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

JORGE EDUARDO OLAGUE LUNA, Petitioner, v. **MARY DE ANDA-YBARRA**, Field Office Director, El Paso Field Office, Immigration and Customs Enforcement, in his official capacity, **DAVID J. VENTURELLA**, Senior Director of U.S. Immigration and Customs Enforcement, in his official capacity, **MARKWAYNE MULLIN**, Secretary, U.S. Department of Homeland Security, in his official capacity, **TODD BLANCHE**, Acting U.S. Attorney General, in his official capacity Respondents.	**Case No.: 3:26-cv-2218**

PETITION FOR WRIT OF HABEAS CORPUS

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JORGE EDUARDO OLAGUE LUNA, Petitioner, v. **MARY DE ANDA-YBARRA**, Field Office Director, El Paso Field Office, Immigration and Customs Enforcement, in his official capacity, **DAVID J. VENTURELLA**, Senior Director of U.S. Immigration and Customs Enforcement, in his official capacity, **MARKWAYNE MULLIN**, Secretary, U.S. Department of Homeland Security, in his official capacity, **TODD BLANCHE**, Acting U.S. Attorney General, in his official capacity Respondents.	**Case No.: 3:26-cv-2218**

INTRODUCTION

1. ("Petitioner") **Jorge Eduardo Olague Luna** (A# [redacted]) is a 34-year-old Mexican citizen. ***(See Exhibit A).***
2. The Petitioner last entered the United States on or about February 2024 through Lukeville, Arizona. He was apprehended and then released.
3. Petitioner has strong family ties here in the United States. Petitioner has his spouse, two daughters, father, USC stepmother, sister, and nieces waiting for his return.
4. The Petitioner is currently in appeals before the Board of Immigration Appeals court.

5. On information and belief, Petitioner was unlawfully re-detained by Federal Immigration Agents on August 14, 2026.
6. Petitioner was first detained on January 25, 2026, but was later immediately released through a granted Writ of Habeas Corpus.
7. Petitioned was re-detained on August 14 at the New Mexico Airport. The Petitioner had been working in New Mexico and was trying to fly back to Texas where he resides. Petitioner was last released with a parole document valid for a year, but he did not have the document in his possession. ICE agents placed him under arrest and took him into custody.
8. Petitioner was taken to the nearest ICE/ERO Field Office and transferred to El Paso Processing Center located in El Paso, Texas where he is currently being detained.
9. In order to vindicate Petitioner's constitutional, statutory and regulatory rights, this Honorable Court should grant this instant petition for a writ of habeas corpus to ensure his continued freedom.
10. Petitioner kindly requests that this court find his detention to be unlawful and order ICE to release him.

JURISDICTION

11. This Honorable Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).
12. Venue is proper because Petitioner is currently detained at El Paso Processing Center located in El Paso, TX. Therefore, the petitioner remains detained within the District of Texas.

PARTIES & FACTS ALLEGED

13. The Petitioner **Jorge Eduardo Olague Luna** is a native and citizen of Mexico.

14. Respondent Miguel Vergara is the Field Office Director for the San Antonio Field Office, Immigration and Customs Enforcement.

15. Respondent Charlotte Collins is the Warden for T. Don Hutto Detention Center.

16. Respondent David J. Venturella is the Senior Director for U.S. Immigration and Customs Enforcement.

17. Respondent Markwayne Mullin is the U.S. Secretary of Homeland Security.

18. Respondent Todd Blanche is the Acting U.S. Attorney General.

19. All Respondents are named in their official capacities.

20. On information and belief, Petitioner was unlawfully re-detained by Federal Immigration Agents on August 14, 2026.

21. Petitioner was first detained on January 25, 2026, but was later immediately released through a granted Writ of Habeas Corpus.

22. Petitioned was re-detained on August 14 at the New Mexico Airport. The Petitioner had been working in New Mexico and was trying to fly back to Texas where he resides. Petitioner was last released with a parole document valid for a year, but he did not have the document in his possession. ICE agents placed him under arrest and took him into custody.

23. On information and belief, Petitioner is currently in custody in the District of Texas, and one or more of the Respondents is his immediate custodian.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process

24. The Fifth Amendment provides that "no person shall be deprived of life, liberty, or property without due process of law".

25. The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, temporary or permanent" *Zadvydas v. Davis, 553 U.S. 693 (2001).*

26. Respondent's mandatory detention without consideration for release on bond or access to a bond hearing violates his due process rights.

27. On information and belief, Petitioner is currently being detained at the El Paso Processing Center located in El Paso, TX without cause and in violation of his constitutional rights to due process of law.

COUNT TWO
Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

28. Mandatory detention as set forth on 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States whom are subject to the ground of inadmissibility, most relevant, it does not apply to those who previously entered the country and have been residing in the United States prior to being detained, historically, such noncitizens would be detained under § 1226(a), and therefore, eligible for release on bond.

29. Nonetheless, the Board of Immigration Appeal, under the Department of Justice, issued a decision on September 5th, 2025, binding on all Immigration Judges, thus rendering the Petitioner ineligible for release on Bond. *Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).*

30. Moreover, Petitioner falls under the class membership of the Class Action suit, *Guerrero-Orellana v. Hyde et al.* and she additionally asserts that she should be released upon this consideration as well. *(See Guerrero-Orellana v. Hyde et al. opinion – Case 1:25-cv-12664-PBS Doc 112 12/19/25).*

COUNT THREE
Violation of the Bond Regulations, 8 C.F.R. § 236.1, 1236.1 and 1003.19
Unlawful Denial of Release on Bond

31. In 1997, following enactment of IIRIRA, EOIR and the Immigration and Naturalization Service issued an interim rule interpreting its detention provisions. Under the heading "Apprehension, Custody, and Detention of [Noncitizens]," the agencies clarified that "despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Thus, individuals who entered without inspection are eligible for custody redetermination hearings under 8 U.S.C. § 1226 and its implementing regulations.

32. Application of 8 U.S.C. § 1225(b)(2) to Petitioner, who is bond-eligible, unlawfully mandates his continued detention in contravention of 8 C.F.R. § 236.1, 1236.1, and 1003.19.

COUNT FOUR
Violation of the Maldonado Bautista v. Noem (5:25-cv-01873-SSS-BFM) Final Judgement

33. The Petitioner, qualifies as a member of the Certified Bond Eligible Class, as defined in the Judgement, the Bond Eligible Class is defined as "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(l), or§ 1231 at the time the Department of Homeland Security makes an initial custody determination."

34. The U.S. District Court declared that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under§ 1225(b)(2).

35. The Respondents have consistently denied the Petitioner the access to a Bond Hearing, as stipulated by the final judgement, as they continue to misclassify the Petitioner as detained pursuant to U.S.C. § 1225(b)(2).

COUNT FIVE
Request For Injunctive Relief Prohibiting Transfer of Petitioner During the Pendency of This Habeas Corpus Petition

36. Petitioner is presently within the territorial jurisdiction of this Court, and this Court therefore has jurisdiction to adjudicate his challenge to the legality of his present physical confinement. Petitioner has a substantial interest in remaining at his current detention facility **[El Paso Processing Center]** while this Court considers his Petition.

37. A transfer to another detention facility, particularly a facility outside this District, could interfere with this Court's ability to exercise jurisdiction over Petitioner's present physical custody and could substantially impair Petitioner's ability to communicate with counsel and meaningfully participate in these proceedings.

38. The Fifth Circuit has long recognized the importance of the district-of-confinement and immediate-custodian rules in § 2241 proceedings. Accordingly, an involuntary transfer of Petitioner to another district would create an unnecessary jurisdictional dispute while Petitioner's challenge to his detention remains pending.

39. Petitioner should not be required to repeatedly litigate the legality of his detention in different federal courts solely because the Government elects to move him from one detention facility to another during the pendency of this action.

40. A transfer could result in a change of facility, district, custodian, counsel-access procedures, transportation arrangements, and communication capabilities, thereby

delaying adjudication of this Petition and potentially rendering immediate judicial relief more difficult to obtain.

41. Petitioner therefore respectfully requests that, pending resolution of this habeas proceeding, Respondents be prohibited from transferring Petitioner out of **El Paso Processing Center** without first providing reasonable notice to the Court and Petitioner and obtaining authorization from this Court.

42. Without such relief, Petitioner faces the substantial risk that he will be transferred to another facility or district before this Court can adjudicate the Petition, thereby creating unnecessary jurisdictional complications and causing delay in the resolution of his constitutional and statutory claims. The requested relief is temporary and limited to the pendency of this habeas action.

43. Petitioner respectfully requests that Respondents maintain Petitioner at his current detention facility unless and until this Court determines that a transfer is appropriate, or the habeas proceeding is otherwise resolved.

PRAYER FOR RELIEF

Wherefore, Petitioner **Jorge Eduardo Olague Luna**, respectfully requests this Court to grant the following:

1) Assume jurisdiction over this matter;
2) Order that Petitioner shall NOT be transferred outside the District of Texas;
3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately. At the time of release, Respondent must return all of Petitioner's documents and possessions and shall not impose any additional restrictions on him as a condition of his release.
6) Order the Petitioner's counsel, Margie S. Lazo be notified by phone at **617-418-5442** and by email at **lazomargie.law@gmail.com** of the exact location and exact time of Petitioner's release if ordered Immediate release.
7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Jorge Eduardo Olague Luna
Petitioner

Dated: August 26, 2026

By: ***/s/ Margie S. Lazo***
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Counsel for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Margie S. Lazo, represent **Jorge Eduardo Olague Luna**, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Margie S. Lazo Dated: August 26, 2026

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