Rule 3-2.

**REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

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

16. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

17. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

**PARTIES**

18. Petitioner is a 21-year-old citizen of Mexico. Petitioner is present within the state of Colorado as of the time of the filing of this petition.[2]

19. Respondent GREGORY DAVIES is the Acting Field Office Director for the Denver Field Office, Immigration and Customs Enforcement and Removal Operations ("ICE"). The Denver Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. The Denver Field Office's area of responsibility includes Colorado and Wyoming. Respondent GREGORY DAVIES is a legal custodian of Petitioner.

20. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent GREGORY DAVIES and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

---

[2] Petitioner seeks leave to proceed anonymously because public identification creates a risk and the nature of Petitioner's claim is sensitive and highly personal. *See Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000). As the basis for the U-visa claim by his wife is domestic violence, Petitioner's wife runs a risk of physical and mental harm by being revealed. The courts have identified several different situations in which parties have been permitted to proceed under a fictitious name, including "(1) when identification creates a risk of retaliatory physical or mental harm, . . . ; (2) when anonymity is necessary 'to preserve privacy in a matter of sensitive and highly personal nature,' . . . ; and (3) when the anonymous party is 'compelled to admit [his or her] intention to engage in illegal conduct, thereby risking criminal prosecution.'" *Id.* (collecting cases; internal citations omitted). The Petitioner would provide Petitioner's identity to the Respondents and the Court under seal.

22. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

23. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

24. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

25. This action is commenced against all Respondents in their official capacities.

## LEGAL FRAMEWORK

26. *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991) made it clear that a person cannot be held indefinitely without charges, Respondents here have breached this fundamental right of our Constitution.

27. Our legal framework necessarily includes the right to counsel, at no expense to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, see 8 U.S.C. § 1158(d)(4).

28. Petitioner's immigration attorney is currently unable to represent Petitioner before EOIR, as no case has been filed with EOIR. Additionally, Petitioner has not been provided any notices of their rights and has been detained without any ability to know what timeframe the detention will even take.

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 in immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

## FACTUAL BACKGROUND

30. Petitioner is a citizen and national of Mexico.

31. On or about December, 2022, Petitioner came to the United States through El Paso, Texas.

32. On March 17, 2026, Respondent was arrested while being transported by his attorney, leaving the Montrose County Justice Center.

33. Respondents so far allege no charges of inadmissibility to the United States.

34. On information and belief, Respondents did not afford Petitioner an opportunity to be heard, depriving Petitioner of due process.

35. On information and belief, Respondents are using the immigration detention system, including extra-territorial transfer and detention, as a means to push individuals to agree to self-deport. Petitioner has been told he will have court end of March. However, if this is to be the case, Petitioner is being denied legal representation, as his attorney does not have any way to know where or at what time court will be, as an EOIR case does not exist.

36. On information and belief, Petitioner has no history of committing a felony or crime of moral turpitude and is not a flight risk or danger to the community.

## CLAIMS FOR RELIEF

### COUNT ONE Violation of Fifth Amendment Right to Due Process Procedural Due Process

37. Petitioner restates and realleges all paragraphs as if fully set forth here.

38. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

39. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

40. Without a case, Petitioner is unable to defend his case, and regardless of outcome, Petitioner's detention is extended for no purpose.

41. While the decision to bring charges is discretionary, the decision to detain an individual, for an indefinite time, without judicial review and without filing any charges is flagrantly unconstitutional.

**COUNT TWO**
**COUNT TWO Violation of Court Order**
**Bond**

42. Petitioner restate and realleges all paragraphs as if fully set forth here.

43. While bond is a discretionary benefit, the right to apply is not. A federal court in a class action, Maldonado Bautista v. DHS 5:25-cv-01873-SSS-BFM (2025), of which Respondent is a member, has already found that.

44. 1) "Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2)."

45. 2) "pursuant to Defendants' regulations, see 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), are not subject to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond

by immigration officers and, if not released, a custody redetermination hearing before an immigration judge."

46. Here, on information and belief, Petitioner was not advised by DHS that they sought to deny him bond. Additionally, respondents have violated Petitioner's due process rights by depriving Petitioner of the strong private interest in the rights that Petitioner has in the ability to apply for a bond redetermination before an immigration judge, assuming that DHS does deny bond.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that Petitioner's detention without charges violates the Due Process Clause of the Fifth Amendment;

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody, or if Respondent files a case with EOIR in response to this petition, order the release of Respondent on bond;

(5) Issue an Order prohibiting the Respondents from transferring Petitioner from the District without the Court's approval;

(6) Award Petitioner attorney's fees and costs under the Equal Access to Justice

Act, as amended, 28 U.S.C. § 2412, including if DHS in response to this petition files a Notice to Appear (in an attempt to moot this writ) and on any other basis justified under law; and

(7) Grant any further relief this Court deems just and proper.

Dated: March 20, 2026.

*/s/* Alida Lucero

Alida Soileau, Colorado Bar #57976
alida@lucerolawllc.com
Lucero Law, LLC
P.O. Box #554
Montrose, Colorado 81402
Telephone: +1 (970) 765-0925

*Attorney for Petitioner*

**VERIFICATION OF COUNSEL**

I, Alida Soileau, hereby certify that I am familiar with the case of the named petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.



Alida Soileau