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WESTERN DISTRICT OF TEXAS
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JUDGE KATHLEEN CARDONE

Petition for a Writ Of Habeas Corpus Under 28 U.S.C. § 2241 (pro-se)

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT

OF TEXAS DIVISION

EL PASO

EP 26 CV 2171

Elmer Omar Chaj Pastor
COUNTRY: GUATEMALA.
A#: [redacted]
UNIT#4

PETITIONER:

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

WARDEN OF DE ERO, EL PASO PROCESSION

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;*

ANDANTE 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. § 2241

A

INTRODUCTION

INTRODUCTION.

The Petitioner, ***Elmer Omar Chaj Pastor, Born in Guatemala.*** *Had to come to the* ***United States more than 10 years*** *ago, Since he lived in extreme poverty in his country which was the reason he decided to migrate to the United States, it was not an easy crossing through the* ***Mexican*** *boarder due to all the human trafficking that happens down there.*

To be able to arrive in the ***United States*** *the Petitioner had to cross the whole country of* ***Mexico****, Petitioner had to pay a lot of money to the people that were leading him on the crossing. The Petitioner made it safe to the boarder of Mexico and U.S.A. In the year of* ***2015*** *the Petitioner finally made into the country through the boarder of,* ***New Laredo TX****, from there he moved to* ***Florida*** *where he resided ever since.*

I'm a hard working man, all my life I have dedicated to work in the construction trades, So that way I'd be able to support my family. I have 2 ***United States citizen children*** *which both are minors.*

The girls depend on me a lot since I'm the one that is in charge of paying for all the expenses that are necessary for them to live, I'm also married to an American citizen which is the mother of both of my daughters.

In ***March 27, 2026.*** *We were all on the beach together, we were heading back home but happened to be stopped by an immigration vehicle, The officer asked if I was a resident or had proof of citizenship, I told him I did not have either. He arrested me and took me to a processing center where I stayed for 3 days, I was taken to another processing center where I suffered a lot of depression and anxiety for a whole month, from that detention center I was taken to the current processing center I reside now at* ***8915 Montana ave, El Paso Texas****, I have been at this detention for more than a month now.*

Through all of these detention centers I have been, I suffered a lot of depression and anxiety, the officers in charge of the detainees are not trained properly for this kinda of work, Just because of the fact that we're immigrants, they treat us like real criminals, There's no good hygiene in these centers, The food a lot of the times is spoiled, If we try to speak up about certain things that are not right we are punished and put on solitary confinement most times.

So I come here through this petition to plead with all due respect to this great District Court, To carefully review my case, and to allow me an opportunity to fight my case from my home, so I can be together with my daughters they truly need me, I'm not a flight risk because I have never missed an immigration court, I'm not a danger to the community since I have never had a criminal record before.

Thank you very much for your time reviewing my petition, ***May God bless you.***

God Bless America

B

JURISDICTION

JURISDICTION

-This case arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101, et seq., and the Administrative Procedures Act ("APA"), 5 U.S.C. § 701, et seq.

-This Court has subject matter jurisdiction over this petition and may grant relied pursuant to 28 U.S.C. §§ 2241, 28 U.S.C. § 1331; Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause); the All-Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C § 701; and for injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201.

-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 5.bond hearing before a neutral arbiter. See also, Lopez-Arevelo 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

- 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. III. 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."*

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 Court for the Western District Court of Texas, the judicial district in which Petitioner resides.

V. LEGAL FRAMEWORK

*-Habeas petitioners must show they are "in custody in violaton 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.

VI First Cause of Action

-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

-Petitioner's Detention Violates the Administrative Procedures Act, 5 U.S.C. § 706(2).Petitioner's detention violates the INA and its regulations, pending his 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.

VII. Second Cause Of Action

-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).

VIII. Third Cause Of Action

-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.")

- 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. As such, Petitioner's mandatory detention is unreasonable. Maldonado held that an individualized bond hearing was the appropriate remedy in such a case to provide a safeguard against indefinite detention. Id. at 812. Respondents have exceeded their authority to detain Petitioner, and an individualized bond hearing before a neutral adjudicator is justified on the facts of this case.

-{196 L. Ed. 2d 490}{137 S. Ct. 472} The parties are directed to file supplemental briefs addressing {196 L. Ed. 2d 491} the following questions: 1) Whether the Constitution requires that aliens seeking admission to the United States who are subject to mandatory detention under 8 U.S.C. § 1225(b) must be afforded bond hearings, with the possibility of release into the United States, if detention lasts six months. 2) Whether the Constitution requires that criminal or terrorist aliens who are subject to mandatory detention under Section 1226(c) must be afforded bond hearings, with the possibility of release, if detention lasts six months. 3) Whether the Constitution requires that, in bond hearings for aliens detained for six months under Sections 1225(b), 1226(c), or 1226(a), the alien is entitled to release unless the government demonstrates by clear and convincing evidence that the alien is a flight risk or a danger to the community, whether the length of the alien's detention must be weighed in favor of release, and whether new bond hearings must be afforded automatically every six months. The briefs are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Tuesday, January 17, 2017. Amicus{2016 U.S. LEXIS 2} briefs may be filed with the Clerk and served upon counsel on or before 2 p.m., Friday, January 27, 2017. Reply briefs are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Monday, February 6, 2017. The word limits and cover colors for the briefs should correspond to the provisions of Rule 33.1(g) pertaining to briefs on the merits rather than to the provision pertaining to supplemental briefs.

-{155 L. Ed. 2d 729} Under the Immigration and Nationality Act, 8 U.S.C. § 1226(c) [8 USCS § 1226(c)], "the Attorney General shall take into custody any alien who" is removable from this country because he has been convicted of one of a specified set of crimes, including an "aggravated felony." After respondent, a lawful permanent resident alien, was convicted in state court of first-degree burglary and, later, of "petty theft with priors," the Immigration and Naturalization Service (INS) charged him with being deportable from the United States in light of these convictions, and detained him pending his removal hearing. Without disputing the validity of his convictions or the INS' conclusion that he is deportable{2003 U.S. LEXIS 2} and therefore subject to mandatory detention under § 1226(c), respondent filed a habeas corpus action challenging § 1226(c) on the ground that his detention thereunder violated due process because the INS had made no determination that he posed either a danger to society or a flight risk. The District Court agreed and granted respondent's petition subject to the INS' prompt undertaking of an individualized bond hearing, after which respondent was released on bond. In affirming, the Ninth Circuit held that § 1226(c) violates substantive due process as applied to respondent because he is a lawful permanent resident, the most favored category of

aliens. The court rejected the Government's two principal justifications for mandatory detention under § 1226(c), discounting the first--ensuring the presence of criminal aliens at their removal proceedings--upon finding that not all aliens detained pursuant to § 1226(c) would ultimately be deported, and discounting the second--protecting the public from dangerous criminal aliens--on the grounds that the aggravated felony classification triggering respondent's detention included crimes (such as respondent's) that the court did not{2003 U.S. LEXIS 3} consider "egregious" or otherwise sufficiently dangerous to the public to {155 L. Ed. 2d 730} necessitate mandatory detention. Relying on Zadvydas v. Davis, 533 U.S. 678, 150 L. Ed. 2d 653, 121 S. Ct. 2491, the court concluded that the INS had not provided a justification for no-bail civil detention sufficient to overcome a permanent resident alien's liberty interest.

- Section 1226(e) --which states that "the Attorney General's discretionary judgment regarding the application of this section shall not be subject to review" and that "[n]o court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien"--does not deprive the federal courts of jurisdiction to grant habeas relief to aliens challenging their detention under § 1226(c). Respondent does not challenge a "discretionary judgment" by the Attorney General or a "decision" that the Attorney General has made regarding his detention or release. Rather, respondent challenges the statutory framework that permits his detention without bail. Where Congress intends to preclude judicial review of constitutional claims its intent to do so must be clear. E.g., Webster v. Doe, 486 U.S. 592, 603, 100 L. Ed. 2d 632, 108 S. Ct. 2047.{2003 U.S. LEXIS 4} And, where a provision precluding review is claimed to bar habeas review, the Court requires a particularly clear statement that such is Congress' intent. See INS v. St. Cyr, 533 U.S. 289, 308-309, 298, 327, 150 L. Ed. 2d 347, 121 S. Ct. 2271. Section 1226(e) contains no explicit provision barring habeas review.

-The District Court agreed with respondent that § 1226(c)'s requirement of mandatory detention for certain criminal aliens was unconstitutional. Kim v Schiltgen{2003 U.S. LEXIS 10} , No. C 99-2257 SI {538 U.S. 515} (Aug. 11, 1999), App. to Pet. for Cert. 31a-51a. The District Court therefore granted respondent's petition subject to the INS' prompt undertaking of an individualized bond hearing to determine whether respondent posed either a flight risk or a danger to the community. Id., at 50a.

GROUND TWO:

I invoke the Accardi doctrine:

-(a) Supporting facts

an agency has to follow its own rules and regulations. see united states ex rel. Accardi vs Shaughnassy,347 U.S 260(1954).ICE skipped its own procedural steps required by its own rule book before revoking my liberty. see Robbie vs Bondi, 803f.supp 3d 766,767,774(D.MINN.2025) agency deviation from its own regulations may justify relief in a case otherwise properly before the court. jean vs Nelson 727f2D,957,976(11CIRC.1984)

-Under the Accardi doctrine, "an administrative agency is required to adhere to its own internal operating procedures." Church of Scientology of Cal. v. United States, 920 F.2d 1481, 1487 (9th Cir. 1990) (citing United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 268, 74 S. Ct. 499, 98 L. Ed. 681 (1954)). In accordance with this principle, agencies must follow a regulation if they promulgate one

*-To establish an APA claim under the Accardi doctrine, Martinez must show both that (1) the Government violated its own regulations, and (2) Martinez suffer substantial prejudice as a result of that violation. See Al Otro Lado, Inc. v. Mayorkas, 2024 U.S. Dist. LEXIS 179081, 2024 WL 4370577, at *8-9 (S.D. Cal. Sept. 30, 2024).*

GROUND THREE:

this court has jurisdiction under section 28 u.s.c § 2241 the suspension clause U.S const.art I§9,CL.

(a) Supporting facts (Be brief. Do not cite cases or law.
The district court agreed with respondent that §1226(c)'s requirement of mandatory detention for certain criminal alien was unconstitutional. Kim V Schiltgen {2003u.s.515} (Aug.11.1999),app. to pet. for cert.31a-51a.the district court therefore granted respondents petition subject to the INS' prompt undertaking of an individualized bond hearing to determine whether respondent posed either risk or a danger to the community. id.,at50a.

GROUND FOUR:

-the government has striped me of my liberty without affording me adequate notice or opportunity to be heard. government violate and continues to violate the"great and blessed U. S. Const. fifth amendment".

(a) Supporting facts (Be brief. Do not cite cases or law.
The fifth amendment prohibits deprivation of an individual's liberty without due process of law. U.S constitution see Harper 520 us 143,147-4801997.see romeo vs ladwig non citizen's have an overwhelming liberty interest that cannot be taken away without due process.

Motion Against Transfer

Detainee: ***Elmer Omar Chaj Pastor***
A-Number:
Current Detention Center: ***8915 MONTANA AVE EL PASO TX.***
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.

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).

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

1- Assume jurisdiction

2 -Motion To Expedite Review Of Writ of ***Habeas Corpus***

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

4- Issue a ***Writ of Habeas Corpus*** *ordering Petitioner's release from immigration detention pending final resolution of this Habeas proceeding;*

5 -In the alternative, issue a Writ of ***Habeas Corpus*** *and order Petitioner's release within 2 business days unless Respondents schedule a hearing before a neutral immigration judge to provide.* ***Elmer Omar Chaj Pastor*** *a constitutionally adequate process to challenge his detention;*

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

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

Respectfully submitted on 8-17 ***, 2026.***

/s Elmer Chaj pastor
Elmer Omar Chaj Pastor
El Paso Service Processing Center
8915 Montana Ave.,
El Paso, TX 79925

CERTIFICATE OF SERVICE

*-I, **Elmer Omar Chaj Pastor,** certify that on the date: 8-17, 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:*

***Mary De-Anda-Ybarra**, Acting ICE Office Director, El Paso11541 Montana Ave., Suite El Paso, TX 79925*

WARDEN OF ERO EL PASO CAMP EAST MONTANA.

***David J. Venturella**, 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 States United States Department of Justice950 Pennsylvania Avenue NW Washington, D.C. 20530I further certify that on Date: 8-17, 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 Elmer Chaj pastor

Elmer Omar Chaj Pastor

C

.IDENTIFICATION

.COURTS ABD DECISIONS OF JUDGE.

.EVIDENCE





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Edvin Augusto Barrios De Leon

[redacted]

FIDI: [redacted]

To Whom It May Concern:

My name is Edvin Augusto Barrios De León, and I am honored to write this letter in support of Mr. Elmer Omar Chaj Pastor.

I have known Elmer for seven years, and during that time I have come to know him as a hardworking, honest, responsible, and respectful man. He is someone who always strives to do the right thing and is committed to providing a better future for his family.

Elmer came to the United States in 2015 with the goal of working hard to create a better life for himself and his loved ones. Like many others, he left Guatemala seeking opportunities that would allow him to support his family financially and provide assistance to his parents. He has always maintained a strong work ethic and has dedicated himself to earning an honest living.

Elmer is also the proud father of two daughters, whom he loves deeply. He works diligently to provide for them and to ensure they have the opportunities and stability that every child deserves. Family is one of his greatest priorities, and he has consistently demonstrated his commitment as a caring and responsible father.

Throughout the time I have known him, Elmer has shown integrity, kindness, and compassion toward others. He is dependable, respectful, and always willing to help those around him. His good moral character and positive attitude have earned the respect of everyone who knows him.

Without hesitation, I highly recommend Elmer Omar Chaj Pastor as a man of excellent moral character. I respectfully ask that you take this letter into consideration as you review his case. I sincerely believe he is a valuable member of the community and deserves the opportunity to remain with his family and continue contributing through his hard work.

Thank you for your time and consideration.

Sincerely,

Edvin Augusto Barrios De León

DENISE MENDEZ
Notary Public - State of Florida
Commission # HH 676950
My Comm. Expires May 15, 2029
Bonded through National Notary Assn.

7/31/26

To the Honorable Immigration Judge:

My name is Jessenia Ramirez. I reside at [redacted] West Palm Beach, FL. [redacted] and I am a U.S. Citizen. I am writing this letter in support of Elmer Omar Chaj Pastor and respectfully ask the Court to consider my testimony regarding his character and the impact his detention has had on his family.

I have known Elmer for several years through my cousin, who is the mother of his two daughters. During the time I have known him, I have always seen him as a hardworking, respectful, and dedicated man. To my knowledge, he has lived in the United States since 2015 and has worked hard to provide for his family.

One of the qualities that stands out the most is the love and commitment he has for his daughters. He is a present and involved father who genuinely cares about his children and wants to provide them with a safe and stable life. I have seen the bond he shares with them, and it is clear that they depend on him for both emotional support and financial stability.

His absence has placed a significant burden on my cousin and their daughters. If he were granted the opportunity to be released on bond while his immigration case proceeds, it would greatly help his family. His return home would provide much-needed financial support as he is the primary provider, and it would also bring emotional comfort and stability to his children during this difficult time.

Based on what I have personally observed, I believe he is a good man who loves his family, works hard, and deserves the opportunity to continue supporting his daughters while his case is pending.

Thank you for your time and consideration of my testimony.

Respectfully,

Jessenia Ramirez

[redacted]

[redacted]

Signature: _____

Date: 08/05/2026

Notary Acknowledgment

STATE OF Florida

COUNTY OF Palm Beach

On this 12 **day of** August **, 2026, before me, the undersigned Notary Public, personally appeared Jessenia Ramirez, who proved to me through satisfactory evidence to be the person whose name is subscribed to this document and acknowledged that she executed the same voluntarily for the purposes stated herein.**

In witness whereof, I have hereunto set my hand and official seal.

Notary Public Signature: _____

Printed Name of Notary: Ana Flor Ruiz

Notary Public, State of Florida

My Commission Expires: 02/02/2027

NOTARY PUBLIC
Expires
02/22/2027
Ana Flor Ruiz
My Commission
HH 365817
STATE OF FLORIDA

Nancy Karina Velasquez

[redacted]

Your Honor,

My name is **Nancy Karina Velásquez**, and I am writing this letter in support of **Mr. Elmer Omar Chaj Pastor.**

I have had the privilege of knowing Elmer for more than **nine years**, and during that time we have developed a close friendship. Throughout the years, I have witnessed firsthand the kind of person he is and the values that guide his life.

Elmer is an honest, hardworking, respectful, and compassionate man. He has always been dedicated to working hard to provide a better future for himself and his family. Since coming to the United States in **2015**, he has consistently demonstrated a strong work ethic and a sincere desire to build a stable life through honest employment.

One of the qualities I admire most about Elmer is his devotion to his family. He is the loving father of **two daughters**, and everything he does is motivated by his desire to provide them with security, love, and opportunities for a brighter future. He also continues to care deeply about his parents in Guatemala and has worked hard to support them whenever possible.

As his friend, I have always known Elmer to be dependable, trustworthy, and willing to help others without expecting anything in return. He treats everyone with kindness and respect and is someone who positively impacts the people around him.

I strongly believe that Elmer is a person of excellent moral character and an important part of his family and community. I respectfully ask that you consider this letter as you review his case. He deserves the opportunity to remain with his loved ones and continue contributing positively through his hard work and dedication.

Thank you for your time and consideration.

Sincerely,

Nancy Karina Velásquez

DENISE MENDEZ
Notary Public - State of Florida
Commission # HH 676950
My Comm. Expires May 15, 2029
Bonded through National Notary Assn.

7/31/26

Letter of Recommendation

Date: 07/14/2026

My name is **Javier Granjales**, a citizen of the United States, holder of passport No. [redacted]

I would like to recommend **Mr. Elmer Omar Chaj Pastor**, who is currently detained at the Paso Processing center, Texas.

I hereby testify that he is a good member of the community, a hardworking individual, a good father, a responsible head of household, a devoted family man with strong moral values and principles.

Over the years, he has demonstrated consistency and great work ethics and he is a person that adds a lot of value to the community.

I'm here to help in anything he might need. If you have any questions you can contact me directly.

Respectfully,

Javier Granjales: _____

DENISE MENDEZ
Notary Public - State of Florida
Commission # HH 676950
My Comm. Expires May 15, 2029
Bonded through National Notary Assn.

7/31/26

Phone: [redacted]

Cruz Florencio Puac Vasquez

[redacted]

7/21/2026

To the Honorable United States District Court:

I,Cruz Florencio Puac Vasquez, respectfully submit this letter in support of Elmer Omar Chaj Pastor and his request for release while his federal habeas corpus petition is pending.

I am willing to serve as his sponsor and take responsibility for assisting him if he is released from immigration detention. He will live with me at my residence located at the address listed above. I will provide him with housing, food, transportation, and any other basic necessities to ensure that he has a stable and supportive environment.

I understand the importance of complying with all court orders and immigration requirements. I am committed to helping him attend all court hearings, ICE appointments, and any other required meetings. I will encourage and assist him in fully complying with every condition of his release.

I have known Elmer Omar Chaj Pastor for 4 years and know him to be a respectful, honest, and hardworking individual. I believe he will comply with all legal obligations if released.

I respectfully ask the Court to consider this letter in support of his request for release while his habeas corpus case is being reviewed.

Thank you for your time and consideration.

Respectfully,

Cruz Florencio Puac Vasquez

NOTARY PUBLIC STATE OF FLORIDA
DENISE MENDEZ
Notary Public - State of Florida
Commission # HH 676950
My Comm. Expires May 15, 2029
Bonded through National Notary Assn.

7/31/26

Issued on June 2 ,2026 by the Civil Registrar of the persons, which is authentic because it is a faithful copy of its original.

----------LAST LINE----------

Give Faith
Licda. Belveth Elvira, Rodriguez Diaz
Civil Registrar of Persons

RENAP
Cuilco
Huehuetenango

CERTIFICATION OF TRANSLATION

I, LESLIE GUZMAN, am competent from Spanish into English, and certify that the translation of Birth Certificate from Guatemala is true and accurate to the best of my abilities.

Signature

Leslie Guzman
Printed Name

2633 Westgate Ave , West Palm Beach, FL 33409
Address

561-331-8772
Telephone Number

NOTARY PUBLIC STATE OF FLORIDA

MICKEY FERNANDEZ
Commission # HH 655112
Expires June 21, 2029

Mickey Fernandez
Notary Public

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Elmer Omar Chaj Pastor.

GOD BLESS AMERICA.