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

Ever Alberto Matute Lopez

DHS File No. A# [redacted]

Petitioner,

v.

MIGUEL VERGARA Field Office Director
San Antonio District Office
Office of Detention and Removal
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security, in his Official Capacity and his successors and assigns,

ROSE THOMPSON, Warden
Karnes County Immigration Processing Center,
In her Official Capacity and her successors and assigns,

MARKWAYNE MULLIN, Secretary
U.S. Department of Homeland Security, in his Official Capacity and his successors and assigns,

MERRICK B. GARLAND, Attorney General
U.S. Department of Justice, in his Official Capacity and his successors and assigns,

Respondents.

Civil Action No. 5:26-cv-04402

WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION

I. INTRODUCTION

Petitioner Ever Alberto Matute Lopez ("Petitioner"), by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus to review the lawfulness of his continued detention by Respondents. Petitioner's continued detention is unlawful because it is based on an erroneous interpretation of the Immigration and Nationality Act ("INA") and is in violation of Petitioners due process rights under the U.S. Constitution. *See, e.g.*, *Yamataya v. Fisher*, 189 U.S. 86, 100-01 (1903) ("[T]his court has never held, nor must we now be understood as holding, that administrative officers, when executing the provisions of a statute involving the liberty of persons, may disregard the fundamental principles that inhere in, due process of law.").

Petitioner, an immigrant from Honduras, is currently being held in detention by U.S. Immigration and Customs Enforcement ("ICE") without a legal reason and was denied a bond. He has been held in detention since February 2, 2026. Petitioner is entitled to immediate release from detention, and he would be released but for the Immigration Court's unlawful interpretation of the INA.

Petitioner was taken into custody by ICE while in a vehicle during a traffic stop. The continued detention of Petitioner has caused and will continue to cause extreme and irreparable hardship to him and his family, and it violates the INA, controlling federal court precedent, and Petitioner's due process rights under the U.S. Constitution.

II. JURISDICTION

This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. §§1101 *et seq.*, and the Administrative Procedure Act ("APA"), 5 U.S.C. §§701 *et seq.* This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. §§2241 *et seq.*; Art. I, §9, Cl. 2 of the United States Constitution (the "Suspension Clause"), and 28 U.S.C.

§1331, as Petitioner is presently in custody under the color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas v. Davis*, 533 U.S. 678 (2001).

This Court may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201 *et seq.*, and the All Writs Act, 28 U.S.C. §1651. Use of the Writ of Habeas Corpus to challenge detention by ICE is available after the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (May 11, 2005) ("REAL ID Act"). Section 106(c) of Title I of the REAL ID Act, amending INA §242(a)(2)(A), (B), and (C), and §242(g), although limiting habeas jurisdiction, applies only to those challenges to a "final administrative order of removal." *Nnadika v. Att'y Gen. of the United States*, 484 F.3d 626, 632 (3d Cir. 2007) (holding that the proper venue for a habeas petition challenging detention remains with the district court); *see also INS v. St. Cyr*, 533 U.S. 289, 314 (2001) ("The writ of habeas corpus has always been available to review the legality of executive detention."); *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007) ("[W]e have held that district courts retain jurisdiction over challenges to the legality of detention in the immigration context."); *Bonhometre v. Gonzales*, 414 F.3d 442, 446 n.4 (3d Cir. 2005) ("An alien challenging the legality of his detention still may petition for habeas corpus [post-REAL ID]."); *Waffi v. Loiselle*, 527 F. Supp. 2d 480, 483-85 (E.D. Va. 2007).

III. VENUE

Venue is properly with this Court pursuant to 18 U.S.C. §1391(e), because Respondents are employees or officers of the United States or under contract with the United States, acting in their official capacity, and an agency of the United States, and Petitioner is under their control; because Petitioner is detained by ICE at the Karnes County Immigration Processing Center in Karnes City, Texas, which is under the jurisdiction of this District; because a substantial part of the

events or omissions giving rise to the claim occurred in this District; and because the government's decision to hold Petitioner in custody and his administrative proceedings occurred in this District.

IV. PARTIES

Petitioner, Ever Alberto Matute Lopez, is a native and citizen of Honduras who entered the United States on or about December 24, 2021, without inspection. He is currently being detained in ICE custody without bond or legal recourse at the Karnes County Immigration Processing Center in Karnes City, Texas.

Respondent Miguel Vergara is the Field Office Director of the ICE Office of Detention and Removal in San Antonio, Texas. ICE is the component of the Department of Homeland Security ("DHS") responsible for detaining and removing aliens according to U.S. immigration law. In his official capacity, he is the legal custodian of Petitioner.

Respondent Rose Thompson is the Warden of the Karnes County Immigration Processing Center in Karnes City, Texas, where Petitioner is detained at the behest of ICE. In her official capacity, she is the legal custodian of Petitioner.

Respondent Markwayne Mullin is the current Secretary of Homeland Security, at the time of the filing of this Petition. He is responsible for the administration of ICE and the enforcement of the INA. In his official capacity, he is the legal custodian of Petitioner.

Respondent Merrick B. Garland is the Attorney General of the United States. He is responsible for administration of the Executive Office for Immigration Review, which includes the U.S. Immigration Courts and the BIA.

V. STATEMENT OF FACTS

The Petitioner, Ever Alberto Lopez, is a native and citizen of Honduras[1]. He entered the United States on or about December 24, 2021, when he was twenty-five years old. Petitioner had a very hard life in Honduras and fled the country due to the continued violence including threats to his life, government corruption and extreme poverty. "Approximately 47.6% of the population lives under the national poverty line." [2]

Petitioner met his live in partner of nine years in Honduras, [redacted] Petitioner and his partner fled Honduras in fear for their lives because of the government corruption and lack of protection.

Petitioner did file a claim for asylum based on the continued threat of violence in his home country and was denied after appearing before four different Immigration Judges, without representation and without a proper hearing. He is currently appealing this ruling.

Petitioner and his partner had a brief separation, and he met the mother of his child. They had a short-lived relationship that produced his son – who is a United States citizen. Even though he and his long-time partner reconciled, he continued to support his baby and help the mother. Petitioner has been working as a subcontractor in construction and owns his own small business – Mattu's Services, a painting company.

[1] Exhibit 1 – Copy of Petitioner's Passport
[2] Bertelsmann Stiftung, *BTI 2026 Honduras Country Report* (2026), https://bti-project.org/en/reports/country-report/HND

Petitioner filed a Petition for a Writ of Habeas Corpus on or about April 6, 2026, pro se, contesting his prolonged detention and arguing various legal grounds. As he was not represented by counsel and does not speak English, Petitioner was unaware of the magnitude of the alleged charges against him by Respondents and was clearly unable to represent himself. In Petitioner's initial Writ, the Honorable Judge Orlando Garcia granted Petitioner's request for a bond hearing[3]. While this may seem like an open and shut case, it is anything but.

The Board of Immigration Appeals (BIA) decided unilaterally that the immigration laws that have been in operation for over three decades were being misinterpreted and needed to be changed. Citing 8 U.S.C. § 1225(b)(2)(A) the Firth Circuit Court held that individuals who entered without inspection remain "applicants for admission" under the Immigration and Nationality Act regardless of how long they have lived in this country and therefore are subject to mandatory detention. *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498 (5th Cir. Feb. 6, 2026). This decision eliminated statutory bond hearings for thousands of longtime residents detained throughout Texas, Louisiana and Mississippi. Thus, causing hundreds of thousands of undocumented immigrants to be hunted and detained unlawfully by Immigration and Customs Enforcement (ICE).

As can be expected, this decision has caused congestion of immigration court dockets, federal court dockets, and created violent situations from both law enforcement and undocumented persons living in fear. The only legal avenue undocumented persons, regardless of their time living in the U.S., is to seek assistance from federal courts to contest the violation of their constitutional rights.

On or about July 8, 2025, ICE issued a memo that instructs the entire agency to cease issuing Form I-286 Notice of Custody Determination to applicants for admission.[4] ICE detailed in

[3] Exhibit 2 – Copy of Order Granting Writ of Habeas for bond
[4] Exhibit 3 – ICE Memo

their memo that if Enforcement and Removal Operations (ERO) "previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286." *Id* at 2. The Memo continue to explain that if an alien was released in a previous case, that are subject to re-detention.

This Memo is still in effect and coupled with the *Buentrostro* decision, undocumented persons who have yet to adjust status do not have any legal avenues in which to request bond hearings through ICE or immigration judges and appealing a bond determination with the BIA is useless.

VI. CAUSES OF ACTION

COUNT ONE
(SUBSTANTIVE DUE PROCESS)

The allegations contained in the paragraphs above are repeated and realleged as though fully set forth herein.

All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *See Zadvydas*, 533 U.S. at 693-94; *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67 (1976); *Yamataya*, 189 U.S. 100-01; *see also Rusu v. INS*, 296 F.3d 316, 321-22 (4th Cir. 2002); *Wilson v. Zeithern*, 265 F. Supp. 2d 628, 634 (E.D. Va. 2003) (noting that "aliens who have entered the country through proper channels and have been granted legal permanent resident status … therefore enjoy a more robust liberty interest under the Due Process Clause").

The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be … deprived of life, liberty or property, without due process of law." U.S. Const. amend. V. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary government action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v.*

Romeo, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem."); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10 (D.N.J. 1999) (holding that, in analyzing due process in the immigration context, the first factor in the procedural due process analysis, "the petitioner's private interest in his physical liberty, must be accorded the utmost weight").

Petitioner's continued detention violates substantive due process by depriving him of his fundamental liberty interest in remaining free from detention. Government detention violates an individual's fundamental liberty interest unless the detention is "narrowly tailored to serve a compelling government interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993); *Collins v. Harker Heights*, 503 U.S. 115, 125 (1992). Non-punitive detention must present a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690.

Petitioner's continued detention by ICE, which is based on an erroneous interpretation of the INA, serves no compelling governmental interest. No special justification exists for Petitioner's continued detention. The government bears the burden of justifying, by clear and convincing evidence, that dangerousness or flight risk for Petitioner's continued detention, or release Petitioner from custody under the same conditions imposed upon him by Respondent's when he entered the U.S.

Petitioner is not a flight risk or a danger to the community and should not be in removal proceedings. Neither ICE nor an IJ evaluated any of these factors in continuing his unlawful detention. The absence of any individualized determination of Petitioner's eligibility to be released on bond or otherwise is a violation of his substantive due process rights.

COUNT TWO
(PROCEDURAL DUE PROCESS)

The allegations contained in the paragraphs above are repeated and realleged as though fully set forth herein.

Under the Due Process Clause, a foreign national is **entitled to be heard at a meaningful time and in a meaningful manner** before a deprivation of liberty occurs. *Matthews v. Eldridge*, 424 U.S. 319, 334 (1976). The process that is due depends on the private interest affected by the official action, the risk of erroneous deprivation of that interest, the value of additional or substitute procedural safeguards, and the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements would impose. *Id.* at 335.

In Petitioner's case, procedural due process requires a meaningful and objective custody hearing before an independent and impartial adjudicator. *See Morrisey v. Brewer*, 408 U.S. 471, 486-87 (1972); *Marcello v. Bonds*, 39 U.S. 302, 307 (1955); *Castro-Cortez v. INS*, 239 F.3d 1037 (9th Cir. 2001); *Cabrera-Rojas v. Reno*, 999 F. Supp. 493, 496-97 (S.D.N.Y. 1998); *Ekekhor v. Aljets*, 979 F. Supp. 640 (N.D. Ill. 1997); *St. John v. McElroy*, 917 F. Supp. 243, 249-51 (S.D.N.Y. 1996); *cf. Kiareldeen*, 71 F.Supp.2d at 418-19 (holding that "access to a neutral judge [is] one of the, most basic of due process protections"" (quoting *Marincas v. Lewis*, 92 F.3d 195, 203 (3d Cir. 1996))).

Respondents' refusal to set a bond and/or release Petitioner from detention is arbitrary and capricious, is based on an erroneous interpretation of the law, and constitutes an abuse of discretion. Petitioner was afforded a bond hearing under Judicial Order, but it was in no way meaningful or objective. Petitioner was not allowed to present any evidence, call witnesses and was merely asked a few questions before an immigration judge decided Sua sponte that he was a danger to the community.

VII. IRREPARABLE INJURY

Petitioner is suffering and will continue to suffer irreparable injury because of Respondents' actions. Every day that he is held in custody he suffers further mental, emotional and physical injury. Petitioner was transferred to four different facilities during his detention and is currently at the Karnes detention center, hours away from his family. These injuries are not limited to Petitioner; they directly affect his young child and partner.

VIII. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Petitioner has no recourse for relief from detention outside of this Petition. The BIA has instructed IJs to deny jurisdiction over bond hearings. On the rare occasion that IJs do hold a bond hearing, they are by Judicial Order and held in jest and no bonds are granted. Additionally, the exhaustion requirement in the immigration detention context is likely prudential rather than jurisdictional. *Calderon Lopez v. Lyons,* --- F. Supp. 3d ---, 2026 WL44683, at *1 n.1 (N.D. Tex. Jan. 7, 2026) (citing 8 U.S.C. § 1252(d)(1)).

Since the BIA has directed Immigration Judges to deny bonds, they have been fast-tracking removal proceedings for those who are detained. Should Petitioner be released, his immigration case will likely be moved to a "non-detained" and slower moving docket which will allow him to pursue adjustment of status by way of his asylum claim.

IX. PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus directing Respondents to bring Petitioner to this Court at a time to be specified and explain why Petitioner should not be released from custody immediately;

3. Issue a declaratory judgment stating that the DHS's interpretation of the Immigration and Nationality Act is arbitrary and capricious, an erroneous interpretation of law, and violates the Due Process Clause of the United States Constitution;
4. Direct Respondents to **immediately release** Petitioner from custody; and
5. Grant such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted this 14

6. th day of July 2026, on behalf of, Ever Alberto Matute Lopez.

By counsel,

Stephanie Crissman

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CERTIFICATE OF SERVICE

I, Stephanie Crissman, hereby certify under penalty of perjury under the laws of the United States of America, that on the date indicated below, I caused to be served, a true and correct copy of the following document by electronic delivery on PACER:

a. Petition for Writ of Habeas Corpus (28 U.S.C. § 2241) – including all the exhibits attached.

Service was made upon the following Respondents:

1. Miguel Vergara, Field Office Director of the ICE Office of Detention and Removal San Antonio Field Office: 1777 NE Loop 410 Floor 15 San Antonio, TX 78217
2. Rose Thompson, Warden Karnes County Immigration Processing Center: 409 FM 1144, Karnes City, TX 78118
3. Markwayne Mullin, Secretary of Homeland Security: U.S. Department of Homeland Security 2702 Martin Luther King, Jr. Ave. SE, Washington, DC 20528
4. Merrick B. Garland, Attorney General of the United States: U.S. Department of Justice 950 Pennsylvania Avenue, NW, Washington, DC 20530

Executed on: July 14, 2026

Stephanie Crissman
Stephanie Crissman
Attorney for Petitioner