UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FRANCISCO HERRERA RODRIGUEZ
Petitioner-Plaintiff,

v.

David J. Venturella,
ICE Acting Director
U.S. Immigration and Customs Enforcement;

Facility Warden,
Karnes County Immigration Processing Center,

Respondents-Defendants

Civ. No. 5:26-cv-4398

DHS File Number: [redacted]

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

This Petition challenges Petitioner's continued civil detention under the Fifth Amendment. It does not dispute that Congress has enacted a statutory framework governing immigration detention. Rather, it alleges that Petitioner's continued confinement must remain consistent with the constitutional protections afforded by the Due Process Clause and that habeas corpus remains available to review the legality of executive detention where a petitioner contends that his continued confinement exceeds constitutional limits. Petitioner therefore seeks habeas relief under 28 U.S.C. § 2241 together with such declaratory and injunctive relief as the Court deems appropriate.

Despite the civil nature of immigration detention, the absence of any statutory mandate requiring unreviewable detention, and the total lack of an individualized custody determination

consistent with due process, ICE continues to detain Petitioner at the Karnes County Immigration Processing Center. His continued confinement without proper recourse is arbitrary, punitive in effect, and in direct violation of the Due Process Clause of the Fifth Amendment. Petitioner therefore respectfully seeks immediate release.

II. JURISDICTION & VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States in violation of the Constitution and laws of the United States.
2. Jurisdiction is also proper under 28 U.S.C. § 1331 and 28 U.S.C. §§ 2201-2202.
3. Venue lies in this District pursuant to 28 U.S.C. § 1391(e) and *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484 (1973), because Petitioner is detained within this District and Respondents exercise custody and control over him here.

III. PARTIES

1. Petitioner, **FRANCISCO HERRERA RODRIGUEZ**, is a native and citizen of Mexico currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Karnes County Immigration Processing Center in Karnes City, Texas.
2. Respondent, Warden at the Karnes County Immigration Processing Center, exercising legal custody and supervisory authority over Petitioner. She is sued in her official capacity.
3. Respondent **David Venturella** is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE").

IV. FACTUAL BACKGROUND

1. Petitioner Francisco Herrera Rodriguez has resided continuously in the United States for approximately five years, having entered without inspection around April 2021.

2. Petitioner has established deep familial, social, and economic equity ties to the United States. He resides with his common-law wife, Abigail Gongora, who is a United States Citizen (USC). Together, they share a minor daughter, [redacted] Gomez-Herrera, aged one and a half (1.5) years old, who is also a United States Citizen.
3. Petitioner's minor USC daughter suffers from a severe knee condition caused by a chronic viral affliction, requiring multiple invasive surgical interventions. She faces ongoing medical issues for years to come. Petitioner is the primary economic provider for his common-law spouse and his medically vulnerable child, as evidenced by his historical 2025 tax filings. Petitioner further possesses significant local family ties, including three brothers residing in the United States, one of whom is a Lawful Permanent Resident (LPR).
4. On July 1st, 2026, Petitioner was traveling as a passive vehicle passenger in route to his job site in Seguin, Texas, when the vehicle was pulled over by a Texas State Trooper. Despite committing no statutory infraction, having zero criminal history, and posing no threat to public safety, Petitioner was subsequently arrested and immediately transferred to ICE custody.
5. Following his arrest, Petitioner was placed into immigration custody at the Karnes County Immigration Processing Center. Although a future Master Calendar Hearing has been scheduled via an internet-based portal on August 10, 2026, before Immigration Judge Thomas G. Crossan, Jr., Petitioner remains detained without an individualized custody determination or access to a constitutionally sufficient bond process.

V. STATUTORY AND CONSTITUTIONAL FRAMEWORK

Federal district courts have jurisdiction under 28 U.S.C. § 2241 to review whether a noncitizen is "in custody in violation of the Constitution or laws or treaties of the United States."

Zadvydas v. Davis, 533 U.S. 678, 687 (2001). Habeas jurisdiction extends to challenges to the fact, duration, or legality of immigration detention, including constitutional claims. *INS v. St. Cyr*, 533 U.S. 289, 290, 301 (2001).

Where, as here, a petitioner alleges that continued detention violates due process because it is arbitrary, punitive, or unsupported by any individualized findings, habeas jurisdiction is proper.

VI. ARGUMENT

A. Civil Immigration Detention Is Subject to Constitutional Due Process Limits

Immigration detention is strictly civil, not criminal. As such, it is constitutionally permissible only if it serves a legitimate regulatory purpose and is accompanied by adequate procedural protections. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 527-28 (2003). The Supreme Court has repeatedly emphasized that civil detention may not be imposed as punishment and may not continue where it becomes excessive in relation to its regulatory purpose. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *United States v. Salerno*, 481 U.S. 739, 747 (1987). Even when authorized by statute, "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

B. Petitioner's Continued Detention Violates Substantive Due Process

Substantive due process forbids arbitrary civil detention that is not reasonably related to a legitimate governmental objective. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The only constitutionally permissible purposes of civil immigration detention are to ensure a noncitizen's appearance at future proceedings and to protect the community from danger. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

Continued detention no longer bears any rational relationship to the Government's legitimate regulatory objectives because Petitioner has already demonstrated stable residence, stable employment, longstanding community ties, ongoing family obligations, and every incentive to appear for removal proceedings. In the absence of any individualized determination that Petitioner poses either a danger to the community or a meaningful risk of flight, his continued confinement has ceased to serve a legitimate regulatory purpose and has become arbitrary and punitive in effect.

1. Petitioner has an absolute clean record with zero criminal convictions or arrests.
2. Petitioner has deep, permanent equities in the United States, including a lawful permanent resident sibling and a deeply dependent, disabled United States Citizen infant daughter who relies heavily on his ongoing physical and financial care and a United States Citizen common-law wife.
3. No administrative adjudicator has ever determined that Petitioner poses a danger to the community or a flight risk.

Petitioner has established substantial and enduring ties to the United States that overwhelmingly demonstrate he does not present a meaningful risk of flight. He has resided continuously in this country for approximately five years, has maintained stable employment as reflected by his 2025 federal income tax filings, and has established a fixed residence with his United States citizen common-law spouse and their medically vulnerable United States citizen daughter. Petitioner is the family's primary financial provider and plays an indispensable role in caring for his daughter's ongoing medical needs, including her treatment, rehabilitation, and daily care. He also maintains extensive family ties within the United States, including three brothers who reside in this country, one of whom is a lawful permanent resident. These longstanding familial, residential, and economic ties provide every incentive for Petitioner to appear for all

future immigration proceedings and pursue any available relief through the lawful process. Moreover, Petitioner is willing to comply with any reasonable conditions of release the Court may impose, including regular reporting requirements, electronic GPS monitoring, or any other conditions necessary to reasonably assure his appearance. Under these circumstances, Respondents cannot demonstrate that Petitioner's continued detention is necessary to prevent flight or otherwise serves a legitimate regulatory purpose.

C. The Government Cannot Carry Its Constitutional Burden

This argument is the centerpiece of the petition. Respondents will undoubtedly argue that statutory authority grants the Executive wide latitude to hold an alien pending an upcoming master hearing date. The flaw in Respondents' position is that statutory authorization alone does not answer the constitutional question before this Court. Congress authorizes detention; the Constitution limits detention. Habeas exists to police that boundary. Petitioner challenges the constitutionality of his detention where Respondents cannot identify individualized evidence demonstrating he presents either a danger or a meaningful flight risk given his five years of stable residence, complete lack of criminal record, and critical medical dependencies within his immediate United States Citizen family unit.

D. Release Is the Appropriate Habeas Remedy

"Where detention violates the Constitution, release is the appropriate remedy." *Zadvydas*, 533 U.S. at 699. Because Petitioner's ongoing imprisonment serves no valid regulatory objective and creates severe, irreparable harm to an innocent, medically vulnerable United States Citizen child, his substantive and procedural due process rights have been violated. The writ should issue and Petitioner should be released forthwith.

E. Petitioner's Continued Detention Inflicts Immediate and Irreparable Harm on His Medically Vulnerable United States Citizen Child

Petitioner's continued detention causes immediate and irreparable harm not only through the ongoing deprivation of his own liberty, but also through the severe hardship imposed upon his medically vulnerable United States citizen daughter. As reflected in the supporting medical records, Petitioner's young child suffers from a serious chronic knee condition, has undergone multiple invasive surgical procedures, requires continuing medical treatment and rehabilitation, and is expected to need additional care and possible future interventions. Petitioner is her primary financial provider and plays an essential role in securing transportation, attending medical appointments, assisting with her recovery, and providing the daily physical and emotional support required by her condition. Each additional day of detention deprives this vulnerable child of the presence, care, and financial support of her father during a critical period of treatment and development. Where Respondents have made no individualized finding that Petitioner poses a danger to the community or a risk of flight, the extraordinary hardship imposed upon his United States citizen child further demonstrates that continued confinement is excessive in relation to any legitimate regulatory purpose, punitive in effect, and incompatible with the requirements of due process. The ongoing injury to both Petitioner and his child warrants immediate judicial intervention and strongly supports release or, at minimum, a prompt and constitutionally adequate custody hearing.

F. Recent Fifth Circuit Authority Confirms That Habeas Review Remains Available to Prevent Arbitrary Immigration Detention.

Recent decisions from the United States Court of Appeals for the Fifth Circuit underscore two important principles relevant to this case. First, although the Fifth Circuit has recognized the Government's authority in certain circumstances to detain noncitizens under 8 U.S.C. § 1225(b)(2), it has not foreclosed constitutional challenges to the manner or duration of that detention. Second,

the Fifth Circuit has recently reaffirmed that the Due Process Clause imposes meaningful constitutional limitations on executive detention and that habeas corpus remains the proper way for challenging detention that becomes arbitrary or lacks adequate procedural safeguards.

In affirming grants of habeas relief in recent immigration detention cases, the court emphasized that detention may not continue indefinitely without an individualized determination addressing whether continued confinement is justified by legitimate regulatory objectives such as danger to the community or risk of flight. The court recognized that a bond hearing may properly determine whether continued detention is warranted, while reaffirming that habeas courts retain authority to remedy unconstitutional executive detention. These recent developments reinforce Petitioner's claim that the Constitution requires meaningful judicial review where a noncitizen with substantial ties to the United States, no criminal history, and a pending application for relief remains detained without an individualized determination that continued confinement is necessary.

The present case illustrates precisely why habeas review remains indispensable. Petitioner has resided in the United States since approximately April 2021, has established substantial family and community ties, has no criminal history, and will be pursuing asylum protection through pending removal proceedings. Nothing in the present record demonstrates that his continued detention is necessary to protect the public or ensure his appearance at future proceedings.

Under these circumstances, continued detention without a meaningful individualized determination raises the same constitutional concerns recognized by the Supreme Court in *Boumediene v. Bush*, *INS v. St. Cyr*, and *Zadvydas v. Davis*, and is consistent with the Fifth Circuit's recent recognition that habeas relief remains available to prevent arbitrary executive detention that exceeds constitutional limits. Even if the Government has statutory authority to detain under the applicable provision, the Constitution independently requires meaningful due

process and permits habeas review of allegedly unconstitutional detention. That framing is more likely to be viewed as credible and is less vulnerable to a response pointing to recent Fifth Circuit precedent.

G. Vacuture of Sosvana Rodriguez v. Ortega

The constitutional questions presented by this Petition are currently the subject of active consideration within the United States Court of Appeals for the Fifth Circuit. Although a recent panel decision addressing substantially similar issues was vacated upon the grant of rehearing en banc and therefore no longer constitutes binding precedent, the Fifth Circuit's decision to rehear the matter en banc underscores the significance and unsettled nature of the constitutional limits on immigration detention within this Circuit. Accordingly, this Court must resolve Petitioner's claims by applying the controlling principles established by the Supreme Court, including *INS v. St. Cyr*, *Boumediene v. Bush*, *Demore v. Kim*, *Foucha v. Louisiana*, *United States v. Salerno*, and *Zadvydas v. Davis*, each of which confirms that executive detention remains subject to meaningful judicial review and the constraints of the Due Process Clause.

VII. CLAIMS FOR RELIEF

COUNT I - Unlawful Detention (28 U.S.C. § 2241)

1. Petitioner incorporates all preceding paragraphs.
2. Respondents are detaining Petitioner in violation of the Constitution and laws of the United States.

COUNT II - Declaratory Relief

1. A declaration is warranted that Petitioner's continued detention is arbitrary, unlawful, and violates the Due Process Clause of the Fifth Amendment.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Grant this Petition for Writ of Habeas Corpus;

2. Order Respondents to immediately release Petitioner from ICE custody;
3. Declare that Petitioner's continued detention violates the Constitution;
4. Enjoin Respondents from continuing to detain Petitioner absent a constitutionally sufficient basis for custody supported by individualized factual findings; and
5. Grant any other relief the Court deems just and proper.

Dated: July 14, 2026

Respectfully submitted,

/s/ Rodolfo Castillo
Rodolfo Castillo
Attorney for Petitioner
Texas Bar No. 24000489
Rudy Castillo Law Firm
2621 Rockgate Dr.
San Antonio, TX 78227
Phone: (210) 777-1111
Email: rc@rudycastillolaw.com

IX. SIGNATURE & VERIFICATION

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on 07/14/2026

/s/ Rodolfo Castillo
Rodolfo A. Castillo
Attorney for Petitioner

PETITIONER'S INDEX OF EXHIBITS

Exhibit	Document Description	Source / Page References
Exhibit A	U.S. Immigration and Customs Enforcement (ICE) Online Detainee Locator System printout confirming Petitioner's active detention at the Karnes County Immigration Processing Center.	Official DHS Portal, generated July 2026.
Exhibit B	Executive Office for Immigration Review (EOIR) Automated Case Information printout confirming a scheduled internet-based Master Calendar Hearing on August 10, 2026, at 9:00 AM before Judge Thomas G. Crossan, Jr.	Official EOIR Portal, generated July 2026.
Exhibit C	Certified copies of US Passport and United States Birth Certificate for minor child [redacted] Gomez-Herrera, along with comprehensive pediatric orthopedic medical records detailing chronic knee surgeries, conditions, and future treatment requirements.	Vital Statistics / Attending Physician Records.
Exhibit D	Certified copy of US Passport and United States Birth Certificate for common-law spouse Abigail Gongora, establishing status.	Vital Statistics.
Exhibit E	Petitioner's MX Passport and 2025 Taxes	Personal Documents
Exhibit F	Attorney Declaration in Support of Emergency Petition for Writ of Habeas Corpus.	Executed July 14, 2026.

EXHIBIT A

Official Website of the Department of Homeland Security

U.S. Immigration and Customs Enforcement

Report

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Facility Page

Detention Information For:

FRANCISCO HERRERA-RODRIGUEZ
Country of Birth: Mexico
A-Number: [redacted]

Current Detention Facility:

KARNES COUNTY IMMIGRATION PROCESSING CENTER
409 FM 1144
NA
KARNES CITY, TX 78118
Visitor Information: (830) 254-2000

MORE INFORMATION >



ERO Office Information

Family members and legal representatives may be able to obtain additional information about this individual's case by contacting this ERO office:

ERO - Karnes City, TX Sub-Office
Phone Number: (830) 254-2500

BACK TO SEARCH >

Related Information

Helpful Info

Status of a Case

About the Detainee Locator

Brochure

ICE ERO Field Offices

ICE Detention Facilities

Privacy Notice

External Links

Bureau of Prisons Inmate Locator

EXHIBIT B

An official website of the United States government
Here's how you know

EOIR | Automated Case Information

Court Closures Today July 9, 2026

Please check https://www.justice.gov/eoir-operational-status for up to date closures.

Home > **HERRERA-RODRIGUEZ, FRANCISCO (** [redacted] **)**

Automated Case Information

Name: HERRERA-RODRIGUEZ, FRANCISCO | A-Number: [redacted] **| Docket Date: 7/7/2026**

Next Hearing Information

Your upcoming **MASTER** hearing is **INTERNET-BASED** on **August 10, 2026** at **9:00 AM**.

JUDGE

Crossan, Thomas G., JR.

WEBEX ADDRESS

https://eoir.webex.com/meet/IJ.Crossan

Court Decision and Motion Information

This case is pending.

BIA Case Information

No appeal was received for this case.

Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS
566 VETERAN DRIVE., SUITE 101
PEARSALL, TX 78061

PHONE NUMBER
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