IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RECEIVED
JUL 07 2026
PRO SE OFFICE

Leinder Efrain Abreu Leon)

v.) File No: [redacted]

26-cv-04054
Gujarati, J

Field Office Director of New York)
Immigration and Customs Enforcement,)
Respondents.)

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

This is a petition for a writ of habeas corpus filed pro se by Leinder Efrain Abreu Leon, from here on after Petitioner, seeking relief to remedy his unlawful detention by the respondents. Petitioner was arrested by respondents at his scheduled check in on or about May 12, 2026 after reporting to a check in at Federal Plaza.

Petitioner argues that respondents decision to re arrest him and place him under 1225b proceedings subjecting him to mandatory detention is a violation of his Procedural Due Process. The arrest is a clear violation of his Fifth Amendment right

REC'D IN PRO SE OFFICE
JUL 7 '26 PM3:04

to procedural due process due to the fact that respondent detained him without a notice, or an opportunity to respond as to whether the arrest was merited. Respondents did not afford petitioner and individualized determination that he posed a flight risk or a danger to the community at his check in they simply stated he was being arrested and was now subject to detention under 1225b.

Petitioner argues that respondents decision to change his detention statute from 1226a to 1225b is a clear violation of his Fifth Amendment rights. On or about September 23, 2022 he entered with Parole into the United States. Upon his entry he filed his asylum before USCIS and obtained legal work authorization. Until his arrest the petitioner had complied with all requirements by the respondents and has no criminal history or violations to his conditions of release. Soon after his arrest the respondents provided the petitioner with a NTA.

Petitioner argues that his arrest without being given procedural due process and without a proper procedure on which to challenge any allegations made by respondents as to his arrest was a violation of his Fifth Amendment.

Petitioner argues that his arrest without any individualized assessment of flight risk and dangerousness is a violation of his Procedural Due Process and the APA as the arrest decision was arbitrary and capricious.

CUSTODY

1. Petitioner is in the physical custody of Field Office Director for Detention and Removal, held by ICE, a component of the Department of Homeland Security (DHS). At the time of the filing of this petition, Petitioner is being held in Brooklyn MDC, 80 29th st, Brooklyn, NY 11232. Jurisdiction and venue in this Court are proper because the events giving rise to the petition occurred in the District, and the immediate custodian detaining Petitioner is also in the District.

JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L.No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. § 2241, art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

3. Venue lies in the United States District Court for the Eastern District of New York the judicial district in which the Due Process violations occurred and where he was unlawfully arrested and resided while the violation of his Procedural Due Process rights were occurring. 28 U.S.C. § 1391(e).

PARTIES

4. Petitioner is a national and citizen of Venezuela who arrived at the United States border on or about September 22, 2023. Soon after petitioner filed his application for relief in the form of an application for I-589. Petitioner is being detained by respondents in violation of his Procedural Due Process.

5. Respondent is the Field Office Director for Detention and Removal, USICE, DHS. Respondent is a custodial official acting within the boundaries of the judicial district of the United States Court for the Eastern District of New York. Pursuant to Respondent orders, Petitioner remains detained.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

6. Petitioner has no administrative remedies available as he was not able to challenge the individualized assessment that he posed a flight risk or was a danger to the community as required by immigration law in cases involving 1226a detentions. Pursuant to currently operative policy, ICE has taken the position that individuals like Petitioner are subject to mandatory detention. There is no avenue for administrative review, and assuming arguendo any such review existed, it would be futile.

7. Petitioner's only remedy is by way of this judicial action in seeking protection from having his Procedural Due Process rights violated.

STATEMENT OF FACTS

9. Petitioner is a national and citizen of Venezuela who turned himself in at the border on or about September 2022.

10. On a later date petitioner filed his application for relief in the form of I-589 application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture.

11. On or about May 12, 2026 he was subsequently arrested and placed in detention under 1225b mandatory detention at federal plaza at a scheduled check in.

12. Petitioner notified respondent to the fact that he had filed pending relief and even obtained legal work authority. See Exhibit A. The respondent simply stated that his detention status had changed and he was being detained.

13. Petitioner was not notified by Respondents of any availability to file bond or a habeas corpus petition and was denied the opportunity seek release simply told that his detention was now governed by 1225(b).

14. Respondents decision to arrest the petitioner is a violation of Petitioner's Procedural Due Process rights are very serious. First, they detained him without justification and now intend to subject him to detention under 1225b without providing a hearing or an opportunity for petitioner to challenge said decision.

15. Respondents' ongoing detention of petitioner with no due process at all, and much less a prior notice, no showing of changed circumstances, or an opportunity o respond is a clear violation of his Due process rights.

16. The courts in this district have found in H.A.C.F. and Hyppolite v. Noem, 808 F. Supp. 3d 474 (E.D.N.Y. 2025), that due process is required for persons similarly situated to Petitioner. "Specifically, § 1226(a)'s implementing regulations require an individualized determination as to whether the detention of a noncitizen is appropriate after considering whether the noncitizen (1) is a 'danger to property or persons' and (2) is 'likely to appear for any future proceeding.'" Hyppolite, 2025 WL 2829511, at *13 (quoting 8 C.F.R. § 1236.1(c)(8)); see also Artiga v. Genalo, No. 25-CV-5208 (OEM), 2025 WL 2829434, at *8–9 (E.D.N.Y. Oct. 5, 2025); Lopez Benitez v. Francis, 795 F. Supp. 3d 475, 493–95 (S.D.N.Y. Aug. 13, 2025); Salcedo Aceros v. Kaiser, No. 25 CV 06924 (EMC), 2025 WL 2637503, at *12 (N.D. Cal. Sep. 12, 2025); cf. Cunha, 2026 WL 1146044, at *22 n.11 (noting that "Section 1226(a) requires" "an initial bond determination").

17. Accordingly, as it did in Hyppolite and H.A.C.F., the Court must find that Petitioner has established that his detention violates his Fifth Amendment right to procedural due process, because Petitioner has resided in the United States since September 2022 and is therefore entitled to a pre-detention bond hearing

under the Immigration and Nationality Act, 8 U.S.C. § 1226(a). See Hyppolite, 808 F. Supp. 3d 490–95.

18. Finally, the Court must also weigh the factors under Mathews v. Eldridge, 424 U.S. 319 (1976), which sets forth the test that courts in the Second Circuit will apply when determining "the adequacy of process in the context of civil immigration confinement." Munoz Materano v. Artera, No. 25 CV 6137, 2025 WL 2630826, at *12 (S.D.N.Y., Sep. 12, 2025).

19. The Court must consider all of the facts and circumstances in the parties' submissions (including petitioner's community ties, the lack of criminal record, and the fact that USCIS provided the respondent with work authorization), in weighing (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail. See Mathews, 424 U.S. at 335.

20. Ultimately, the Court must find that the balance of interests weighs heavily in Petitioner's favor, and that granting the writ is an appropriate remedy for the deprivation of his right to procedural due process and release is required.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter.
2. Enjoin the Respondents from transferring Petitioner away from the jurisdiction of this district pending these proceedings.
3. Issue an order directing Respondents to show cause why the writ should not be granted within 3-7 days to safeguard his Procedural Due Process rights.
4. Issue a writ of habeas corpus ordering Respondents to release Petitioner on his own recognizance or under parole, a low bond or reasonable conditions of supervision show.
5. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

Date: 06/29/2026

Leinder Abre Leon

Leinder Efrain Abreu Leon
Pro Se

Exhibit A

1. Copy of Work Authorization Document