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WESTERN DISTRICT OF TEXAS
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JUDGE KATHLEEN CARDONE

FILED
August 18, 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY: MRC DEPUTY

EP 26 CV 2149

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C.

Franme Eleazar Roa Jimenez
A# [redacted]

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS DIVISION
EL PASO.

FRANME ELEAZAR ROA JIMENEZ.
A# [redacted]
COUNTRY: VENEZUELA.

PETITIONER:

MARY DE AND A-YBARRA, Field Office Director of Enforcement and Removal Operations El Paso Field Office, Immigration and Customs Enforcement;

WARDEN OF ERO EL PASO PROCESSING

TODD M. LYONS, In His Official Capacity as Acting Director, Immigration and Customs Enforcement, U.S Department of Homeland Security;

MARK WAYNE MULLIN. His Official Capacity as Secretary, U.S Department of Homeland Security:

TODD BLANCHE. In His Official as Acting Attorney General of the United States,

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C.

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God Bless America

A

INTRODUCTION

Introduction

Petitioner, ***Franme Eleazar Roa Jimenez*** *was born in* ***Venezuela*** *I left my country for the following reasons. I was persecuted multiple times by the government. I strongly disagree with the governments* ***dictatorship*** *in my country. They make our life hard and we have no human rights.*

In order to arrived to the U.S. I had to go thru multiple countries such as, ***Colombia, Panama, Costa Rica, Nicaragua, Honduras, Guatemala****, and Mexico. My Goal was always to reach the United States and apply for* ***political asylum*** *that way I could provide a better future for my family.*

On January ***14 2024*** *I turned myself at the* ***United States*** *border with a* ***CBP1*** *appointment. When I turned myself in I was detained for* ***4 hours*** *then set free. Within 1 year of being in the* ***U.S. I applied for Political Asylum****. I was also able to apply for a social security, work permit, and driver license. All this documents are currently up to date.*

I work as a food delivery man and I also do landscaping and general contraction. I am a man with good character and morals. The only thing I've done in this country is work hard and provide a better future for my family.

On ***July 20th 2026*** *I was at work when I was detained by* ***ICE****. They had mistaken me for another person and with no explanation they took me in, this*

is where I was told I could not be in the country and they took me to a detention center where I would have to see a judge.

I am currently at ***El Paso Processing Center****. Here the living conditions are horrible. The food is bad and we get treated like criminals. I am not a criminal I have a* ***clean criminal record****.*

Your honor I kindly ask that you allowed me to fight my case from home. I am not a flight risk, I have attended all immigration appointments. I am not a danger to society since I have a clean criminal record. Its unfair to have me detained all this time.

I hope to get an answer from you soon. Thank you for taking your time for reading my petition, ***God bless you.***

God Bless America

B

JURISDICTION

JURISDICTION

-Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to hear habeas petitions by noncitizens who challenge the lawfulness of their detention under federal law. Zadvydas v. Davis, 533 U.S. 678, 687 (2001); Jennings v. Rodriguez, 583 U.S. 281, 292-95 (2018); Maldonado v. Macias, 150 F. Supp. 3D 788, 794 (W.D. Tex. 2015), INS v. St. Cyr, 533 U.S. 289, 364-65 (2001) ("The writ of habeas corpus has always been available to review the legality of executive detention.").

*-Importantly for jurisdictional questions, Petitioner is not asking this court to review an order of removal, nor, indeed, for any relief having to do with this current proceedings in immigration court. Petitioner seeks only habeas relief from his current, illegal detention in the way he was arrested, while those immigration proceedings are ongoing, and for this Court to determine as a matter of law that he is entitled to be released or granted a bond hearing before a neutral arbiter. See also, v. Ripa, No. Ep-25-CV-337-KC at 1-2, 2025 U.S. dist. LEXIS 188232, at *14-15 (W.D. Tex. Sep. 21, 2025)(stating in part that 8 U.S.C. § 1252(a)(5), §1252(g), and §1226(e) do not deprive a Habeas Court of jurisdiction when a Petitioner is challenging his detention under his right to procedural due process). "[T]he [REAL ID] Act does not, however, preclude habeas review of challenges to detention that are independent of challenges to removal orders." Gutierrez-Soto v. Sessions, 317 F. Supp. 3d 917, 925 (W.D. Tex. 2018).*

The Respondents' continued detention of Petitoner constitutes such a "severe restraint on his individual liberty," that he is "in custody in violation of the ... laws ... of the United States." See Hensley v. Municipal Court, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241; see also Henderson v. Reno, 157 F.3d 106, 122 (2d Cir. 1999), cert. Denied sub nom. Reno v. Navas, 119 S. Ct. 1141 (1999).

III. EXHAUSTION OF REMEDIES

-Due process 5th amendment) you have the right to due process which includes not being transferred away from your attorneys or evidence in a manner that hinders your defense. 4th and 5th amendments to the constitution which guarantees due process and prohibit punishment of unconvinced person forcing the government to provide medical care specially in emergencies and guarantees urgent care regardless of status.
(ICE) responsibility of the government through immigration and customs enforcement ICE is directly responsible for the health of detainees including medical, dental and mental health care.
(GOV) must conduct initial medical examination and address health complaints according to it's national standards.
-As recognized by the Fifth Circuit, while exhaustion is the general rule, "exceptions to this general rule" exist. Garner v. U.S. Dep't of Lab., 221 F.3d 822, 825(5th Cir. 2000). "A failure to exhaust administrative remedies may be excused when the claimant advances a constitutional challenge unsuitable for determination in an administrative proceeding, or when the unexhausted remedy is plainly inadequate."
*"When a petitioner's due process claim does not assert a procedural error correctable by the BIA, it is not subject to an exhaustion requirement." Lopez de Jesus v. Imm.& Naturalization Serv., 312 F.3d 155, 162 n. 47(5th Cir. 2002). Federal courts have "the discretion to excuse the exhaustion requirement" Garner, 221 F.3d at 825. Here, the "constitutional challenges are not the types of questions" requiring exhaustion, and requiring Petitioner "to exhaust administrative remedies relating to same would be an exercise in futility." Exhaustion, furthermore, may also be excused when delay would result in hardship. See Shalala v. Ill. Council on Long Term Care, Inc., 529 U.S. 1, 13, 120 S. Ct. 1084, 146 L. Ed. 2D 1 (2000) [*6].*
*-Exhaustion is not required where the administrative remedy is inadequate due to agency bias. Numerous courts have recognized the bias inherent in the ICE custody review process. See Phan v. Reno, 56 F. Supp. 2d 1149, 1157 (W.D. Wash.1999) ("We have...concerns about the quality of the review afforded by INS to the Petitioners. Indeed, our review of the record confirms that INS does not meaningfully and impartially review the Petitioners' custody status."); Rivera v. Demore, No. C 99-3042 THE, 1999 WL 521177, *7 (N.D. Cal. Jul. 13, 1999) (procedural due process requires that alien release determination be made by impartial adjudicator due to agency bias); Ekekhor v. Aljets, 979 F. Supp. 640, 644 (N.D. Ill. 1997); St. John v. McElroy, 917 F. Supp. 243, 251 (S.D.N.Y. 1996) ("Due to political and community pressure, INS, an executive agency, has every incentive to continue to detain aliens with aggravated felony convictions, even though they have served their sentences, on the suspicion that they*

may continue to pose a danger to the community.") Petitioner should not be required to languish in detention awaiting a decision by asylum.

-The Supreme Court has referred to the "Great Writ" as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in cases of illegal restraint or confinement" and "received into out own law in the colonial period." Fay v. Noia, 372 U.S. 391, 400, 83 S. Ct. 822, 9 L. Ed. 2D 837 (1963), overruled in part on other grounds, Wainwright v. Sykes, 433 U.S. 72, 97 S. Ct. 2497, 53 L. Ed. 2D 594 (1977), and abrogated in part on other grounds by Coleman v. Thompson, 501 U.S. 722, 111 S. Ct. 2546, 115 L. Ed. 2D 640 (1991). The importance of this Great Writ was not lost on the Justices of the Civil Rights era who recognized that the writ's.

*-Function has been to provide a prompt and efficacious remedy for whatever society deems to be intolerable restraints. Its root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release. Thus there is nothing novel in the fact that today habeas corpus in the federal [*7] courts provides a mode for the redress of denials of due process of law, vindication of due process is precisely its historic office. "Only in the rarest of circumstances has congress seen fit to suspend the writ." Hamdi v. Rumsfeld, 542 U.S. 507, 525, 124 S. Ct. 2633, 159 L. Ed. 2D 578 (2004). "absent suspension, the Writ of Habeas Corpus remains available to every individual detained within the United States." (citing U.S. const., Art. I, § 9. Cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the Public safety may require it")). Indeed, absent suspension, it is available to "challenge the legality of their detention" by "noncitizens detained by our Government in territory over which another country maintians de Jure Sovereignty," such as Guantanamo Bay. Boumediene v. Bush, 553 U.S. 723, 770, 128 S. Ct. 2229, 171 L. Ed. 2D 41 (2008). The Great Writ remains "a critical check on the Executive, ensuring that it does not detain individuals except in accordance with law." Hamdi, 542 U.S. at 525 (citing Imm. & Naturalization Serv. v. St. Cyr, 533 U.S. 289, 301, 121 S. Ct. 2271, 150 L. Ed. 2D 347 (2001), superseded by statute on other grounds as stated in Nasrallah v. Barr, 590 U.S. 573, 580, 140 S. Ct. 1683, 207 L. Ed 111 (2020)).*

-The fundamental protection of habeas corpus applies to immigration-related detention. See Zadvydas v. Davis, 533 U.S. 678, 687, 121 S. Ct. 2491, 150 L. Ed. 2D 653 (2001). The Supreme Court in Zadvydas noted: It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all "persons" within the United States, The key to the (b)(2) class is the indivisible nature of the injuctive or declaratory remedy warranted-the notion that the (defendant's) conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them.'' Dukes, 564 U.S at 360. the MSJ Order has already found Respondents' interpretation of the INA to be contrary to the statutory text and statutory scheme. And mutually exclusive of petitioners' interpretation. Because the proper interpretation of the INA preserves a noncitizen's right to an individualized bond hearing after arrest, the MSJ Order illustrates the indivisible nature of the relief. The court finds similar cases from this judicial district instructive.

*-Class geographic location, a piecemeal situation that would lead to arbitrary results.'' Inland Empire-Inmigrant Youth Collective v. Nielsen, No. EDCV172048PSGSHKX, 2018 WL 1061408 at *12 (C.D. Cal. Feb. 26,2018). with this in mind, the court finds a nation wide Bond Eligible Class is appropriate.*
-Petitioner's continued prolonged detention under 8 U.S.C. § 1225(b)(2)(A) for more than seven months, without a custody hearing before a neutral arbiter violates his right to due process under the Fifth Amendment to the United States Constitution. "It is well established that the Fifth Amendment entitles aliens to due process of law." See Demore 538 U.S. at 523 (quoting Reno v. Flores, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment--from government custody, detention, or other forms physical restraint - lies at the heart of the liberty" that Due Process Clause protects. Zadvydas 533 U.S. at 678, 690 (2001); see also id. at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.").

-Due process therefore requires "adequate procedural protections" to ensure that the government's asserted justification for its conduct infringing on protected interests "outweighs the individual's constitutionally protected interest in avoiding physical restraint." Id. at 690. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention – to mitigate the risks of danger to the community and to prevent flight. Id.; Demore, 538 U.S. at 528.

Other than as punishment for a crime, due process permits the government to take away liberty only "in certain special and narrow nonpunitive circumstances ... where a special justification ... outweighs the individual's constitutionally protected interest in avoiding physical restraint." Zadvydas, 533 U.S. at 690. Such special justification exists only where a restraint on liberty bears a "reasonable relation" to permissible purposes. Jackson v. Indiana, 406 U.S. 715, 738 (1972); see also Foucha v. Louisiana, 504 U.S. 71, 79 (1992); Zadvydas, 533 U.S. at 690. In the immigration context, those purposes are "ensuring the appearance of aliens at future immigration proceedings and preventing danger to the community." Zadvydas, 533 U.S. at 690.
-Those substantive limitations on detention are closely intertwined with procedural due process protections. Foucha, 504 U.S. 78-80. Noncitizens have a right to adequate procedures to determine whether their detention in fact serves the purposes of ensuring their appearance or protecting the community. Id. at 79; Zadvydas, 533 U.S. 692; Casas-Castrillon v. Dep't of Homeland Sec., 535 F.3d 942, 949 (9th Cir. 2008). Where laws and regulations fail to provide such procedures, the Habeas court must assess whether the noncitizen's immigration detention is reasonably related to the purposes of ensuring his appearance in immigration court or protecting the community. Zadvydas, 533 U.S. at 699.

-In Zadvydas, the U.S. Supreme Court found that six months is a presumptively reasonable period during which ICE may detain aliens in order to effectuate their removal. Id. at 702. "Once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." Id. at 701. In Clark v. Martinez, 543 U.S. 371 (2005), the Supreme Court held that its ruling in Zadvydas applies equally to inadmissible aliens. Id. at 386. Therefore, detention under § 1225(b)(2)(A) is subject to a reasonable time limitation. Maldonado, 150 F. Supp. 3d at 805. The Due Process Clause of the Fifth Amendment requires that any deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. Although ICE has an interest in detaining Petitioner to effectuate his removal, it can do so in an unconstitutional manner. Gutierrez-Soto v. Sessions, at 925. without any opportunity for an individualized review of his detention by an immigration judge." Id. at 811.
Thus, Petitioner's detention violates the Due Process Clause of the U.S. Constitution as applied to his specific facts.

IV. VENUE

\-Pursuant to Braden v. 30 Th judicial circuit court of Kentucky; 410 U.S 484, 493-500 (1973), venue lies in the united states district for the western District court of Texas, the judicial District in which petitioner resides. Office of the clerk 525 Magoffin ave, El Paso TX 79901.

V. LEGAL FRAMEWORK

*-Habeas petitioners must show they are "in custody in violation of the constitution or laws or treaties of the United States." Herrera v. Tate, F. Supp. 3D, No. CVH-25-3364,2025 U.S. Pist. LEXIS 189999, 2025 WL 2774610, at *4 (S.D. Tex. Sept. 26, 2025) (quoting 28 U.S.C. § 2241(c)(3)). They "bear the burden of proving that [they are] being held contrary to law; and because the habeas proceeding is civil in nature, the petitioner must satisfy this burden of proof by a preponderance of the evidence." (quoting Skaftouros v. United States, 667 F.3d 144, 158(2d Cir. 2011) and citing Bruce v. Estelle, 536 F.2d 1051, 1058 (5th Cir. 1976)). Courts "considering a habeas petition must 'determine the facts and dispose of the matter as law and justice require.'" (quoting 28 U.S.C. § 2243).*

-The Supreme Court has referred to the "Great Writ" as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in cases of illegal restraint or confinement" and "received into out own law in the colonial period." Fay v. Noia, 372 U.S. 391, 400, 83 S. Ct. 822, 9 L. Ed. 2D 837 (1963), overruled in part on other grounds, Wainwright v. Sykes, 433 U.S. 72, 97 S. Ct. 2497, 53 L. Ed. 2D 594 (1977), and abrogated in part on other grounds by -Coleman v. Thompson, 501 U.S. 722, 111 S. Ct. 2546, 115 L. Ed. 2D 640 (1991). The importance of this Great Writ was not lost on the Justices of the Civil Rights era who recognized that the writ's

-Function has been to provide a prompt and efficacious remedy for whatever society deems to be intolerable restraints. Its root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if

*-The imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release. Thus there is nothing novel in the fact that today habeas corpus in the federal [*7] courts provides a mode for the redress of denials of due process of law, vindication of due process is precisely its historic office. "Only in the rarest of circumstances has congress seen fit to suspend the writ." Hamdi v. Rumsfeld, 542 U.S. 507, 525, 124 S. Ct. 2633, 159 L. Ed. 2D 578 (2004). "absent suspension, the Writ of Habeas Corpus remains available to every individual detained within the United States." (citing U.S. const., Art. I, § 9. Cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the Public safety may require it")). Indeed, absent suspension, it is available to "challenge the legality of their detention" by "noncitizens detained by our Government in territory over which another country maintians de Jure Sovereignty," such as Guantanamo Bay. Boumediene v. Bush, 553 U.S. 723, 770, 128 S. Ct. 2229, 171 L. Ed. 2D 41 (2008). The Great Writ remains "a critical check on the Executive, ensuring that it does not detain individuals except in accordance with law." Hamdi, 542 U.S. at 525 (citing Imm. & Naturalization Serv. v. St. Cyr, 533 U.S. 289, 301, 121 S. Ct. 2271, 150 L. Ed. 2D 347 (2001), superseded by statute on other grounds as stated in Nasrallah v. Barr, 590 U.S. 573, 580, 140 S. Ct. 1683, 207 L. Ed 111 (2020)).*

-The fundamental protection of habeas corpus applies to immigration-related detention. See Zadvydas v. Davis, 533 U.S. 678, 687, 121 S. Ct. 2491, 150 L. Ed. 2D 653 (2001). The Supreme Court in Zadvydas noted: It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all "persons" within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.

VII. Second Cause Of Action

-Petitioner's Detention Violates the Administrative Procedures Act, 5 U.S.C. § 706(2).Petitioner's detention violates the and its regulations, and Asylum Application, he has established that he is eligible to adjust his status to that of a Legal Permanent Resident; meanwhile, the Respondents have utterly failed to provided him with any meaningful opportunity to present argument or evidence in favor of his release, nor did they make any individualized determination that he poses a flight risk or danger. Rather, Petitioner's prolonged detention appears to be impermissible based on general mandates within the agency rather than the individual judgment of ICE officers on the ground.

VIII. Third Cause Of Action

*-Over **20 day** prolonged detention without a re-determination of custody status before a neutral adjudicator in violation Petitioner's constitutional rights which clearly expressed in Zadvydas v. Davis, 533 U.S. 678, 687, 121 S. Ct. 2491, 150 L. Ed. 2D 653 (2001).Petitioner's Detention Violates the Administrative Procedures Act, 5 U.S.C. § 706(2).Petitioner's re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.*
Under the Administrative Procedures Act, "final agency action for which there is no other adequate remedy in a court is subject to judicial review." 5 U.S.C. § 704. The reviewing court "shall ... hold unlawful and set aside agency action, findings, and conclusions found to be (A)arbitrary, capricious, an abuse of discretion, or otherwise

not in accordance with law," or "unsupported by substantial evidence." 5 U.S.C. §§ 706(2)(A), (E). A court reviewing agency action "must assess ... whether the decision ***was based on a consideration of the relevant factors and whether there has been a*** *clear error of judgment"; it must "examine the reasons for agency decisions – or, as the case may be, the absence of such reasons." Judulang v. Holder, 565 U.S. 42, 53 (2011). Petitioner's detention under the facts alleged here is and continues to be arbitrary andII capricious under the APA.*

IX. Fourth Cause Of Action

-Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." Addington v. Texas, 441 U.S. 418, 4253 (1979).

-The Supreme Court has recognized that the Fourth Amendment is violated by prolonged detention solely for the purpose of investigating immigration status. See Arizona v. United States, 132 S. Ct. 2492, 2509 (2012) (stating that "Detaining individuals solely to verify their immigration status would raise constitutional concerns.")

-Under the Immigration and Nationality Act ("INA") § 287(a)(2) only allows immigration officials to make a warrantless arrest if they have "reason to believe" that the person is likely to escape before a warrant could be obtained. See De La Paz v. Coy, 786 F.3d 367, 376 (5th Cir. Tex. 2015) (stating that an "arrest shall be made by ICE -Agents only when the designated immigration officer has reason to believe that the person to be arrested has committed an offense against the United States or is an alien illegally in the United States.")
-The De La Paz Court further stated ... "even if an agent has reasonable belief, before making an arrest, there must also be 'a likelihood of the person escaping before a warrant can be obtained for his arrest'", citing to 8 U.S.C. § 1357(a)(2)(5).

Reasonable suspicion for an immigration stop cannot be based "on broad profiles which cast suspicion on entire categories of people without any individualized suspicion of the particular person to be stopped." United States v. Rodriguez Sanchez, 23 F.3d 1488.

1492 (9th Cir. 1994). Rather, reasonable suspicion must be "particularized and objective," United States v. Arvizu, 534 U.S. 266, 273 (2002).

-Except at the border and its functional equivalents, the Fourth Amendment to the U.S. Constitution prohibits Respondents from conducting a detention stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States.

-Likewise, the Fourth Amendment prohibits Respondents from making an arrest without probable cause to believe that a person is a non citizen unlawfully in the United States. ***Race or apparent ethnicity, standing alone, cannot form the basis for reasonable suspicion. United States v. centipedes-Ponce, 422 U.S. 873, 886-87 (1975).***

-Because probable cause is a more demanding standard than reasonable suspicion, race or apparent ethnicity, standing alone, is also necessarily insufficient to form the basis for probable cause.

-Thus, the Fourth Amendment prohibits the Respondents from targeting persons on the sole basis of their brown skin or because they look "Mexican." See Hernandez v. Texas, 347 U.S. 475, 476 (1954) (identifying Mexicans as a suspect class and reversing criminal conviction of defendant of Mexican descent). Such racially motivated detentions and deportations are unconstitutional.

-There is nothing ... "vaguely suspicious about the presence of persons who appear to beof Latin origin in New Mexico where over on-third of the population is Hispanic." United States v. Corona-Sanchez, 648 F.2d 1039, 1042 (5th Cir. 1981); United States v. Rubio-Hernandez, 39 F. Supp. 2D 808, 836 (W.D. Tex. 1999) (stating that "given the percentage of Hispanic people that make up the population of West Texas." Latin American origin alone was not enough to demonstrate an individual was undocumented or concealing unauthorized immigrants); United States v. Zertuche

-Tobias, 952 F. Supp. 803, 821, n. 54 (S.D. Tex. 1996) (declining to rely on Latino ethnicity in a stop).s

-Respondents had no basis to detain Petitioner and inquire about his immigration status other than his race and apparent ethnicity. Likewise, Respondents had no basis to arrest Petitioner other than his race and ethnicity. No other salient factors existed to suggest that Petitioner might not be a citizen of the United States. Because Respondents only detained Petitioner because of his race, Respondents did not have reasonable suspicion, and the detention violated the Fourth Amendment.

-ICE is bound not only by statute and due process, but also by its national policy adopted pursuant to settlement agreement in Castañon Nava et al. v. Dep't of Homeland Sec., No. 18-cv-3757 (N.D. III.). Under this policy, ICE must consider a delineated list of factors before making an arrest, including (a) the officer's ability to determine the individual's identity; (b) knowledge of the individual's prior escapes or evasions of immigration authorities; (c) the individual's attempts to flee to avoid being discovered by immigration; and (d) the individual's ties to the community, such as a family, home, or employment. Settlement Agreement, Castañon Nava et al. v. Dep't of Homeland Sec., No. 18-cv-3757 (N.D. III.), available at: https://immigrantjustice.org/sites/default/files/content-type/page/documents/2025-01/Nava_Settlement_ICE_Warrantless_Arrest-Vehicle_Stop_Policy_2021.PDF (Assessed on 04/27/2026).[5]

-Thus, Petitioner's detention violates the Due Process Clause of the U.S. Constitution as applied to his specific facts.

At the time that Petitioner was seized at Kermit, the ICE agents failed to conduct an individualized assessment of whether Petitioner was a danger to the community.

[5] *See also, United States v. Chavez-Villareal, 3 F.3d 124, 127 (5th Cir. 1993) ("We accord no weight to Chavez-Villareal's failure to look at the patrol cars and very little his Hispanic appearance; his license plates indicate that he was from a state with a substantial Hispanic population ... the stop herein violated the Fourth Amendment.").*

Motion Against Transfer

Detainee: ***Franme Eleazar Roa Jimenez***
A-Number. [redacted]
Current Detention Center: ***8915 Montana ave El paso TX 89925.***
To Whom it may Concern:
I hereby submit a formal request to remain at my current detention center and to avoid any transfer to another facility.

Background

I am currently detained in the custody of Immigration and Customs Enforcement (ICE) while my immigration proceedings are active.

Grounds for the request

My transfer to another jurisdiction or detention center could substantially affect my access to case documentation and my ability to communicate with my family members and potential legal resources. Any relocation could cause unnecessary delays in my immigration proceedings and hinder the proper exercise of my due process rights.

Petition

Based on the foregoing, I respectfully request:
To remain at my current detention center.
To avoid any transfer to another detention center.
That the negative impact impact a transfer would have on the continuity of my immigration proceedings be taken into consideration.

C

- *IDENTIFICATION*
- *REPORT TAXES*
- *REFERENCE LETTERS*
- *COURTS ABD DECISIONS OF THE JUDGE*
- *EVIDENCES.*

FIFTH CAUSE

***PRAYER FOR Relief**: For the above foregoing reasons, Petitioner respectfully request that this Court take the following:*

1. Assume jurisdiction

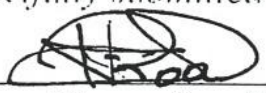
2. Enjoining Respondents from transferring the Petitioner out of the jurisdiction of the ICE [Field Office in El Paso] during the tendency of these proceedings and while the Petitioner remains in Respondent's custody; and

3. Issue a Writ of Habeas Corpus ordering Petitioner's release from immigration detention pending final resolution of this Habeas proceeding so that he may be reunited with his spouse;

4. In the alternative, issue a Writ of Habeas Corpus and order Petitioner's release within 3 business days unless Respondents schedule a hearing before a neutral immigration judge to provide Petitioner a constitutionally adequate process to challenge his detention;

5. Issue a declaration that Petitioner's ongoing detention violates the Due Process Clause, and the APA.

6. Grant further relief as the Court deems just and proper.
I declare under penalty of perjury that the forgoing is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.
Respectfully submitted on 8-7 *. 2026.*

/s  .

Franme Eleazar Roa Jimenez.
El Paso Service Processing Center
8915 Montana Ave.,
El Paso, TX 79925

CERTIFICATE OF SERVICE

I, ***Franme Eleazar Roa Jimenez*** *, certify that on the date: 8-7 , 2026 that I filed the foregoing pleading with the Clerk of the Court by traditional method and I served the following parties by U.S. priority mail with tracking:*

U.S*, Acting ICE Office Director, El Paso11541 Montana Ave., Suite El Paso, TX 79925*

WARDEN OF ERO EL PASO CAMP EAST MONTANA:

TODD M. LYONS, *ERO El Paso Camp East Montana*
6920 Digital Road El Paso, TX 79936

Mark Wayne Mullin*, Secretary of the Department of Homeland Security2707 Martin Luther King Jr. Ave SE, Washington, D.C. 20528-0525****Todd Blanche****, Acting Attorney General of the United StatesUnited States Department of Justice950 Pennsylvania Avenue NW Washington, D.C. 20530I further certify that on Date: 8-7 , 2026 I served the United States District Court/ Western District Court of Texas/ EL PASO DIVISION/ Office of the Clerk 525 Magoffin Ave., El Paso, TX 79901 by delivering a copy of the foregoing pleading In person.*

/S/ _____.
Franme Eleanar Roa Jimenez

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

R [redacted]

In removal proceedings under section 240 of the Immigration and Nationality Act: Event No: [redacted]

Subject ID : [redacted] FIN #: [redacted]

SIGMA Event: [redacted] DOB: [redacted]1975

File No: [redacted]

In the Matter of: ROA JIMENEZ, FRANME ELEAZAR

Respondent: ROA JIMENEZ, Franme Eleazar currently residing at:

[redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

[x] You are an arriving alien.

[ ] You are an alien present in the United States who has not been admitted or paroled.

[ ] You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States.
2. You are a native of VENEZUELA and a citizen of VENEZUELA.
3. You applied for admission on 01/14/2024 at SAN YSIDRO, CA, USA.
4. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

[ ] This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

[ ] Section 235(b)(1) order was vacated pursuant to: [ ] 8CFR 208.30 [ ] 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

5701 EXECUTIVE CENTER DR #400,
CHARLOTTE, NC, US 28212

(Complete Address of Immigration Court, including Room Number, if any)

on July 5, 2024 *(Date)* at 08:30 AM *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

ESCARCEGA, CAR30881

CBP OFFICER

(Signature and Title of Issuing Officer)

Digitally Acquired Signature

Date: January 14, 2024 San Ysidro, CALIFORNIA

(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form 1-589, Application for Asylum and for Withholding of Removal. The Form 1-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/I-589. Failure to file the Form 1-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____

_____
(Signature of Respondent)

Date: _____

_____
(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on January 14, 2024, in the following manner and in compliance with section 239(a)(1) of the Act.

- [x] in person [ ] by certified mail, returned receipt # _____ requested [ ] by regular mail
- [ ] Attached is a credible fear worksheet.
- [x] Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

ESCARCEGA, CAR30881
CBP OFFICER

_____
(Signature of Respondent if Personally Served)

(Signature and Title of officer) *Digitally Acquired Signature*

U.S. Department of Homeland Security

Continuation Page for Form I862

Alien's Name	File Number [redacted]	Date
ROA JIMENEZ, FRANME ELEAZAR	SIGMA Event: [redacted]	January 14, 2024
	Event No: [redacted]	

ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Signature	Title
ESCARCEGA, CAR30881	CBP OFFICER

Digitally Acquired Signature

To whom it may concern,

I, Felix Buenrrostro born on [redacted] reside at [redacted] and declare under penalty of perjury.

I have known Franme E Roa Jimenez for the past 2 years. Over time I have come to know him very personally and can say with certainty that he is an honest, friendly, and god-fearing man. I see him at church every Sunday and I have tremendously enjoyed his company as well as his contributions within the community. He is always willing to lend me a hand and is a very hard-working individual. Our country would be blessed to have a man with his work ethic, character, and morals.

If I can ever be of assistance, please feel free to send mail to my address or call me at: [redacted]

Sincerely,

Felix Buenrrostro