UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE, FLORIDA

ANGEL NICOLAS ICO TOSH, Petitioner, V. TODD BLANCHE, Acting Attorney General of the United States; MARKWAYNE MULLINS, Secretary, Department of Homeland Security; DAVID VENTURELLA, Acting Director, U.S. Immigration and Customs Enforcement; GARRETT J. RIPA, Field Office Director - Miami ERO; And ROBERT ARNOLD, Liberty County Sheriff's Office Respondents.	) Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner, Angel Nicolas Ico Tosh (or "Mr. Ico Tosh"), by and through undersigned counsel, respectfully submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. 2241, seeking immediate release from unlawful detention by the Respondents. Petitioner is currently detained at Liberty County Jail. Petitioner asserts that his continued detention violates the Constitution, laws, and treaties of the United States.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. 2241, as Petitioner is in custody under the color of authority of the United States, and such custody violates the Constitution, laws, or treaties of the United States.
2. Venue is proper in the Northern District of Florida pursuant to 28 U.S.C. 1391(e) because Petitioner is detained within this District, and the Respondents, in their official capacity, reside or operate within this District.

PARTIES

3. Petitioner, Angel Ico Tosh, is a Mexican national currently in Liberty County Sheriff's Department custody on an ICE hold at the Liberty County Jail, located at 12422 NW Revell Road, Bristol, FL 32321.
4. Robert Arnold is sued in his official capacity as Sheriff of Liberty County. In this capacity, he is responsible for overseeing Liberty County Jail's daily

operations, inmate safety and security, and staffing, as well as knowing correctional policies and procedures. Mr. Arnold is a legal custodian of the Petitioner.

5. Garrett J. Ripa is sued in his official capacity as the Field Office Director for the Miami Field Office of Immigration and Customs Enforcement ("ICE"). In this capacity, he has jurisdiction over the ICE hold that is evidently the reason for Petitioner's detention. He is also authorized to release Petitioner and is a legal custodian of Petitioner. *Masingene v. Martin*, 424 F. Supp. 3d 1298 (S.D. Fla. 2020).
6. David Venturella is sued in his official capacity as the Acting Director of ICE. In this capacity, he has responsibility for the enforcement of immigration laws and immigration detention. As such, he is a legal custodian of Petitioner.
7. Markwayne Mullins is sued in his official capacity as the Secretary of the Department of Homeland Security, the arm of the U.S. government responsible for the enforcement of the immigration laws. Because ICE is a subagency of the DHS, Secretary Mullins is a legal custodian of Petitioner.
8. Todd Blanche is sued in his official capacity as the Attorney General of the United States, the chief officer within the Department of Justice ("DOJ"). The DOJ encompasses the Board of Immigration Appeals ("BIA") and the

Immigration Courts as sub-agencies of the Executive Office of Immigration Review ("EOIR"). The Acting Attorney General shares responsibility for implementing and enforcing immigration laws and is the legal custodian of Petitioner.

FACTUAL BACKGROUND

9. Mr. Ico Tosh resides in Tallahassee, Florida, where he has resided for approximately 3 years.

10. Mr. Ico Tosh was born in Mexico on September 18, 2007. He first arrived on or around September 2022 in the United States as an unaccompanied minor to reunite with his brother, Julio Ico Tosh, who had been living in the United States since 2016. However, during this September 2022 entry, Mr. Ico Tosh was apprehended and deported back to Mexico. In December 2022, Mr. Ico Tosh re-entered the United States without inspection, again as an unaccompanied minor, and has remained in the country to the present day.

11. On or about July 2, 2026, at approximately 9:00 AM, Petitioner and his brother were apprehended while commuting to their place of employment. Petitioner was a passenger in the vehicle. Officers from the Franklin County Sheriff's Department initiated a traffic stop of their vehicle for a purported speeding violation. Notably, no citation for speeding was ever issued. Both Petitioner and his brother were summarily detained and transported to the

Franklin County Jail for processing. No charges were ever brought against Petitioner and instead he was held in the Franklin County Jail to "hold for other agency." *See* Ex. C.

12. Respondents have failed to commence removal proceedings against Petitioner and have held him for over 7 days without scheduling a hearing before an immigration court. Petitioner has no access to the immigration court system or the ability to request a bond hearing. *See* Ex. A (Screenshot from EOIR system noting no open case against Petitioner).

13. Petitioner also did not appear in the ICE Locator for an entire week, and only today did the Respondents share his location through the Locator. *See* Ex. B.

LEGAL FRAMEWORK

A. The Fourth Amendment Protects Non-Citizens like Petitioner from Arbitrary Seizure, Arrest, and Detention.

14. A warrantless civil immigration arrest requires both probable cause of removability and individualized probable cause that the person is a flight risk. *See* 8 U.S.C. § 1357(a)(2); *see Creedle v. Miami-Dade Cty.*, 349 F. Supp. 3d 1276, 1304 (S.D. Fla. 2018) (finding that an "arrest by the County for an alleged immigration violation fell outside the scope of permissible 'cooperation' under Section 1357(g) and the Fourth Amendment); *see also United States v. Jackson*, 2026 U.S. Dist. LEXIS 71696, at *5 (N.D. Ga.

Mar. 9, 2026) ("Specifically, to briefly stop a vehicle, an officer must have reasonable and articulable suspicion that the occupants are engaged in criminal activity, including traffic violations.").

15. In this case, Respondents did not have reasonable suspicion to stop Petitioner and had no basis to perform a warrantless criminal or immigration arrest. His stop, arrest, and ongoing detention thus violate the Fourth Amendment as he has been continuously held without any criminal charges or initiation of removal proceedings

B. The Due Process Clause of the Constitution Protects Non-Citizens like Petitioner from Arbitrary Arrest and Detention

16. The Due Process Clause prohibits deprivations of life, liberty, and property without due process of law. U.S. Const. amend. V. It is firmly established that these protections extend to noncitizens living in the United States. *See e.g.*, *Trump v. J.G.G.*, 604 U. S. 670, 673, (2025) (*per curiam*) ("'It is well established that the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings." (citation omitted)); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."); *Wong Wing v. United States,* 163 U.S. 228, 238 (1896) (similar).

17. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas*, 533 U.S. at 690; *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (defining freedom from physical detention as "the most elemental of liberty interests").

18. Even those who face significant constraints on their liberty or those over whose liberty the government wields significant discretion retain a protected interest in their liberty. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) ("The fact that a decision-making process involves discretion does not prevent an individual from having a protectable liberty interest."), citing *Young v. Harper*, 520 U.S. 143, 150 (1997).; *accord Schmidt v. Bondi*, 2012 LX 60976, at *1-2 (N.D. Fla. Oct. 1, 2012).

19. The Fifth and Fourteenth Amendments to the U.S. Constitution provide at least two types of protection for noncitizens in removal proceedings: substantive and procedural due process.

a. Substantive due process requires that the government have sufficient justification to overcome an individual's constitutional right to liberty.

20. "[G]overnment detention violates substantive due process unless it is ordered in a criminal proceeding with adequate procedural protections, or in non-punitive circumstances "where a special justification. . . outweighs the

individual's constitutionally protected interest in avoiding physical restraint.'" *Mendoza v. Assistant Field Officer Dir. Broward Transitional Ctr.*, 2026 U.S. Dist. LEXIS 25200, at *13-14 (S.D. Fla. Feb. 6, 2026) (quoting *Zadvydas*, 533 U.S. at 690).

21. Immigration proceedings and detention "are civil, not criminal, and . . . nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690. Substantive due process requires that all forms of civil detention, including immigration detention, bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738, (1972); U.S. Const. amend. V. The Supreme Court has recognized only two legitimate government interests in civil immigration detention: addressing flight risk and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *Demore v. Kim*, 538 U.S. 510, 519–20, 527–28 (2003).

22. Because the federal government has authority to make rules determining the admission and exclusion of noncitizens, some allowance is given regarding administratively necessary detention. *Fernandez v. Fla. Soft Side S. Det. Ctr.*, 2026 U.S. Dist. LEXIS 92611, at *3-4 (M.D. Fla. Apr. 28, 2026), citing *Dep't of State v. Munoz*, 602 U.S. 899, 911-12 (2024); *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). For example, to ensure a noncitizen is present for removal, "detention during deportation proceedings [is] a constitutionally

valid aspect of the deportation process." *Fernandez*, 2026 U.S. Dist. LEXIS 92611 at *4, quoting *Demore*, 538 U.S. at 523.

23. Nevertheless, the purpose of administrative detention is to ensure removal, and there must be sufficient nexus between removal and detention to avoid the latter becoming impermissibly punitive. *Zadvydas*, 533 U.S. at 699.

24. The premise underlying *Zadvydas* is that the reasonableness of detention should be measured by a habeas court "primarily in terms of the statute's basic purpose, namely assuring the alien's presence at the moment of removal." *Zadvydas*, 533 U.S. at 699.

25. Here, the Petitioner is not in removal proceedings. ICE has not scheduled any hearing or even provided Petitioner with access to the immigration court. His detention is thus inherently without basis or justification and is punitive in nature.

a. Procedural due process requires the government to provide specific protections to ensure fairness and prevent arbitrary deprivation of liberty.

26. The "essence" of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time. *See e.g., Mathews v. Eldridge*, 424 U.S. 319, 348 (1976); *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) ["[T]he Constitution

requires some kind of a hearing *before* the State deprives a person of liberty or property.").

27. The Due Process Clause safeguards these protections even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young*, 520 U.S. at 152 (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context).

28. In *Mathews v. Eldridge,* the Court set out a three-part test to determine what procedures are constitutionally required when a protected interest is at stake. 424 U.S. at 335. Under the *Mathews* test, the Court considers: 1) the private interests that will be affected by the official action; 2) the risk that this interest will be erroneously deprived and the probable value of additional or substitute procedural safeguards; and 3) the government's interest in acting without these safeguards. *Id.*

29. Courts apply the *Matthews*' factors to evaluate procedural due process challenges to immigration detention. *Arellano v. Ripa*, 2026 U.S. Dist. LEXIS 13005, *9; *see also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022); *Miranda v. Garland*, 34 F.4th 338, 368–69 (4th Cir.

2022); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 27–28 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).

30. First, noncitizens have an interest in remaining out of custody when there are no removal proceedings against them and no legal basis to detain them. This liberty interest only strengthens over time as a noncitizen, such as Petitioner, establishes ties to a community within the United States. *See Landon v. Plasencia*, 459 U.S. 21, 32, 103 (1982) ("once an alien gains admission to our country and begins to develop the ties that go with permanent residence, his constitutional status changes accordingly. Our cases have frequently suggested that a continuously present resident alien is entitled to a fair hearing when threatened with deportation.").

31. In this case, Mr. Ico Tosh has been living as a beloved and respected member of his community and has resided in the United States since he was a minor. He has no criminal history. He has been held in criminal custody without probable cause to stop or search him and without criminal charges. He has also been denied all access to the immigration courts throughout his detention and thus has no means to request bond or any opportunity to be heard.

32. Second, under *Mathews*, courts weigh the risk of erroneous deprivation of liberty. The initial consideration is that immigration detention is civil, and

"is by definition non-punitive." *Zadvydas*, 533 U.S. at 690. The Supreme Court has recognized only two legitimate government interests in civil immigration detention: addressing flight risk and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *Demore v. Kim*, 538 U.S. 510, 519–20, 527–28 (2003).

33. Detention "without ICE providing Petitioner any notice, hearing, opportunity to be heard, or making a finding of changed circumstances sufficient to justify re-detention and the revocation of the Recognizance Order, present[s] a significant risk of erroneous deprivation." *Id.*at *13-14 (*see also Lopez v. Sessions*, 2018 U.S. Dist. LEXIS 98712, at *30 (S.D.N.Y. June 12, 2018) ("without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.").

34. In Petitioner's case, he is being held as a result of an unlawful search and seizure without any access to the criminal or immigration courts to request his liberty. Petitioner is currently experiencing an erroneous deprivation of a protected liberty interest, underlining the need for procedural safeguards.

35. Finally, the *Mathews* test weighs the government's interest in detaining the noncitizen without a pre-deprivation hearing. The Due Process Clause requires a pre-deprivation hearing when the interest in freedom from

detention and the risk of erroneous deprivation outweigh the minimal cost to the government of providing such a hearing. The government must identify some interest beyond its own administrative practices to justify depriving an individual of his liberty without any pre-deprivation protections. *Hurd*, 864 F.3d at 684 (holding that re-detention after pre-parole conditional supervision requires a pre-deprivation hearing); *Gagnon*, 411 U.S. at 778 (same, in probation context); *Morrissey*, 408 U.S. at 482 (1972) (same, in parole context).

36. The government has no interest in unlawfully seizing, searching, or detaining individuals. *See de Jesus Ortega Melendres v. Arpaio*, 695 F.3d 990 (9th Cir. 2012). They can have no such interest here.

37. Therefore, the detention of Mr. Ico Tosh violates his procedural due process rights.

CLAIMS FOR RELIEF

COUNT I

Violation of the Fifth Amendment to the United States Constitution Procedural Due Process

38. Petitioner re-alleges and incorporates by reference every allegation in the preceding paragraphs of this Petition as if fully set forth herein.

39. Under the Fifth Amendment to the U.S. Constitution, the government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V.

40. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

41. Petitioner's unlawful detention without probable cause, criminal charges, or warrant, and without any notice and opportunity to be heard, violates his procedural due process right as set forth herein.

COUNT II

Violation of the Fifth Amendment to the United States Constitution Substantive Due Process

42. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs of this Petition as if fully set forth herein.

43. "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*, 533 U.S. at 690.

44. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

45. The government has no legitimate goal in unlawfully detaining individuals within this country and blocking all access to both criminal and immigration courts.

46. Moreover, Petitioner's detention is punitive as it bears no reasonable relation to any legitimate government purpose. *See Zadvydas*, 533 U.S. at 690 (holding that the civil nature of detention renders it "nonpunitive in purpose and effect").

COUNT III

Violation of the Fourth Amendment to the United States Constitution

47. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs of this Petition as if fully set forth herein.

48. Petitioner's unlawful stop, arrest, and ongoing detention violate the Fourth Amendment of the United States Constitution and the Immigration and Nationality Act.

49. In *Creedle*, the Southern District of Florida made clear that Section 1357(g) does not allow for Fourth Amendment violations, specifically warrantless arrests without cause. 349 F. Supp. 3d at 1296 ("federal immigration officials may conduct reasonable arrests to face administrative proceedings based on probable cause that certain civil immigration violations have been committed").

50. The court acknowledged that 8 U.S.C. § 1357(a)(2) provides an exception to the warrant requirement, "but this provision allows for a warrantless arrest only if ICE has 'reason to believe' that the suspected removable individual "is likely to escape before a warrant can be obtained for his arrest." *Id.* (*citing* 8 U.S.C. § 1357(a)(2)).

51. Here, Franklin County officers did not have probable cause of a crime, traffic infraction, or immigration violation to justify Petitioner's stop.

52. Officers then held him, searched his vehicle, and made an arrest, all without probable cause and without any exception as set forth in 8 U.S.C. § 1357(a)(2).

53. The record in this case reflects that Petitioner was likely stopped and arrested based solely on the color of his skin and the unfounded suspicion that he is an unlawful immigrant in this country.

54. Thus, Petitioner's seizure, arrest, and ongoing detention violate the Fourth Amendment of the Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a writ of habeas corpus directing Respondents to produce Petitioner before this Court and to show cause why Petitioner is being detained;

2. Order that Petitioner shall not be transferred outside the Northern District of Florida while this Petition is pending before the Court.

3. Order Petitioner's immediate release from ICE custody;

4. Declare that Petitioner's arrest and detention violated the Fifth Amendment of the United States Constitution;

5. Declare that Petitioner's arrest and detention violated the Fourth Amendment of the United States Constitution;

6. Enjoin Respondents from re-detaining Petitioner without lawful probable cause and compliance with applicable statutes and regulations;

7. Award reasonable attorneys' fees and costs where authorized; and

8. Grant such further relief as the Court deems just and proper.

Respectfully submitted this 9th day of July, 2026.

/s/ Katherine H. Blankenship
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Attorney for Petitioner

VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I, Katherine H. Blankenship, am submitting this verification on behalf of Petitioner because I am his attorney. I have conferred with Mr. Angel Nicolas Ico Tosh and also reviewed the administrative record of his case as his counsel acting before the agency. On the basis of this review, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: July 9, 2026

/s/ Katherine H. Blankenship
Katherine H. Blankenship (FL Bar No. 1031234)

Certificate of Service

I hereby certify that on July 9, 2026, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus was served via Pacer/ECF electronic filing.

Respectfully submitted,

/s/ Katherine H. Blankenship
Katherine H. Blankenship