Oscar Armando Escobar-Alvarez
Country of Birth: El Salvador
A-Number: [redacted]
ERO El Paso Camp East Montana
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Pro Se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Oscar Armando Escobar-Alvarez
A-Number: [redacted]
Proceeding Pro Se,
Petitioner,

v.

_____, WARDEN/FACILITY ADMINISTRATOR,
ERO El Paso Camp East Montana;

_____, FIELD OFFICE DIRECTOR,
U.S. Immigration and Customs Enforcement, El Paso Field Office,
Respondents.

Civil Action No.:
EP-26-CV-02204

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 (IMMEDIATE RELEASE REQUESTED)

NATURE OF THE CASE

1. This is a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 seeking one principal remedy: Petitioner Oscar Armando Escobar-Alvarez's immediate release from unlawful civil immigration detention and restoration of the noncustodial status he enjoyed before his August 12, 2026 redetention.

2. This Petition does not ask the Court to decide Petitioner's removability, eligibility for immigration relief, or the merits of his removal case. It challenges only the legality of Respondents' present physical custody and the procedure by which Respondents abruptly revoked a liberty that the federal government had allowed Petitioner to exercise for nearly fourteen years.

3. Petitioner entered the United States in 2012 at age fifteen as an unaccompanied alien child. The Government apprehended and processed him, issued a Form I-200 expressly invoking section 236 of the Immigration and Nationality Act, transferred him to the Office of Refugee Resettlement (ORR), and then formally released him to a vetted adult sponsor under written conditions of release.

4. From November 2012 until August 12, 2026—approximately thirteen years and eight months—Petitioner lived in the community. His immigration case was administratively closed in 2014 upon the joint request of the parties. As of August 18, 2026, EOIR reported that the case remains pending, no future hearing is scheduled, and no appeal has been received by the BIA. Petitioner therefore has no final order of removal.

5. On August 12, 2026, Respondents redetained Petitioner in Baltimore, Maryland, while he was driving to work. According to the information presently available to Petitioner, Respondents gave him no advance notice, no meaningful opportunity to respond before taking away his liberty, no pre-deprivation individualized assessment of flight risk or dangerousness, no formal explanation revoking his prior release, and no identification of a materially changed circumstance arising during his many years at liberty.

6. The Court need not resolve a statutory dispute under 8 U.S.C. § 1225 or § 1226 to grant relief. Buenrostro-Mendez v. Bondi, 166 F.4th 494 (5th Cir. 2026), resolved a statutory interpretation question concerning § 1225(b)(2), but it did not decide the procedural due process question presented here. Texas federal courts applying Buenrostro-Mendez have continued to grant habeas relief on Fifth Amendment grounds and have ordered immediate release where a noncitizen was released into the interior, established ties, and was later detained without constitutionally adequate individualized process.

7. Those Texas decisions are especially persuasive here. Petitioner was not free for months or a few years; he was formally released as a child and remained at liberty for nearly fourteen years. The unconstitutional deprivation occurred when Respondents took that long-standing liberty without adequate pre-deprivation process. A later bond hearing does not erase that completed violation. The appropriate habeas remedy is immediate release, with any constitutionally adequate custody process occurring before or contemporaneously with any future lawful redetention.

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. § 2241(a) and (c)(3) because Petitioner is in federal custody within this District and alleges that his custody violates the Constitution and laws of the United States. Habeas corpus is the traditional vehicle for challenging unlawful physical detention and seeking release.

9. The INA's jurisdiction-channeling provisions do not eliminate habeas jurisdiction over this challenge to physical custody. See INS v. St. Cyr, 533 U.S. 289, 301 (2001); Demore v. Kim, 538 U.S. 510, 517 (2003). Petitioner does not seek judicial review of a removal order or a discretionary immigration determination; he seeks release from allegedly unconstitutional executive detention.

10. Venue is proper in the Western District of Texas, El Paso Division, because Petitioner is physically confined at ERO El Paso Camp East Montana in El Paso County, Texas. See 28 U.S.C. § 124(d)(3).

PARTIES

11. Petitioner OSCAR ARMANDO ESCOBAR-ALVAREZ is a native and citizen of El Salvador. He is presently detained at ERO El Paso Camp East Montana, 6920 Digital Road, El Paso, Texas 79936.

12. Respondent WARDEN/FACILITY ADMINISTRATOR of ERO El Paso Camp East Montana is the official with immediate physical custody of Petitioner.

13. Respondent FIELD OFFICE DIRECTOR, ICE Enforcement and Removal Operations, El Paso Field Office, is the ICE official responsible for detention operations in the region where Petitioner is confined.

STATEMENT OF FACTS

14. Petitioner was born in Lislique, Departamento de La Unión, El Salvador, [redacted] 1996.

15. On September 24, 2012, Petitioner, then fifteen years old, entered the United States at or near Laredo, Texas, as an unaccompanied alien child.

16. On October 2, 2012, the Government served Petitioner with a Warrant for Arrest of Alien (Form I-200) in Cotulla, Texas. The I-200 stated that Petitioner was liable to be taken into custody 'as authorized by section 236 of the Immigration and Nationality Act.' The contemporaneous Form I-213 identified Petitioner as a fifteen-year-old Salvadoran national and listed 'Criminal Record: None Known.'

17. Petitioner was transferred to ORR, Division of Unaccompanied Children's Services. ORR processed a family-reunification placement and approved Petitioner's release to his uncle and sponsor, Bonifacio Benitez, in Sanford, North Carolina, on November 20, 2012.

18. On November 28, 2012, Petitioner signed ORR's Verification of Release Form. The written conditions required him, among other things, to appear for future DHS/ICE and EOIR proceedings, report to DHS/ICE if ordered, and notify immigration authorities of address changes. He also filed an EOIR-33 change of address to his sponsor's home.

19. Petitioner's removal case proceeded before the Charlotte Immigration Court. Hearing notices were issued in 2013, including a notice scheduling a master calendar hearing for January 7, 2014.

20. On January 7, 2014, Immigration Judge Theresa Holmes-Simmons ordered Petitioner's removal proceedings administratively closed 'upon joint request by both parties.' The order stated that the case remained under the Immigration Court's jurisdiction and docket control and could be recalendared by motion. No appeal was filed.

21. Administrative closure did not create a final removal order. See Matter of Gutierrez, 21 I. & N. Dec. 479 (BIA 1996); Matter of Avetisyan, 25 I. & N. Dec. 688 (BIA 2012).

22. After ORR released him, Petitioner remained at liberty from November 2012 through August 12, 2026—approximately thirteen years and eight months. During that period, he established residence and ordinary life in the United States. Records provided for this Petition include a Maryland driver's license and vehicle registration reflecting his residence in Crownsville, Maryland.

23. Petitioner worked in home remodeling. According to the information supplied by his family, his mother depends on him financially.

24. The record presently available to Petitioner contains no evidence of a criminal conviction. The 2012 I-213 states 'Criminal Record: None Known,' and Petitioner's family reports that he has no criminal record. If Respondents contend otherwise, Petitioner requests production of the record on which they rely.

25. On August 12, 2026, Petitioner was driving to work in Baltimore, Maryland, when two vehicles intercepted him and he was taken into immigration custody.

26. According to the information available to Petitioner, he was not given advance notice that his long-standing release would be revoked, a pre-deprivation hearing, a meaningful opportunity to contest danger or flight risk before his arrest, or a written explanation identifying a material violation or changed circumstance that justified renewed incarceration.

27. Petitioner was then transferred far from his Maryland home and family to Texas. On August 18, 2026, the ICE detainee locator confirmed that he was confined at ERO El Paso Camp East Montana in El Paso, Texas.

28. On August 18, 2026, EOIR's Automated Case Information system confirmed that Petitioner's immigration case remains pending, that no future hearings are scheduled, and that no BIA appeal has been received.

29. Petitioner has not previously filed a habeas petition concerning this detention and, according to the information presently available, has not received an individualized bond or custody hearing addressing the August 12, 2026 redetention.

30. Each day of detention separates Petitioner from the home, work, family support obligations, and community life he maintained for nearly fourteen years, while the Government has not identified to him any new individualized reason requiring incarceration.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

31. No statute makes administrative exhaustion jurisdictional for this § 2241 constitutional custody claim. Any prudential exhaustion requirement should be excused because the available administrative process cannot timely remedy the completed pre-deprivation due process violation for which Petitioner seeks release.

32. If Respondents rely on § 1225(b)(2) and Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), to characterize Petitioner's custody as mandatory, an Immigration Judge would not provide the statutory bond remedy that Respondents say is unavailable. Requiring Petitioner to pursue a process that cannot furnish the relief he seeks would be futile.

33. More importantly, this Petition presents an as-applied constitutional challenge to the procedure used to revoke Petitioner's established liberty. Texas federal courts have entertained materially similar habeas due process claims notwithstanding the Government's

§ 1225 position. Immediate federal review is warranted because the injury is ongoing physical confinement.

CLAIM FOR RELIEF

FIFTH AMENDMENT PROCEDURAL DUE PROCESS - UNLAWFUL REDETENTION WITHOUT CONSTITUTIONALLY ADEQUATE PRE-DEPRIVATION PROCESS

34. The Fifth Amendment prohibits the federal government from depriving any 'person' of liberty without due process of law. Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

35. Petitioner's liberty interest is unusually strong. The federal government did not merely fail to locate him after entry. It apprehended him as a child, processed him, transferred him to ORR, approved a sponsor placement, imposed written release conditions, and then permitted him to live in the community for nearly fourteen years. That formal release and extraordinary duration of actual liberty created a substantial interest in continued freedom from arbitrary executive re-incarceration. See Morrissey v. Brewer, 408 U.S. 471, 482 (1972); Young v. Harper, 520 U.S. 143, 147-48 (1997).

36. Due process required a meaningful, individualized procedure before or contemporaneously with the decision to revoke that liberty, absent a genuine emergency. At minimum, Petitioner was entitled to notice of the asserted basis for renewed detention and a meaningful opportunity to respond to an individualized claim of flight risk, danger, or other changed circumstance. See Mathews v. Eldridge, 424 U.S. 319, 334-35 (1976).

37. Respondents provided no such process before arresting Petitioner. The Government already knew in 2012 the circumstances of his entry, his age, his unaccompanied-minor status, and the immigration charges then asserted. Those historical facts cannot themselves constitute a new individualized circumstance arising in 2026. The materials available to Petitioner

identify no missed hearing, criminal conviction, violation of release conditions, or other new event that was presented to a neutral decisionmaker before his liberty was taken.

A. Buenrostro-Mendez does not foreclose this constitutional claim.

38. Respondents may invoke Buenrostro-Mendez v. Bondi, 166 F.4th 494 (5th Cir. 2026), which held as a matter of statutory interpretation that certain noncitizens who entered without inspection are subject to § 1225(b)(2). But Buenrostro-Mendez did not adjudicate the distinct procedural due process question presented here. It therefore does not authorize redetention in a manner that violates the Fifth Amendment.

39. Texas district courts applying Buenrostro-Mendez have expressly recognized that distinction. In Sonia Victor Fernandez v. Warden, Laredo Processing Center, No. 5:26-CV-01026, Dkt. 13, at 2-4 (S.D. Tex. June 22, 2026), the court held that Buenrostro-Mendez left constitutional questions unresolved, found a due process violation where a previously released noncitizen was redetained without adequate individualized pre-deprivation process, and ordered immediate release.

40. The same court reached the same remedy in Jesus Alejandro Rodriguez Serrano v. Noem, No. 5:26-CV-00051, Dkt. 32, at 3-4 (S.D. Tex. Mar. 10, 2026), holding that prior release and established ties triggered a due process right to an individualized assessment of flight risk and dangerousness and an opportunity to respond before redetention, and ordering immediate release with safeguards against future redetention.

41. In Nestor Gutierrez Murga v. United States Department of Homeland Security, No. 5:26-CV-00205, Dkt. 15, at 3-4 (S.D. Tex. May 26, 2026), the court likewise held that Buenrostro-Mendez does not foreclose an as-applied due process challenge. It emphasized that prior release strengthens the liberty interest because it creates an expectation of remaining free during immigration proceedings, and it ordered release under prior conditions.

42. Most significantly for this Court, in Beruska Valentina Rojas Correia v. Warden, South Texas Immigration Processing Center, No. SA-26-CV-03035-XR, ECF No. 6, at 25-26 (W.D. Tex. June 11, 2026), the Western District of Texas granted habeas relief and ordered release. The court explained that, although a bond hearing could be a logical remedy for a procedural violation, a later hearing is not a substitute for constitutionally required deliberative process before or contemporaneous with the decision to strip liberty.

43. Petitioner's facts present an even more substantial liberty interest than the years of residence and prior release found sufficient in those cases. He lived at liberty for approximately thirteen years and eight months after a formal federal release as an unaccompanied child. That history cannot be erased merely by changing the statutory label asserted for custody.

B. The Mathews v. Eldridge factors require individualized process before the Government revokes this long-standing liberty.

44. First, Petitioner's private interest is at its maximum: physical freedom. Nearly fourteen years of community life magnify the consequences of an erroneous detention and distinguish Petitioner from a person stopped at the border and continuously detained from the moment of entry.

45. Second, the risk of erroneous deprivation is high when ICE may re-incarcerate a previously released person without first identifying and testing any individualized reason for detention. A brief pre-deprivation or contemporaneous procedure focused on flight risk, dangerousness, compliance, and changed circumstances would substantially reduce that risk.

46. Third, the Government's legitimate interests in appearance for immigration proceedings and community safety do not justify dispensing with individualized process. Those interests can be protected through reasonable reporting, supervision, location monitoring, or other

noncustodial conditions if genuinely necessary. Providing notice and an individualized assessment is a modest burden compared with the severe loss of liberty imposed on Petitioner.

47. The Government's 2012 release process and Petitioner's long period in the community are directly relevant to this balance. The ORR release to a sponsor and written conditions demonstrate that the Government itself chose a structured noncustodial arrangement. Petitioner's current detention cannot constitutionally rest on the same historical facts that were known when the Government made and maintained that release decision, without any new individualized justification being tested through fair process.

C. Petitioner's ORR release and the TVPRA framework reinforce the protected liberty interest.

48. Petitioner's release occurred under the federal framework governing unaccompanied children. ORR approved placement with a sponsor after a family-reunification process and required compliance with written conditions. See 8 U.S.C. § 1232(c)(2)(A). That history is not offered to ask this Court to relitigate Petitioner's immigration classification; it is evidence of the Government-created liberty and reliance interest that existed long before the 2026 redetention.

49. Saravia ex rel. A.H. v. Sessions, 905 F.3d 1137, 1144 (9th Cir. 2018), although not binding in the Fifth Circuit, is persuasive on the principle that the Government cannot make an ORR release determination meaningless by simply re-arresting a previously released minor without a constitutionally adequate process responsive to changed circumstances. Here, the interval is not one day but nearly fourteen years.

D. The absence of a final removal order and the administratively closed docket further underscore the need for release.

50. Petitioner has no final order of removal. His 2014 administrative-closure order left the case pending and subject to recalendaring; EOIR reported on August 18, 2026 that no future hearing was scheduled and no BIA appeal had been received. Thus, this is not post-final-order detention under 8 U.S.C. § 1231.

51. Petitioner does not rely on this procedural posture to evade Buenrostro-Mendez. Rather, it demonstrates why indefinite executive custody without an individualized explanation is especially difficult to justify: there is no final order awaiting execution and no currently scheduled merits hearing toward which detention is immediately directed. Reasonable noncustodial conditions can preserve the Government's interests while the immigration case proceeds.

E. Immediate release is the proper habeas remedy; a later bond hearing does not cure the completed violation.

52. When habeas custody is unlawful, release is the traditional and ordinary remedy. See Munaf v. Geren, 553 U.S. 674, 693 (2008); Preiser v. Rodriguez, 411 U.S. 475, 484 (1973). The constitutional injury here was complete when Respondents physically deprived Petitioner of his established liberty without constitutionally adequate pre-deprivation process.

53. Rojas Correia directly addressed remedy and ordered release, explaining that a later bond hearing is no substitute for a deliberative process before or contemporaneous with the initial decision to take liberty. Fernandez, Rodriguez Serrano, and Gutierrez Murga likewise ordered release after finding procedural due process violations in materially similar Texas immigration detention cases.

54. Immediate release is particularly appropriate because it restores the status quo ante rather than granting Petitioner a new immigration benefit. Petitioner asks to return to the noncustodial position he occupied for nearly fourteen years, subject to reasonable conditions consistent with the Government's legitimate needs.

55. Only if the Court declines immediate release should it order, as alternative relief, an immediate constitutionally adequate individualized custody hearing at which the decisionmaker considers actual flight risk and dangerousness, Petitioner's years of compliance and community presence, less restrictive alternatives to detention, and any other genuinely current circumstance relied upon by Respondents.

56. Any future redetention should be preceded by constitutionally adequate notice and an individualized opportunity to respond, except in a genuine emergency where prompt post-deprivation review is constitutionally sufficient. This protects both the Government's legitimate enforcement interests and the liberty the Fifth Amendment guarantees.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. GRANT the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241;

B. DECLARE that Respondents' August 12, 2026 redetention and continued custody of Petitioner, without constitutionally adequate individualized pre-deprivation process, violate the Due Process Clause of the Fifth Amendment;

C. ORDER Respondents to RELEASE Petitioner immediately from physical custody and restore him to a noncustodial status under reasonable conditions no more restrictive than necessary to secure his appearance and protect the community;

D. ORDER Respondents to serve the release order directly on ERO El Paso Camp East Montana and FILE a status report confirming Petitioner's release within twenty-four (24) hours;

E. ORDER Respondents to return to Petitioner any identification documents and personal belongings taken from him at apprehension or during detention and provide him a printed copy of the Court's release order;

F. PROHIBIT Respondents, while this Petition remains pending and before release is effectuated, from transferring Petitioner outside this District or removing him from the United States in a manner that would frustrate this Court's jurisdiction;

G. PROHIBIT future redetention based solely on historical facts known to the Government before Petitioner's long-standing release, absent constitutionally adequate individualized process and a current lawful basis for renewed custody;

H. ONLY IF the Court declines to order immediate release, require an immediate constitutionally adequate individualized custody hearing addressing flight risk, dangerousness, less restrictive alternatives, and the current facts actually relied upon to justify detention;

I. RETAIN jurisdiction until Respondents demonstrate compliance with the Court's order; and

J. GRANT such other and further relief as law and justice require.

VERIFICATION

I, Oscar Armando Escobar-Alvarez, declare under penalty of perjury under the laws of the United States of America that the foregoing factual statements are true and correct to the best of my knowledge and belief.

Executed on August 20, 2026, at El Paso, Texas.

Oscar Escobar.

Oscar Armando Escobar-Alvarez
Petitioner, Pro Se