UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Gustavo Adolfo Nolasco Castillo,

Petitioner,

-v-

Todd Blanche, Acting United States Attorney General; David J. Venturella, Senior Official Fulfilling the Duties of the Director of US Immigration and Customs Enforcement; Miguel Vergara, San Antonio Field Office Director, US Immigration and Customs Enforcement; Daren K. Margolin, Director of the Executive Office for Immigration Review; Warden, South Texas ICE Processing Center,

Respondents.

Case No: 5:26-cv-4164

Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241

INTRODUCTION

Petitioner Gustavo Adolfo Nolasco Castillo was unlawfully detained by Respondents on or about June 18, 2026. Respondents detained Petitioner without due process or warrant, violating both the Immigration and Nationality Act as well as Petitioner's constitutional rights. Without intervention by this Court, Petitioner will be subject to indefinite detention. There is no other avenue for Petitioner to be released from this unlawful detention. For these reasons, Petitioner prays that this Court will grant a writ of habeas corpus.

JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
2. 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).
3. This Court has jurisdiction over the claims asserted in this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1361, and 28 U.S.C. § 1651 because Petitioner asks this Court to compel Respondents, officers of the United States, to perform their duties owed under 8 U.S.C. § 1226(a).
4. The jurisdiction of this Court is also invoked pursuant to 28 U.S.C. §§ 2201-02 which authorize the issuance of declaratory judgments.
5. 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., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

6. Venue is proper in this District because Petitioner is detained at the South Texas ICE Processing Center located at 566 Veterans Drive, Pearsall, TX 78061, which is within the jurisdiction of this District.
7. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District.

PARTIES

8. Petitioner is currently detained at the South Texas ICE Processing Center and has been assigned alien number A[redacted] Petitioner is under the direct control and in the custody of Respondents and their agents.

9. Respondent Todd Blanche is the Acting United States Attorney General. Respondent is sued in his official capacity.

10. Respondent David J. Venturella is the senior official currently fulfilling the duties of the Director of US Immigration and Customs Enforcement. Respondent is the legal custodian of Petitioner and has the direct authority to detain or release Petitioner. Respondent is sued in his official capacity.

11. Respondent Miguel Vergara is the San Antonio Field Office Director of US Immigration and Customs Enforcement. Respondent is the legal custodian of Petitioner and has the direct authority to release Petitioner. Miguel Vergara is sued in his official capacity.

12. Respondent Daren K. Margolin is the Director of the Executive Office for Immigration Review (EOIR). He has the legal authority to order an immigration judge to undertake any actions which this Court may order.

13. The Warden of the South Texas ICE Processing Center is sued as the direct custodian of Petitioner. The Warden's name is not publicly listed on any materials that were available at the time of filing. The Warden is sued in his or her official capacity.

STATEMENT OF FACTS

14. Petitioner entered the United States on or around August 9, 2022 without inspection or admission. Petitioner was immediately detained by US Customs and Border Protection officers following this entry into the United States.

15. Petitioner was detained for six days after his entry. Subsequently, Petitioner was released from detention pursuant to a grant of humanitarian parole, authorized by 8 U.S.C. § 1182(d)(5)(A). *See* Exhibit A.

16. Following his release, Petitioner complied with all requirements imposed by Respondents.

17. Petitioner was placed into full removal proceedings under Section 240 of the Immigration and Nationality Act (8 U.S.C. § 1229a) rather than being detained for expedited removal proceedings. In these proceedings, Petitioner is entitled to pursue any applications for relief that might entitle Petitioner to lawfully remain in the United States. His removal proceedings were terminated by Respondents.

18. On or around June 18, 2026, Petitioner was leaving a restaurant with two coworkers and entered a vehicle. A police officer stopped their vehicle shortly after they began driving. No probable cause existed for this stop. Following the stop, the officer contacted ICE. Petitioner's stop was delayed for purposes of transferring Petitioner to ICE custody.

19. Petitioner was unlawfully arrested without a warrant in violation of 8 U.S.C. § 1226(a). Respondents did not undertake *any* legal process before this detention.

20. Following this detention, Petitioner has not been provided with the opportunity to be released, whether through bond, parole, or any other means. Respondents have not considered any alternatives to Petitioner's detention.

21. Petitioner continues to be unlawfully detained by Respondents. *See* Exhibit B.

CLAIMS FOR RELIEF

COUNT I

Petitioner's Detention is in Violation of Due Process

22. The above paragraphs are realleged and incorporated herein.

23. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

24. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (*quoting Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

25. Petitioner's warrantless detention, in violation of 8 U.S.C. § 1226(a), is a deprivation of due process. Respondents have violated both the Immigration and Nationality Act as well as longstanding regulations at 8 CFR 236.1(b)(1).

26. Respondents' detention of Petitioner is unjustified because they have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner's detention is justified by either of these goals.

27. The Supreme Court has insisted that agencies follow their own procedures, in particular when they implicate an individual's rights. "Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures. This is so even where the

internal procedures are possibly more rigorous than otherwise would be required." *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

28. Every noncitizen who has been paroled or released into the interior of the country has been found by a government official to pose neither a security risk nor a flight risk. *See* 8 C.F.R. § 212.5(b); 241.4(e).

29. Following parole or release into the United States, specific procedures govern the termination of parole or revocation of supervised release. *See* 8 C.F.R. § 212.5(e)(2)(i); 241.4(l)(2).

30. Regulations at 8 C.F.R. § 236.1(c)(9) and (g) also require specific procedures to release or revoke the release of an individual. These regulations limit the authority to make these decisions to specific enumerated officers.

31. Respondents violated the provisions at 8 C.F.R. § 236.1(c)(9) and (g) because one of the specified officers did not make individualized findings specific to Petitioner's circumstances prior to the detention.

32. Furthermore, even if a statute permits detention, Petitioner's indefinite detention without the possibility of bond violates due process here. *See Zadvydas*, 533 U.S. at 690 (finding that a "statute permitting indefinite detention of an alien would raise a serious constitutional problem."). Congress did not intend to establish an unlimited detention authority for noncitizens who have been released from detention into the United States. If Respondents argue that unlimited detention without the possibility of release is authorized by statute, Petitioner argues that that interpretation is unconstitutional as applied to Petitioner.

33. Having been unlawfully detained, Petitioner requests the only appropriate relief from this Court: "*release* from unlawful detention". *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020).

34. The warrantless arrest and continued detention are both violations of Petitioner's rights under the Fifth Amendment of the US Constitution.

COUNT II

Violation of Petitioner's Fourth Amendment Rights

35. The above paragraphs are realleged and incorporated herein.

36. The Fourth Amendment protects "[t]he right of the people to be secure in their persons…against unreasonable searches and seizures." U.S. Const. amend. IV.

37. The Supreme Court has consistently recognized that immigration arrests and detentions are "seizures" within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

38. "The stopping of a vehicle and detention of its occupants constitutes a 'seizure' under the Fourth Amendment." *United States v. Brigham*, 382 F.3d 500, 506 (5th Cir. 2004) (en banc); *Delaware v. Prouse*, 440 U.S. 648, 653 (1979). Searches and seizures of motorists who are suspected of criminal activity are analyzed under the Terry framework. *See Terry v. Ohio*, 392 U.S. 1 (1968).

39. The Fourth Amendment does not permit stops or detentions based simply on the intent to question an individual about their status or on suspicion that they might be illegally in the country: "For the same reasons that the Fourth Amendment forbids stopping vehicles at random to inquire if they are carrying aliens who are illegally in the country, it also

forbids stopping or detaining persons for questioning about their citizenship on less than a reasonable suspicion that they may be aliens." *U.S. v. Brignoni-Ponce*, 95 S.Ct. 2574, 2581–82 (1975).

40. The Fourth Amendment thus requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest and detention of a person, including of a noncitizen, absent a neutral judicial determination of probable cause violates the Fourth Amendment of the Constitution, *Id; see also Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

41. This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. *Id.*

42. Congress enacted a strong preference that immigration arrests be based on warrants. *See Arizona v. United States*, 567 U.S. 387, 407-08 (2012). The Immigration and Nationality Act thus provides immigration officers with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). An arresting officer must have "reason to believe" the person is violating the immigration laws and that the person "is likely to escape before a warrant can be obtained." *Id.* Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

43. At the time of the unlawful detention, Petitioner had established ties in the United States and pending relief which would enable Petitioner to reside in the United States permanently if approved. Petitioner has never absconded from law enforcement, missed an appointment with ICE, or failed to attend any proceedings in immigration court.

Respondents did not undertake and cannot reasonably determine that Petitioner was likely to escape before a warrant could be obtained. *See* 8 U.S.C. § 1357(a)(2).

44. Petitioner's continued detention without a probable cause determination, well past the 48 hour period, is unlawful. This unreasonable and unlawful seizure is a violation of Petitioner's Fourth Amendment rights.

PRAYER FOR RELIEF

Petitioner respectfully asks that the Court:

A. Assume jurisdiction over this matter;

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

C. Order that Respondents not transfer Petitioner from this District during the pendency of this matter;

D. Order that Respondents not remove Petitioner from the United States until this matter has concluded;

E. Order that Respondents release Petitioner from detention under conditions of release no more restrictive than those which existed prior to the unlawful detention;

F. Order that Respondents return all personal property that was confiscated from Petitioner at the time of the unlawful detention; and

G. Grant any further relief this Court deems just and proper.

VERIFICATION

On Petitioner's behalf, I, Joseph Krebs Muller, verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

/s/ Joseph Krebs Muller

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