UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARCOS TULIO CALIX REYES Petitioner, v. MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security, DAVID J. VENTURELLA, Senior Official Performing the Duties of the Director of United States Immigration and Customs Enforcement, SYLVESTER ORTEGA, Field Officer for Detention and Removal, United States Immigration and Customs Enforcement, and BOBBY THOMPSON, in his official capacity as Warden of the South Texas ICE Processing Center, Respondents.	§	Cause No. 5:26-cv-4332

PETITION FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE JUDGE OF THIS COURT:

Petitioner **Marcos Tulio Calix Reyes** files this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 seeking his release from custody because he is being detained unlawfully by Respondents.

I. Introduction and summary.

1. Mr. Calix Reyes is a 31-year-old Honduran citizen who has lived in the United States for two years. He has established a life in Manor, Texas, and is an applicant for political asylum under Immigration and Nationality Act and withholding of removal under the Convention Against Torture. He was arrested in November 2025 after a traffic stop revealed an outstanding warrant for assault causing bodily injury family violence, a misdemeanor. The Travis County Court at Law No. 4 dismissed the charge against Mr. Calix Reyes in February 2026, after which he was transferred from the Travis County Correctional Complex to Respondents' custody and placed in the South Texas ICE Processing Center in Pearsall, Texas. Despite having been released from custody by the Government in June 2024, having complied with all conditions of his parole, having no criminal conviction, and having a pending asylum case, Mr. Calix Reyes remains incarcerated without the possibility of release. Mr. Calix Reyes has an eight-year-old daughter, a U.S. citizen, who lives with her mother in Austin, Texas. His fiancée, a U.S. citizen, is pregnant with his child and is expecting to give birth on Monday, July 13, 2026, in Austin, Texas.

2. Mr. Calix Reyes asks this Court to issue a Writ of Habeas Corpus ordering his immediate release on the same grounds as this Court's ruling in *Valencia Reyes v. Noem*, No. SA-25-CA-0192-XR, 2026 WL 981034 (W.D. Tex. Feb. 25, 2026) (attached). Mr. Calix Reyes' claims are at least as strong the petitioner's claim in *Valencia Reyes* because he was released from ICE custody with reporting requirements, established ties with this country, complied with all conditions of his release, was charged with (but not convicted of) a misdemeanor which was later dismissed, but remains in ICE custody since February 2026 without any determination that he poses a danger to his community or flight risk (which he does not).

II. Jurisdiction, venue and parties.

3. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101, *et seq.* This Court has jurisdiction under 28 U.S.C. §§ 1331 (federal question) and 28 U.S.C. § 2241 (habeas corpus) because Mr. Calix Reyes challenges the legality of his ongoing civil immigration detention under federal statutory and constitutional law. *Demore v. Kim*, 538 U.S. 510, 516-17 (2003).

4. Venue is proper in this District and Division because Mr. Calix Reyes is being detained in Pearsall, Texas, and because a substantial part of the events and omissions giving rise to his claims occurred here. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973); 28 U.S.C. § 1391(e).

5. Petitioner is a Honduran citizen who last entered the United States without inspection in June 2024.

6. Respondent **Markwayne Mullin** is sued in his official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"). He is responsible for implementation and enforcement of the INA and oversees U.S. Immigration and Customs Enforcement ("ICE"), the agency responsible for Mr. Calix Reyes' detention and custody. He is a legal custodian of Mr. Calix Reyes.

7. Respondent **David J. Venturella** is sued in his official capacity as Senior Official Performing the Duties of the Director of ICE. He has authority over ICE detention policies and the power to release Mr. Calix Reyes. He is a legal custodian of Mr. Calix Reyes.

8. Respondent **Sylvester Ortega** is sued in his official capacity as Field Officer for Detention and Removal of ICE. He is responsible for overseeing Mr. Calix Reyes' detention at

the ICE immigration detention center in Pearsall, Texas. He is a legal custodian of Mr. Calix Reyes.

9. Respondent **Bobby Thompson** is sued in his official capacity as Warden of the ICE detention center in Pearsall, Texas. He is a legal custodian of Mr. Calix Reyes.

III. The relevant facts.

A. Mr. Calix Reyes last entered the United States in June 2024 and was released by the Government under the Alternatives to Detention Program.

10. Mr. Calix Reyes last entered the United States without inspection in June 2024. Ex. 1. At that time, he was detained by immigration officials, *id.*, petitioned for political asylum and withholding of removal under the Convention Against Torture, and was released with reporting requirements under the Alternatives to Detention Program, *id.* at 2.

11. DHS issued Mr. Calix Reyes a Notice to Appear that charged he was subject to removal under Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act [8 U.S.C. § 1182(a)(7)(i)] as an alien who is not in possession of a valid entry document, thereby placing him in removal proceedings. Ex. 2.

12. Mr. Calix Reyes is seeking political asylum under Section 208 of the Immigration and Nationality Act [8 U.S.C. § 1158] and withholding of removal under the Convention Against Torture. His petition for political asylum and withholding of removal was denied in May 2026, but he has appealed the immigration court's judgment. Ex. 7.

13. In November 2025, Mr. Calix Reyes was arrested in Pflugerville, Texas, after a traffic stop revealed an outstanding warrant for assault causing bodily injury family violence. *See* Ex. 3, 4. In February 2026, the Travis County Court at Law No. 4 dismissed the charge due to

insufficient evidence. Ex. 5. Mr. Calix Reyes was detained at the Travis County Correctional Complex until the dismissal, at which point he was transferred to Respondents' custody and placed in the South Texas ICE Processing Center in Pearsall, Texas, where he remains. Ex. 6. Respondents have not given Mr. Calix Reyes a bond hearing.

B. Mr. Calix Reyes complied with the terms of his release and established extensive ties in Manor, Texas.

14. Mr. Calix Reyes lives in Manor, Texas.

15. He is a roofer and was employed at the time he was detained.

16. He has family in Central Texas: an 8-year-old, U.S. citizen daughter from a previous relationship; and a fiancée, a U.S. citizen, who is scheduled for induction on Monday, July 13, 2026, to give birth to Mr. Calix Reyes' child. *See* Ex. 8.

17. Mr. Calix Reyes belongs to El Tabernáculo de la Promesa Church and regularly attended services in Austin, Texas.

18. Mr. Calix Reyes has complied with all conditions of his release. He has no criminal convictions. He poses no danger to the community or flight risk.

C. Mr. Calix Reyes was detained while in full compliance with his terms of release.

19. Following dismissal of the assault charge against him, Mr. Calix Reyes was transferred from the Travis County Correctional Complex to the South Texas ICE Processing Center in Pearsall, Texas. Ex. 6.

20. ICE has detained Mr. Calix Reyes for more than four months without determining whether he violated any conditions of his release under the Alternatives to Detention Program or posed a danger to the community or a flight risk. ICE is relying on a recently adopted policy that

contradicts decades of practice which claims that noncitizens charged as inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i) are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), even though the Government previously detained and released Mr. Calix Reyes after determining he was not a danger to the community or a flight risk.

21. Mr. Calix Reyes is currently detained in the physical and legal custody of Respondents in Pearsall, Texas, in the Western District of Texas, San Antonio Division.

IV. Grounds for granting the Great Writ.

22. Respondents' detention of Mr. Calix Reyes without an individualized determination that he violated his terms of release or poses a danger to the community or flight risk is illegal under the Fifth Amendment to the U.S. Constitution.

A. Mr. Calix Reyes' detention violates due process.

23. By living working in the United States for nearly two years, and by raising a family and regularly attending church, Mr. Calix Reyes has established connections in the United States that entitle him to the protections of the Due Process Clause of the Fifth Amendment. This Court has held that detention of such individuals without an individualized hearing to determine whether they pose a danger to the community or a flight risk violates those due process rights. *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 688, 681-87 (W.D. Tex. 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *7-10 (W.D. Tex. Oct. 21, 2025; *Hassen v. Noem*, No. 3:26-CV-00048-DB (W.D. Tex. Feb. 9, 2026) ("Because the Government released Petitioner and permitted him to live in the United States for over a year, they cannot revoke that liberty without an individualized determination of the need to do so.").

24. ICE released Mr. Calix Reyes with reporting requirements under DHS's Alternatives to Detention (ATD) program two years ago, reflecting the Government's individualized determination that Mr. Calix Reyes is neither a danger to his community nor a flight risk.

25. Having been detained and released under the ATD, Mr. Calix Reyes is entitled to receive the benefits of that provision and should have been afforded pre-deprivation process *before* being re-detained. *Valencia Reyes*, Op. at *10 ("Individuals who have been conditionally released from detention have a protected interest in their 'continued liberty'") (quoting *Young v. Harper*, 520 U.S. 143, 147 (1997)); *Singh v. Taylor*, 3:26-CV-00155-DB, 2026 WL 360913, at *4 (W.D. Tex. Feb. 9, 2026) ("Further, Respondents violated Petitioner's procedural due process rights by re-detaining him in May 2025, without notice or an opportunity to challenge the grounds for revocation, after previously releasing him from custody. … Respondents' conduct violates the fundamental requirements of due process that a person be afforded notice and opportunity to be heard 'at a meaningful time and in a meaningful manner' when revoking a protected liberty interest.") (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)). ICE's re-detention, purportedly under Section 1225, violates due process, entitling Mr. Calix Reyes to a writ of habeas corpus ordering his immediate release.[1]

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[1] *Buenrostro-Mendez* "did not reach the due process question," and "[m]ultiple district courts within the Fifth Circuit have held that *Buenrostro-Mendez* has no bearing on whether habeas petitioners are being detained in violation of their constitutional right to procedural due process." *Valencia Reyes*, Op. at *4. Indeed, *Buenrostro-Mendez* did not address claims based on "(1) warrantless interior arrests by ICE that invoke Fourth Amendment consideration; (2) re-detention after release that may implicate a protected liberty interest under the Fifth Amendment; (3) procedural due process as to detention without bond for noncitizens who have created a life in the

26. The Government determined that Mr. Calix Reyes was neither a danger nor a flight risk and released him in 2024. Mr. Calix Reyes complied with all terms of release. "Thus, for noncitizens who have entered or otherwise been released into the interior and established a substantial presence in the United States, the 'entry fiction' applicable to their *removal proceedings* gives way to their interest in freedom from detention under *Mathews v. Eldrige*." *Valencia Reyes*, Op. at *8 (emphasis in original).

27. Mr. Calix Reyes easily meets the *Mathews* test. As this Court noted in *Valencia Reyes*, where, as here, a noncitizen who has a substantial presence in the United States has not received an individualized assessment of flight risk or dangerousness, each of the *Mathews* factors supports finding that their detention "deprives them of their constitutional right to due process." *Id.* "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." *Id.* at 13 (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)). When, as here, a noncitizen was previously released into the interior of the United States, "the government has already concluded that [he] does not present a flight or security risk." *Id.* "Without evidence of a change in the individualized circumstances, there is no reason to believe that re-detention serves any permissible purpose of confinement rather than, say, deterring [him] from pursuing [his] claim for asylum relief by agreeing to self-deport." *Id.*

United States; or (4) the constitutionality of prolonged detention even if statutorily authorized." *Mendoza v. Noem*, No. 5:26-CV-0728-JKP, 2026 WL 809441 at 9* (W.D. Tex. Feb. 26, 2026).

28. Mr. Calix Reyes' continued detention violates due process and he should be released.

B. Mr. Calix Reyes does not need to exhaust administrative remedies.

29. Should the Government argue that Mr. Calix Reyes must apply to the Executive Branch for release before seeking the Great Writ from the Judicial Branch, this Court should reject that argument as it did in *Valencia Reyes*, having recognized that such an application would be fruitless. *Id.* at 2. This Court need not abstain from granting relief when exhausting administrative remedies would be "an exercise in futility," as it clearly would be here, given the Government's insistence that Section 1225 not only authorizes, but mandates, Mr. Calix Reyes' continued detention without parole. *Id.* Like *Valencia Reyes*, this petition does not present an exhaustion problem.

C. Mr. Calix Reyes is entitled to immediate release.

30. The Government has imprisoned Mr. Calix Reyes with no hope of release, despite his lack of criminal conviction, his work history, his family and community ties, and his pending application for asylum under the INA. Habeas is the "remedy for unlawful executive detention," and the typical remedy "is, of course, release." *Valencia Reyes*, Op. at *14 (quoting *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). Just as there is no reason to require the futile step of administrative exhaustion, there is no point in ordering an administrative bond hearing when the Government maintains that Section 212(d)(5)(A) of the Immigration and Nationality Act is inapplicable to a petitioner's detention. *Id.* Moreover, an after-the-fact bond hearing is no substitute for the requirement that the Government prove Mr. Calix Reyes is a danger or a flight risk *before* stripping him of his liberty interests. *Id.* at *15.

D. The Fifth Circuit's recent decision in *Sosnava Rodriguez v. Ortega* demands Mr. Calix Reyes' immediate release.

31. In *Sosnava Rodriguez v. Ortega*, ___ F.4th ___, No. 26-50183, 2026 WL 1906557 (5th Cir. Jul. 2, 2026), the Fifth Circuit held that Respondents cannot deprive people like Mr. Calix Reyes of their liberty without due process during removal proceedings. *See id.* at *16. This ruling demands Mr. Calix Reyes' immediate release.

32. The Fifth Circuit in *Sosnava Rodriguez* upheld the Fifth Amendment's guarantees of due process for noncitizens in ICE custody. The Fifth Circuit also rejected the Government's arguments that entry fiction cases like *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020), and inapposite cases like *Connecticut Department of Public Safety v. Doe*, 538 U.S. 1 (2003), nullify noncitizens' enumerated liberty interest. *Sosnava Rodriguez*, 2026 WL 1906557, at *4–*10. The *Sosnava* Court found ample support for its decision in Supreme Court precedent, stating, "We interpret *Demore* and *Zadvydas* as consistent with not permitting interminable detention of aliens either awaiting a decision on removal or in being removed" after a thorough walkthrough of both cases. *Sosnava Rodriguez*, 2026 WL 1906557, at *10–*16.

33. Finally, the Fifth Circuit performed the *Mathews v. Eldridge* balancing test to determine that 1) petitioners' private interest "is the most elemental of liberty interests — the interest in being free from physical detention"; 2) "an alien's removable status itself, without more, is not a sufficiently strong special justification under the Constitution for indefinite detention"; and 3) although Respondents have "a powerful interest in the efficient and effective administration of federal immigration law," as Justice Kennedy noted in *Demore*, "after an 'unreasonable delay,' we must 'inquire whether the detention is not to facilitate deportation, or to protect against risk of

flight or dangerousness.'" *Sosnava Rodriguez*, 2026 WL 1906557, at *14–*15 (internal citations omitted). The *Sosnava* Court ultimately held that the Fifth Amendment's Due Process Clause requires individualized review of a noncitizen's pre-removal order detention by 90 days. *Id.* at *16.

34. Further, in reaching its conclusions, the Court in *Sosnava Rodriguez* cited favorably prolonged detention decisions—directly supporting Petitioner's claims for relief here. *Id.* at *13. Specifically, in concluding that *Demore* does not preclude due process considerations, the Court cited, relied on, and discussed Second Circuit precedent granting habeas relief to individuals subject to mandatory detention. *See id.* (citing *Black v. Decker*, 103 F.4th 133, 159 (2d Cir. 2024), *cert. granted sub nom.*, *Genalo v. Black*, No. 25-886, 2026 WL 1718025 (U.S. June 15, 2026)). Further, the Court drew from *Lopez-Campos v. Raycraft*, 175 F.4th 713, 732–33 (6th Cir. 2026), stating that numerous Circuit Courts have recognized that habeas relief arises from prolonged civil immigration detention. *Sosnava Rodriguez*, 2026 WL 1906557, at *12–*13 (collecting cases where habeas relief was granted to immigration petitioners premised on the detainees' prolonged detention).

35. Here, Mr. Calix Reyes, like the petitioners in *Sosnava Rodriguez*, has deep family and community ties to the United States. *See supra* Section III.B. He is a father of one and soon to be two U.S. citizens, was employed before his detention, and regularly attended church services. *Id.* The Constitution does not permit his indefinite detention, as the Fifth Circuit recognized in *Sosnava Rodriguez*.

36. Mr. Calix Reyes has been detained in ICE custody for over four months. This Court should not permit Respondents to unlawfully prolong Petitioner's detention by even a single day further. Supreme Court precedent, *Sosnava Rodriguez*, other Circuit Courts of Appeals precedent,

and this Court's precedent all support Mr. Calix Reyes' release. Accordingly, Mr. Calix Reyes respectfully requests that this Court grant his request for habeas relief and order his immediate release from custody.

V. Prayer.

WHEREFORE, Mr. Calix Reyes respectfully requests that this Court:

(1) Assume jurisdiction pursuant to 28 U.S.C. § 2241;

(2) Grant the writ of habeas corpus and order Mr. Calix Reyes' immediate release from custody under appropriate conditions of release no more restrictive than those in place prior to his detention in February 2026;

(3) Issue an Order prohibiting Respondents from re-detaining Petitioner without a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence; and

(4) Grant such other and further relief that this Court deems just and proper.

Respectfully submitted,

/s/ Jonathan Levy

Jonathan Levy
Texas State Bar No. 24087921
jonathanl@americangateways.org
AMERICAN GATEWAYS
314 E. Highland Mall Blvd., Suite 501
Austin, Texas 78752
(737) 356-3399 (phone)
(512) 387-2650 (fax)

Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner and hereby verify that the facts stated in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge based on documents and uncontradicted information provided to me.

July 10, 2026

/s/ Jonathan Levy
Jonathan Levy

CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2026, I e-mailed a copy of this petition, all exhibits thereto, a motion for temporary restraining order, and a proposed order for the motion to Mary Kruger, Civil Chief in the U.S. Attorney's Office for the Western District of Texas, at Mary.Kruger@usdoj.gov; Assistant U.S. Attorney Lacy McAndrew at Lacy.McAndrew@usdoj.gov; and Paralegal Erika Banda at Erika.Banda@usdoj.gov.

/s/ Jonathan Levy
Jonathan Levy

Documents in Support of Petition for Writ of Habeas Corpus

Exhibit 1	DHS Record of Deportable/Inadmissible Alien – Marcos Tulio Calix Reyes
Exhibit 2	DHS Notice to Appear – Marcos Tulio Calix Reyes
Exhibit 3	Travis County Court at Law No. 4 – Case Summary: *State of Texas v. Marcos Tulio Calix Reyes*, Case No. C-1-CR-24-502617.
Exhibit 4	City of Pflugerville Records Report for Incident [redacted] – Marcos Tulio Calix Reyes
Exhibit 5	Travis County Court at Law No. 4's Order Dismissing Assault/Family Violence Charge Against Marcos Tulio Calix Reyes
Exhibit 6	DHS Immigration Detainer Notice Action – Marcos Tulio Calix Reyes
Exhibit 7	Board of Immigration Appeals – Filing Receipt for Appeal or Motion
Exhibit 8	Petitioner's Fiancée's Prenatal Visit Report
Exhibit 9	Order Granting Petition for Writ of Habeas Corpus, *Valencia Reyes v. Noem*, No. SA-25-CA-0192-XR, 2026 WL 981034 (W.D. Tex. Feb. 25, 2026)