UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

TREJO CHAVEZ, Luis Antonio *Petitioner*,	§	
vs.	§	Civ. Case No. 5:26-cv-4302
TODD BLANCHE, United States Attorney General; MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security; DAVID VENTURELLA, Director of United States Immigration and Customs Enforcement; MIGUEL VERGARA, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement; Warden, South Texas ICE Processing Center *Respondents*.	§	DHS File Number: **PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

I. INTRODUCTION AND BACKGROUND

1. This is a petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging the ongoing civil immigration detention of Luis Antonio Trejo-Chavez ("Petitioner").
2. Petitioner is currently detained at the South Texas ICE Processing Center in Pearsall, Texas. *See Exhibit 1 (Online detainee locator)*
3. Petitioner last entered the United States on or about March 2003, for over two decades he has lived and worked in the United States.
4. On June 29, 2026, Petitioner Petitioner was taken into ICE custody following a traffic stop and transferred to the South Texas ICE Processing Center. Petitioner has been detained since and remain detained without any real possibility for release
5. Petitioner has a pending EOIR-42B Application for Cancellation of Removal and Adjustment of status for Certain Nonpermanent Residents before the Immigration Court.
6. Petitioner has been granted employment authorization while his EOIR-42B application remains pending. Petitioner was in possession of both his valid EAD and Texas Temporary Driver License ("TDL"). *See Exhibit 2 (I-765 Approval Notice)*
7. Petitioner's parents are lawful permanent residents of the United States (Maria and Nicasio Trejo), and his siblings are United States citizens (Maryfer and Alberto Trejo). Petitioner's immediate family resides in the United States, reflecting his significant family ties, longstanding presence, and strong community connections. His removal would result in substantial hardship to his family, who rely on his continued presence and support. *See Exhibit 3 (Parents' Lawful Permanent Resident Cards) and Exhibit 4 (Documentation Establishing Petitioner's Siblings' United States Citizenship).*

8. Petitioner had an arrest in Travis County, Texas on or about October 20, 2017, and the case was dismissed. On our bout April 29, 2005, petitioner was convicted of a Clas A misdemeanor for theft in Coffee County, Tennessee.

9. Petitioner has resided in the interior of the United States for over two decades prior to his detention and has been placed into regular removal proceedings under INA § 240.

10. Accordingly, Petitioner seeks a writ of habeas corpus ordering his immediate release from unlawful detention or, in the alternative, an order requiring a prompt custody hearing before an Immigration Judge under constitutionally adequate procedures, including a Government burden to justify continued detention.

11. *In In Buenrostro-Mendez v. Bondi,* the Fifth Circuit reversed district court habeas orders that had required bond hearings under 8 U.S.C. § 1226(a) for long-term interior residents who entered without inspection. The panel held that a noncitizen "present in the United States who has not been admitted" is deemed an "applicant for admission" under 8 U.S.C. §1225(a)(1) and therefore may be detained under 8 U.S.C. § 1225(b)(2)(A) without an Immigration Judge bond hearing during pending § 1229a proceedings, unless the noncitizen establishes that he is "clearly and beyond a doubt entitled to be admitted." The court remanded for further proceedings consistent with that interpretation. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

12. Buenrostro- Mendez did not decide whether the Constitution permits DHS to detain an interior resident for civil immigration purposes with no meaningful, individualized custody process. The statutory label DHS invokes does not eliminate Petitioner's protected liberty interest. *Zadvydas*, 533 U.S. at 690.

13. Petitioner acknowledges the Fifth Circuit's recent decision in Sosnava Rodriguez v. Ortega, No. 26-50183 (c/w Nos. 26-50219, 26-50221) (5th Cir. July 2, 2026), which addresses the custody of long-term interior residents detained under 8 U.S.C. § 1225(b)(2)(A) and holds that such individuals are entitled to an individualized bond hearing, with the Government bearing the burden of justifying continued detention. That decision, however, is not final, and the Fifth Circuit has not issued its mandate. On the same day the opinion issued, a judge of that Court ordered that "a judge of this Court withholds issuance of the mandate in this appeal." Sosnava Rodriguez v. Ortega, No. 26-50183, Order (5th Cir. July 2, 2026) (Doc. 166), attached as Exhibit 5. Until the mandate issues, the panel's judgment has not taken effect, jurisdiction has not returned to the district court, and the decision remains subject to further proceedings, including rehearing en banc—the grant of which would vacate the panel opinion and judgment. See 5th Cir. R. 41.3. Petitioner therefore respectfully submits that Sosnava is not a final or controlling disposition and does not foreclose or limit the relief requested here; this Court retains full authority to order Petitioner's immediate release or, in the alternative, a prompt and constitutionally adequate custody hearing under the Fifth Amendment and the decisions of this District set forth below. *See Exhibit 5 (Mandate Withheld)*

14. This Court may grant relief on due process grounds without deciding any statutory detention authority dispute. Courts in this District have done so in materially similar cases. *See Escobar-Arauz v. Noem,* No. EP-25-CV-00619-DB, 2025 WL 3543648, at *5–6 (W.D. Tex. Dec. 10, 2025) (Briones, J.) (granting relief on as-applied procedural due process and holding that even assuming the Government's statutory position, the petitioner was entitled to procedural due process).

II. JURISDICTION AND VENUE

15. Petitioner has been detained in civil immigration custody since June 29, 2026, at the South Texas ICE Processing Center in Persall, Texas.

16. This action arises under the Constitution and laws of the United States, including the INA, 8 U.S.C. § 1101 et seq.

17. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question). This Court may grant relief under 28 U.S.C. §§ 2241 and 2243 and may issue all writs necessary or appropriate in aid of its jurisdiction. 28 U.S.C. § 1651.

18. Venue is proper in the Western District of Texas because Petitioner is detained in this District, at least one Respondent is in this District, and a substantial part of the events giving rise to the claims occurred in this District. Venue is also proper under 28 U.S.C. § 2243 because the immediate custodian resides in this District.

III. REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the writ or issue an order to show cause unless it appears from the application that Petitioner is not entitled to relief. 28 U.S.C. § 2243.

20. If the Court issues an order to show cause, the return must be made within three days unless additional time is allowed for good cause, not to exceed twenty days. *Id.*

21. Each day of unlawful detention inflicts ongoing, irreparable harm on Petitioner and undermines his ability to prepare his defense in removal proceedings.

IV. PARTIES

22. Petitioner Luis Antonio Trejo Chavez is a 41-year-old citizen of Mexico detained at the at the South Texas ICE Processing Center in Persall, Texas. . He last entered the United

States on or about March 2003 and has resided in the United States continuously since then.

23. Respondent Todd Blanche is named in his official capacity as Attorney General of the United States. He is responsible for the administration of the Executive Office for Immigration Review ("EOIR"), including policies that bear on immigration judges' jurisdiction over custody.

24. Respondent Markwayne Mullin named in his official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"). DHS is the department charged with administering and enforcing federal immigration laws. Secretary Mullin is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement ("ICE") and is a legal custodian of Petitioner.

25. Respondent David Venturella is named in his official capacity as Acting Director of ICE. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.

26. Respondent Miguel Vergara is named in his official capacity as Field Office Director of the San Antonio ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

27. Respondent in his/her official capacity as Warden of at the South Texas ICE Processing Center in Persall, Texas. He has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.

28. Each Respondent is sued in his or her official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

V. FACTUAL BACKGROUND

29. Petitioner, Luis Antonio Trejo Chavez is a 41-year-old citizen of Mexico detained at the at the South Texas ICE Processing Center in Persall, Texas. *See Exhibit 1 (Online Detainee Locator)*

30. Petitioner last entered the United States on or about March 2003, for over two decades he has lived and worked in the United States.

31. On June 29, 2026, Petitioner was arrested by ICE followed by a traffic stop and transferred to the at the South Texas ICE Processing Center in Persall, Texas. Petitioner has been detained since and remain detained without any real possibility for release

32. Petitioner has a pending EOIR-42B Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents before the Immigration Court.

33. Petitioner has been granted employment authorization while his EOIR-42B application remains pending. Petitioner was in possession of both his valid EAD and Texas Temporary Driver License ("TDL"). *See Exhibit 2 (I-765 Approval Notice)*

34. Petitioner's parents are lawful permanent residents of the United States (Maria and Nicasio Trejo), and his siblings are United States citizens (Maryfer and Alberto Trejo). Petitioner's immediate family resides in the United States, reflecting his significant family ties, longstanding presence, and strong community connections. His removal would result in substantial hardship to his family, who rely on his continued presence and support. *See Exhibit 3 (Parents' Lawful Permanent Resident Cards) and Exhibit 4 (Documentation Establishing Petitioner's Siblings' United States Citizenship).*

35. Petitioner had an arrest in Travis County, Texas on or about October 20, 2017, and the case was dismissed. On our bout April 29, 2005, petitioner was convicted of a Clas A misdemeanor for theft in Coffee County, Tennessee.

36. Petitioner has no meaningful, individualized possibility for a custody redetermination by a neutral decisionmaker and no workable custody forum to present evidence of release eligibility.

37. Petitioner has substantial equities favoring release, including his more than two decades of residence in the United States, significant family ties—his parents are lawful permanent residents and his siblings are United States citizens—his valid employment authorization, his lack of any criminal convictions, and his pending EOIR-42B Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents before the Immigration Court.

38. Petitioner acknowledges the Fifth Circuit's recent decision in Sosnava Rodriguez v. Ortega, No. 26-50183 (c/w Nos. 26-50219, 26-50221) (5th Cir. July 2, 2026), which addresses the custody of long-term interior residents detained under 8 U.S.C. § 1225(b)(2)(A) and holds that such individuals are entitled to an individualized bond hearing, with the Government bearing the burden of justifying continued detention. That decision, however, is not final, and the Fifth Circuit has not issued its mandate. On the same day the opinion issued, a judge of that Court ordered that "a judge of this Court withholds issuance of the mandate in this appeal." Sosnava Rodriguez v. Ortega, No. 26-50183, Order (5th Cir. July 2, 2026) (Doc. 166), attached as Exhibit 5. Until the mandate issues, the panel's judgment has not taken effect, jurisdiction has not returned to the district court, and the decision remains subject to further proceedings, including rehearing en banc—the grant of which would vacate the panel opinion and judgment. See 5th Cir. R. 41.3. Petitioner therefore respectfully submits that Sosnava is not a final or controlling disposition and does not foreclose or limit the relief requested here; this Court retains full authority to order

Petitioner's immediate release or, in the alternative, a prompt and constitutionally adequate custody hearing under the Fifth Amendment and the decisions of this District set forth below. *See Exhibit 5 (Mandate Withheld)*

VI. LEGAL FRAMEWORK

A. Due Process

39. The Fifth Amendment applies to "all persons" within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

40. Pursuant to 28 U.S.C. § 2243, a federal court reviewing a petition for writ of habeas corpus must either grant the writ or issue an order directing the respondent to show cause why the writ should not be granted. Habeas corpus is the proper vehicle to challenge unlawful civil immigration detention that violates statutory or constitutional limits. *See* 28 U.S.C. § 2241.

41. Nevertheless, the Constitution independently limits civil immigration detention. Even where detention is statutorily authorized, continued detention without meaningful procedural safeguards raises serious due process concerns.

42. Pre-removal civil immigration detention must remain reasonably related to its non-punitive purpose and must be accompanied by adequate procedural safeguards. Although the INA authorizes detention during removal proceedings, the Fifth Amendment requires that continued civil detention be supported by a meaningful individualized custody determination.

43. Freedom from physical restraint lies at the core of the liberty protected by due process. When detention becomes continued and the Government fails to provide an

individualized custody hearing evaluating danger or flight risk, continued detention becomes excessive, arbitrary, and unconstitutional.

44. Federal courts retain authority to review the constitutionality of prolonged or unjustified immigration detention through habeas corpus, even where the governing statute does not expressly provide procedural protections. *See id.* (confirming availability of constitutional habeas challenges to immigration detention). Due process requires that civil detention be supported by more than the mere existence of statutory detention authority; it requires ongoing justification and procedural safeguards sufficient to ensure that confinement does not become excessive, arbitrary, or punitive in nature.

45. Numerous federal courts recognize that continued immigration detention without a meaningful bond hearing violates due process and requires judicial intervention through habeas corpus. At a minimum, due process requires a neutral custody hearing where the Government bears the burden of proving that continued detention is necessary.

VII. CLAIMS FOR RELIEF

Violation of Fifth Amendment Right to Due Process

46. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

47. The Due Process Clause of the Fifth Amendment prohibits the Government from depriving any person of liberty without due process of law. This protection applies to noncitizens in civil immigration detention.

48. Petitioner has now been detained without ever receiving an individualized custody determination during the continued period of detention. No immigration judge has evaluated whether detention remains necessary, and the Government has never been

required to prove that Petitioner presents a danger or flight risk. Continued detention under these circumstances is arbitrary, excessive, and unconstitutional.

49. Petitioner, Luis Antonio Trejo Chavez is a 41-year-old citizen of Mexico, has been detained at the at the South Texas ICE Processing Center in Persall, Texas since June 2026. Since then, Respondents have continued to detain Petitioner without providing any meaningful individualized custody determination, hearing, or procedural review assessing whether continued detention is justified.

50. By continuing to detain Petitioner without adequate procedural safeguards, Respondent's detention has become just that—arbitrary and excessive in relation to its stated purpose. As a result, Respondents have violated Petitioner's right to due process under the Fifth Amendment.

VIII. Argument

A. Release Under Conditions No More Restrictive Than Those Governing Petitioner's Liberty Before Arrest is the Appropriate Remedy; Alternatively, the Court Should Order Prompt, Enforceable Custody Process

51. Immediate release is the traditional remedy in habeas. The habeas statute directs courts to "dispose of the matter as law and justice require." 28 U.S.C. § 2243. And "[t]he traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). The Supreme Court has likewise recognized that the "typical remedy" for unlawful executive detention is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008).

52. Texas authority supports release as the proper remedy where immigration detention violates governing law or due process. *See e.g. Ortega-Aguirre v. Noem*, No. 4:25-cv-

04332, 2025 WL 3684697, at *4 (S.D. Tex. Oct. 10, 2025); *Noyola v. Bondi*, No. 1:26-cv-405-RP, 2026 WL 607266, at *5 (W.D. Tex. Mar. 4, 2026).

53. Release is especially appropriate because the constitutional injury here stems from the Government's decision to arrest and detain Petitioner without meaningful, individualized custody process. A later bond hearing does not fully cure that deprivation. *See Noyola*, 2026 WL 607266, at *5.

54. Nor is an immigration-court bond hearing the most appropriate or efficient use of this Court's equitable authority unless it is tightly controlled. Texas cases show why. Courts have had to confront the practical risk that an immigration judge may conclude he lacks authority to conduct the ordered hearing, *see Vargas v. Bondi*, No. 25-cv-1023, 2025 WL 3300446, at *5 (W.D. Tex. Nov. 12, 2025), report and recommendation adopted, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025), or that ICE will impose additional restraints not ordered by any neutral decisionmaker, *see Montes Aguillon v. Bondi*, No. EP-26-cv-71-KC, 2026 WL 531899, at *2 (W.D. Tex. Feb. 25, 2026). Texas courts have therefore emphasized the need for explicit deadlines, clear burdens of proof, and continued judicial supervision. *See Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923, at *10 (W.D. Tex. Oct. 21, 2025); *Dominguez v. Noem*, No. 25-cv-0074, 2026 WL 67200, at *4 (W.D. Tex. Jan. 8, 2026).

55. Those concerns matter here because a remedy that depends on later administrative compliance risks rendering relief illusory while Petitioner's unlawful detention continues.

56. Accordingly, the Court should order Petitioner released immediately under conditions no more restrictive than those governing his liberty before arrest. Respondents should further be barred from re-detaining Petitioner absent constitutionally adequate pre-deprivation

process before a neutral decisionmaker and a showing, based on current individualized facts, that detention or materially more restrictive conditions are necessary because Petitioner poses a danger to the community, presents a serious flight risk, or has materially violated a lawful condition of release.

57. In the alternative, if the Court declines to order immediate release as the primary remedy, it should order constitutionally adequate custody process within 48 hours before a neutral decisionmaker. At that hearing, Respondents should bear the burden of proving by clear and convincing evidence that continued detention or materially more restrictive conditions are necessary. The neutral decisionmaker should also be required to consider Petitioner's ability to pay any monetary bond and whether less restrictive alternatives would fully serve the Government's interests. *See Hernandez-Fernandez*, 2025 WL 2976923, at *10.

58. Any alternative hearing remedy must include explicit protections to ensure that the relief is real rather than illusory. Respondents should be barred from arguing that the immigration judge lacks jurisdiction to conduct the hearing, from invoking any automatic stay if the neutral decisionmaker grants release or bond, and from unilaterally imposing electronic monitoring, ankle monitoring, home confinement, or other release conditions not expressly ordered by the neutral decisionmaker. *See Vargas*, 2025 WL 3300446, at *5; *Montes Aguillon*, 2026 WL 531899, at *2.

IX. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;

(3) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

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

Respectfully submitted on July 09, 2026.

/s/Andres Pacheco
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Mr. Trejo Chavez and submit this verification on his behalf. I hereby 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.

Dated this 9th day of July 2026.

/s/Andres Pacheco

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