Wilber Fernando Aguilera-Alvarez
Country of Birth: Honduras
A-Number: [redacted]
Current Detention Facility: Sherburne County Facility
13880 Business Center Drive
Elk River, MN 55330
Visitor Information: (763) 765-3800
Pro Se

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Wilber Fernando Aguilera-Alvarez
A-Number: [redacted]
Proceeding Pro Se,
Petitioner,
v.
_____, Warden/Facility Administrator,
Sherburne County Facility;
_____, Field Office Director,
U.S. Immigration and Customs Enforcement,
St. Paul Field Office; DAVID J. VENTURELLA, Acting Director, United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, Department of Homeland Security; TODD BLANCHE, Acting Attorney General, United States,
Respondents.

Civil Action No.: 26-cv-4266 JMB/DLM

PETITION FOR WRIT OF HABEAS CORPUS

I. NATURE OF THE PROCEEDING

1. Petitioner Wilber Fernando Aguilera Alvarez seeks a writ of habeas corpus and his immediate release from unlawful civil immigration detention.
2. Petitioner entered the United States on July 15, 2021, as a 17-year-old unaccompanied child. He was processed by the Office of Refugee Resettlement (ORR) and released to his father, Fernando Aguilera Cerna, on August 4, 2021. He has a pending asylum application and a valid Employment Authorization Document (EAD) until October 2028.
3. On August 26, 2026, Petitioner was arrested in an interior enforcement action in Hallandale

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Beach, Florida. He was subsequently transferred across multiple states to the Sherburne County Facility in Minnesota. As of September 28, 2026, he has been detained for approximately 33 days without a bond hearing.

4. Petitioner has no criminal convictions. He is the father of a United States citizen son, [redacted] who was born in Florida on [redacted] L[redacted] has a documented congenital urological condition that requires ongoing medical monitoring, including specialist appointments and ultrasounds every six months.

5. This Petition is filed pro se and should be construed liberally. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972).

II. JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction to grant a writ of habeas corpus pursuant to 28 U.S.C. § 2241(a). Petitioner is in the custody of Respondents and challenges his detention as being in violation of the Constitution and laws of the United States. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

7. Venue is proper in the District of Minnesota because Petitioner is physically confined at the Sherburne County Facility in Elk River, Minnesota, which is located within this District.

8. This Court and the Eighth Circuit have consistently exercised habeas jurisdiction over immigration detention challenges from individuals detained in Minnesota. *See Mahamed v. Anderson*, 612 F.3d 1084 (8th Cir. 2010); *Mohamed v. Barr* (D. Minn. 2019); *Sherman v. Immigration and Custom Enforcement* (D. Minn. 2020); *Corchado-Perez v. Garland* (D. Minn. 2021); *Ahmed v. Brott* (D. Minn. 2020); *Bakor v. Barr* (D. Minn. 2019).

9. Jurisdiction is proper for detainees at Sherburne County Facility specifically. *See Orellana*

v. Nobles County, 230 F. Supp. 3d 934 (D. Minn. 2017); *Borrero v. Aljets*, 178 F. Supp. 2d 1034 (D. Minn. 2001); *Mohamed v. TeBrake*, 371 F. Supp. 2d 1043 (D. Minn. 2005).

III. PARTIES

10. Petitioner WILBER FERNANDO AGUILERA ALVAREZ is a native and citizen of Honduras, born on [redacted]. His Alien Registration Number is A[redacted]. He is currently detained by Respondents at Sherburne County Facility.

11. Respondent WARDEN of Sherburne County Facility is the individual with immediate physical custody of Petitioner.

12. Respondent FIELD OFFICE DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS, ST. PAUL FIELD OFFICE, is the ICE official responsible for detention operations in the region where Petitioner is detained.

13. Respondent DAVID J. VENTURELLA is the Acting Director of U.S. Immigration and Customs Enforcement.

14. Respondent MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland Security.

15. Respondent TODD BLANCHE is the Acting Attorney General of the United States.

IV. STATEMENT OF FACTS

16. Petitioner was born in Honduras on [redacted].

17. Petitioner entered the United States on or about July 15, 2021, near Eagle Pass, Texas. He was 17 years old at the time of his entry. A Notice to Appear (NTA) was issued on July 17, 2021, charging him as removable under INA §212(a)(6)(A)(i).

18. Because he entered as a minor, Petitioner was processed by the Office of Refugee

Resettlement (ORR) as an unaccompanied child. On August 4, 2021, ORR released him to his father and sponsor, Fernando Aguilera Cerna, in Hollywood, Florida.

19. Petitioner filed a Form I-589 application for asylum. USCIS received his application in March 2023, and he attended a biometrics appointment in April 2023.

20. Petitioner holds a valid Employment Authorization Document (EAD), Category C08, which is valid from October 27, 2023, to October 26, 2028.

21. Petitioner is the father of [redacted] who was born on [redacted], in Hollywood, Florida. [redacted] is a United States citizen.

22. A letter from the Memorial Physician Group, Department of Pediatric Nephrology and Hypertension, dated September 11, 2026, confirms that [redacted] has a congenital urological condition, bilateral pelviectasis with a significant left UPJ obstruction. After a successful surgery on his left side in April 2025, [redacted] requires ongoing medical monitoring, including annual lab work and ultrasounds every six months.

23. Petitioner is a self-employed countertop and granite installer. He filed federal tax returns for 2023, 2024, and 2025, showing business income. His 2024 and 2025 tax returns list his son, [redacted] as a dependent.

24. Petitioner's most recent residence was at [redacted], as documented by a Florida Power & Light bill from July-August 2026. He previously resided at other addresses in Hollywood and Pembroke Pines, Florida, with a documented positive rental history.

25. Petitioner has no criminal convictions. The Broward Sheriff's Office confirmed "No Arrest Record" in a September 2026 search. A prior Broward County court case for "Operate Motorcycle W/O License" resulted in a Nolle Prosequi, which is not a conviction.

26. Petitioner's asylum claim is supported by a police repor[redacted]

27. On August 26, 2026, Petitioner was arrested in Hallandale Beach, Florida, by ICE agents in plainclothes who surrounded him as he was arriving at his workplace. This was an interior arrest, not a border apprehension.

28. Following his arrest, Petitioner was transferred to a facility in Miramar for approximately 7 days, then to Krome North SPC for approximately 5 days, and was subsequently transferred to the Sherburne County Facility in Minnesota.

29. Petitioner has been in continuous ICE custody for approximately 33 days without a bond hearing. A 2021 custody determination form (I-286) shows he requested an IJ review of his initial custody, but no resulting bond order has been provided.

30. Petitioner has never previously filed a petition for a writ of habeas corpus in federal court.

31. Petitioner's removal case is pending before the Fort Snelling Immigration Court. His master hearing is scheduled for October 13, 2026, at 8:30 AM, via internet, before Immigration Judge Jared L. Grimmer.

32. Petitioner has strong community and family ties, as documented in support letters from his pastor, Fernando Carrasco; a U.S. citizen friend, Vivian Urcina; a co-worker, Daniel Eduardo Tejeda; and his former landlord, Joshua Alfonso.

33. During his detention, Petitioner has been experiencing depression, anxiety, and stress due to the separation from his son.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

34. Administrative remedies are unavailable, and exhaustion would be futile. The constitutional claims raised in this Petition—including whether his detention is governed

by 8 U.S.C. § 1226(a) and whether his prolonged confinement without a bond hearing violates due process—cannot be resolved by an immigration judge.

35. The delay involved in exhausting any theoretical administrative remedy would cause irreparable harm to Petitioner, who is deprived of his liberty, separated from his U.S. citizen son with a medical condition, and unable to work or support his family.

VI. FIRST CLAIM: SECTION 1226(a) GOVERNS, NOT SECTION 1225(b)(2)

36. Petitioner's detention is governed by the discretionary framework of 8 U.S.C. § 1226(a), which permits release on bond.

37. Section 1225(b)(2) applies to "arriving aliens" seeking admission. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 842-43 (2018). Petitioner is not an arriving alien. He entered over five years ago as a minor, was processed by ORR, released to a sponsor, and was arrested in the interior of the country while at his workplace.

38. Because § 1226(a) governs, Petitioner is statutorily entitled to seek release on bond. *See Betancourt-Santiago v. Rodriguez* (D.N.J. 2020); *Dubon Miranda v. Barr* (D. Md. 2020).

VII. SECOND CLAIM: NO CRIMINAL CONVICTIONS - SECTION 1226(c) DOES NOT APPLY

39. The mandatory detention provision of 8 U.S.C. § 1226(c) requires a qualifying criminal conviction.

40. Petitioner has no criminal convictions. The only documented court case resulted in a Nolle Prosequi, which is not a conviction.

41. Because no qualifying criminal conviction exists, mandatory detention under § 1226(c) is inapplicable, and Petitioner is entitled to the discretionary bond framework of § 1226(a). *See Khodr v. Adduci*, 697 F. Supp. 2d 774 (E.D. Mich. 2010).

VIII. THIRD CLAIM: DETENTION WITHOUT BOND HEARING VIOLATES DUE PROCESS

42. The Due Process Clause of the Fifth Amendment protects all persons within the United States from arbitrary physical restraint. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

43. Petitioner's detention for 33 days without an individualized custody hearing violates his right to due process. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

44. As a former unaccompanied child released by ORR, Petitioner retains fundamental due process rights that require an individualized adversarial hearing, not a unilateral custody decision. *See Flores v. Lynch*, 392 F. Supp. 3d 1144 (C.D. Cal. 2017).

45. His profound liberty interest, especially as the father of a U.S. citizen child with a documented medical condition, far outweighs any governmental interest in his continued detention without a hearing. *See De La Rosa Espinoza v. Guadian* (D. Kan. 2020); *Ahmed v. Brott* (D. Minn. 2020).

IX. FOURTH CLAIM: IMMEDIATE RELEASE IS THE PROPER HABEAS REMEDY

46. The core function of the writ of habeas corpus is to secure release from unlawful physical custody. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

47. Because Respondents' detention of Petitioner violates the governing statute and his constitutional rights, the proper remedy is immediate release. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

X. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Grant the Petition for Writ of Habeas Corpus;

B. Declare that 8 U.S.C. § 1226(a) governs Petitioner's custody;

C. Declare that Respondents' denial of a bond hearing violates the Due Process Clause;

D. Require Respondents to show cause within seven (7) days why the writ should not issue;

E. Order Respondents to release Petitioner immediately from physical custody;

F. Alternatively, require Respondents to provide Petitioner with an individualized bond hearing under § 1226(a) within seven (7) days;

G. Prohibit Respondents from transferring Petitioner outside the District of Minnesota or removing him from the United States while this Petition is pending; and

H. Grant such other relief as the Court deems just and proper.

XI. VERIFICATION

I, Wilber Fernando Aguilera Alvarez, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on September 28, 2026.

Wilber Aguilera

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A-Number: [redacted]
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