UNITED STATES DISTRICT COURT

DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
MAR 23 2026
JEFFREY P. COLWELL
CLERK

ROBERTO HERNANDEZ PLAZA
Proceeding Pro Se,
Petitioner,

v.

DAVID JENNINGS, Warden, Denver Contract Detention Facility; ENFORCEMENT AND REMOVAL OPERATIONS FIELD OFFICE DIRECTOR, Denver Field Office, United States Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary, United States Department of Homeland Security; PAMELA JO BONDI, Attorney General of the United States.,

Respondents.

Civil Action No.:

PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Petitioner Roberto Hernandez Plaza respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to challenge the legality of his detention without a bond hearing by the United States Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE").
2. Petitioner is currently detained at the Denver Contract Detention Facility in Aurora, Colorado, under civil immigration authority. His detention is not based on any criminal conviction and he has no criminal history.
3. Pursuant to 8 U.S.C. § 1226(a), individuals detained under civil immigration authority who are not subject to mandatory detention are entitled to an individualized bond hearing before a neutral decision-maker. As a non-criminal alien, Petitioner is not subject to the mandatory

detention provisions of 8 U.S.C. § 1226(c).

4. Despite this, Respondents have failed to provide Petitioner with any individualized assessment of whether his detention is necessary. The Due Process Clause of the Fifth Amendment does not permit the government to arbitrarily deprive a person of liberty without adequate procedural protections.
5. Petitioner poses no danger to the community and is not a risk of flight. His continued detention is arbitrary, serves no legitimate regulatory purpose, and has become punitive in effect, causing severe emotional and financial hardship to his wife and child.
6. Petitioner respectfully requests that this Court grant the Petition for a Writ of Habeas Corpus and order his immediate release or, in the alternative, order Respondents to provide him with an immediate and constitutionally adequate bond hearing where the government must justify his continued detention by clear and convincing evidence.

II. JURISDICTION AND VENUE

7. This Court has jurisdiction over this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.
8. This Court also has jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1361 (mandamus), and Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).
9. Venue is proper in the District of Colorado pursuant to 28 U.S.C. § 2241(d) because Petitioner is currently detained at the Denver Contract Detention Facility in Aurora, Colorado, which is located within this judicial district.

III. PARTIES

Party	Description
Petitioner	**Roberto Hernandez Plaza**, [redacted] a citizen of Mexico, presently detained at the Denver Contract Detention Facility, Aurora, Colorado.
Respondent 1	**David Jennings**, Warden, Denver Contract Detention Facility, named in his official capacity as Petitioner's immediate custodian.
Respondent 2	**Field Office Director**, ICE Denver Field Office, named in his official capacity.
Respondent 3	**Todd M. Lyons**, Acting Director, United States Immigration and Customs Enforcement, named in his official capacity.
Respondent 4	**Kristi Noem**, Secretary, Department of Homeland Security, named in her official capacity.
Respondent 5	**Pamela Jo Bondi**, Attorney General of the United States, named in her official capacity.

IV. STATEMENT OF FACTS

10. Petitioner Roberto Hernandez Plaza is a native and citizen of Mexico.
11. Petitioner entered the United States in or about May 2021, crossing the border in search of employment and the opportunity to support his family.
12. Since his arrival in the United States, Petitioner has lived peacefully and worked to provide financial support for his wife and child, who depend on him emotionally and financially.

13. Petitioner has **no criminal history** and has never been convicted of any crime in the United States or in any other country.
14. On March 2, 2026, Petitioner was stopped by local law enforcement officers in the State of Wyoming and subsequently transferred to the custody of Immigration and Customs Enforcement ("ICE").
15. ICE then transported Petitioner to the Denver Contract Detention Facility, located at 3130 N. Oakland Street, Aurora, Colorado 80010, where he remains detained.
16. Petitioner's detention is civil in nature and is not based on any criminal offense.
17. Since his detention began, Respondents have failed to provide Petitioner with an individualized bond hearing before an Immigration Judge to determine whether his continued detention is justified.
18. Petitioner does not represent a danger to the community and is not a risk of flight. He has every intention of appearing at any future immigration proceedings.
19. Petitioner is willing to comply with any reasonable conditions of release, including supervision, reporting requirements, or the posting of a reasonable bond.
20. Petitioner's continued detention without a hearing has caused significant emotional and financial hardship to his family, who have been deprived of their primary provider and caregiver.

V. LEGAL FRAMEWORK

21. The Due Process Clause of the Fifth Amendment applies to all "persons" within the United States, including noncitizens, and limits the government's power to detain them. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
22. Civil detention may not be used as a "tool for retribution or deterrence" and becomes

constitutionally suspect when it is "unreasonable or arbitrary." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

23. The apprehension and detention of noncitizens pending removal proceedings is governed by 8 U.S.C. § 1226. While § 1226(c) mandates detention for individuals convicted of certain criminal offenses, § 1226(a) governs the detention of all other individuals, granting the Attorney General discretion to release them on bond.

24. Because Petitioner has no criminal convictions, he is not subject to mandatory detention under § 1226(c). His detention falls squarely under § 1226(a), which requires an individualized determination of whether he is a flight risk or a danger to the community. *See Casas-Castrillon v. DHS*, 535 F.3d 942, 951 (9th Cir. 2008) (holding that detention authority for non-criminal aliens derives from § 1226(a), which requires a bond hearing).

25. The government's authority to detain under § 1226(a) is not absolute. Due process requires that detention be accompanied by fair procedures, including an individualized hearing before a neutral decision-maker. *See Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 231 (3d Cir. 2011) (holding that detention must be justified by an "individualized inquiry into whether detention is still necessary").

26. At such a hearing, the government bears the burden of proving by clear and convincing evidence that continued detention is necessary to prevent flight or danger to the community. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213 (3d Cir. 2020).

27. Detaining a non-dangerous, non-criminal individual without providing him the opportunity to demonstrate his eligibility for release constitutes an arbitrary and unconstitutional

deprivation of liberty.

VI. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF (Violation of the Due Process Clause of the Fifth Amendment – Unlawful Detention Without a Bond Hearing)

28. Petitioner realleges and incorporates by reference all preceding paragraphs.

29. Respondents are detaining Petitioner under the authority of 8 U.S.C. § 1226(a), which permits, but does not mandate, detention pending removal proceedings.

30. As a non-criminal alien, Petitioner is statutorily and constitutionally entitled to a bond hearing to determine whether his continued detention is justified.

31. Respondents have failed to provide Petitioner with such an individualized bond hearing before a neutral decision-maker.

32. Petitioner has no criminal record, is not a flight risk due to his family ties, and is not a danger to the community. His detention without a hearing is not reasonably related to any legitimate government purpose and is therefore arbitrary and unlawful.

33. Respondents' failure to provide a bond hearing violates Petitioner's right to procedural due process under the Fifth Amendment to the U.S. Constitution.

SECOND CLAIM FOR RELIEF (Violation of the Due Process Clause – Unconstitutional Interference with Family Integrity)

34. Petitioner realleges and incorporates by reference all preceding paragraphs.

35. The Due Process Clause of the Fifth Amendment protects the fundamental right of a parent to the care, custody, and control of their children and the right to family integrity. *See Ms. L. v. U.S. Immigr. & Customs Enf't*, 310 F. Supp. 3d 1133 (S.D. Cal. 2018).

36. Petitioner's child has a constitutionally protected interest in his relationship with his father.
37. Respondents' decision to arbitrarily detain Petitioner, the sole provider for his family, without an individualized hearing constitutes an unreasonable and conscience-shocking interference with this fundamental right.
38. Respondents' actions are causing severe and irreparable emotional and financial harm to Petitioner's family, in violation of their and Petitioner's rights under the Fifth Amendment.

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody on his own recognizance or on reasonable conditions of supervision;
3. In the alternative, issue an order directing Respondents to provide Petitioner with a constitutionally adequate bond hearing before an Immigration Judge within 72 hours of this Court's order, at which the government must prove by clear and convincing evidence that Petitioner is a danger to the community or a flight risk;
4. Issue a declaratory judgment that Petitioner's detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment;
5. Award Petitioner his costs and reasonable expenses for this action; and
6. Grant such other and further relief as this Court may deem just and proper.

VERIFICATION

I, Roberto Hernandez Plaza, declare under penalty of perjury under the laws of the United States

of America that the foregoing is true and correct to the best of my knowledge and belief.

Date: March 14, 2026

/s/ Roberto Hernandez Plaza
Roberto Hernandez Plaza
Petitioner, Pro Se

DECLARATION OF ROBERTO HERNANDEZ PLAZA

[redacted]

I, Roberto Hernandez Plaza, declare under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. I am the Petitioner in this action. I submit this declaration in support of my Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.
2. I am currently detained by Immigration and Customs Enforcement (ICE) at the Denver Contract Detention Facility, located at 3130 N. Oakland St., Aurora, Colorado 80010.
3. I am a native and citizen of Mexico.
4. I entered the United States in or about May 2021, crossing the border in search of work and the opportunity to support my family.
5. Since my arrival in the United States, I have worked hard and tried to live peacefully while supporting my family.
6. On March 2, 2026, I was detained after being stopped by police in the State of Wyoming. After that encounter, I was transferred to immigration custody.
7. I have no criminal history and have never been convicted of any crime in the United States or in any other country.

8. My detention is civil in nature and not the result of any criminal conviction.

9. I do not represent any danger to the community.

10. I have a wife and a child who depend on me financially and emotionally.

11. Before my detention, I was responsible for helping provide for my family and supporting them with basic needs such as housing, food, and daily expenses.

12. Since I have been detained, my family has suffered significant emotional and financial hardship.

13. My absence has caused distress to my family because they relied on me for stability and support.

14. I want the opportunity to resolve my immigration situation through the proper legal process.

15. I am not a flight risk and I am willing to comply with any conditions the Court may impose, including reporting requirements, supervision, or bond.

16. Less restrictive alternatives to detention are available that would ensure my appearance at future immigration proceedings.

17. My continued detention is causing unnecessary hardship to my family and to me.

18. I respectfully request that this Court grant my Petition for Writ of Habeas Corpus and order my immediate release from detention, or in the alternative order an individualized bond hearing before a neutral decision-maker.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 14, 2026 at Aurora, Colorado.

/s/ Roberto Hernandez Plaza
Roberto Hernandez Plaza
Petitioner, Pro Se