

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Edwin VELASQUEZ MUNOZ,

*Petitioner,*

v.

William P. JOYCE, in his official capacity as Deputy Field Office Director of New York, Immigration and Customs Enforcement; Kristin NOEM, in her official capacity as Secretary of Homeland Security; and Pamela BONDI, in her official capacity as Attorney General of the United States,

*Respondents.*

Case No.

**AMENDED PETITION FOR WRIT  
OF HABEAS CORPUS PURSUANT  
TO 28 U.S.C. § 2241**

**ORAL ARGUMENT REQUESTED**

**INTRODUCTION**

Edwin Velasquez Munoz is a 31-year-old man with special needs from Cerro de Pasco, Peru, who was who was detained and Released on Recognizance into the United States on or about March 23, 2024. On July 7, 2025, Edwin was forcibly arrested by the Department of Homeland Security (DHS) after attending his hearing in Immigration Court as part of a broader campaign by Respondents to detain individuals who have been in the United States for less than two years at the time they attend their Immigration Court hearings. Notwithstanding the fact that Edwin had timely filed his application for asylum and the Immigration Judge had scheduled a subsequent hearing for Edwin, he was detained after leaving the courtroom.

There have not been—nor have Respondents alleged any—changes in either Edwin’s immigration case or his personal situation since Edwin was initially released from detention on his own recognizance upon his entry into the United States. Edwin has, and continues to, pursue his asylum claim through proceedings before an immigration judge pursuant to Section 240 of

the Immigration and Nationality Act. Moreover, there have been no changed circumstances supporting a finding that Edwin is a flight risk or danger to the community that could justify his detention. On the contrary, Edwin is disabled and has had medical conditions since he was a child and prior to his detention lived with his sister and caretaker. He has attended all of his immigration court hearings and, other than his detention by Immigration and Customs Enforcement (ICE), Edwin has never been arrested or charged by any law enforcement entity in the United States or any other country.

Edwin's unlawful and continued detention pursuant to DHS's policy—without any individualized determination as to why detention is appropriate—has caused immense and ongoing harm to Edwin, his family, and his community. Edwin brings this petition to seek immediate release.

#### **JURISDICTION**

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Under 8 U.S.C. § 1252(e)(2), this Court has habeas authority to determine whether Petitioner was ordered removed under 8 U.S.C. § 1225(b)(1).
3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

**VENUE**

4. Venue is proper because at the time of filing the original petition, Petitioner was detained at 209 Varick Street in New York, New York, which is within the jurisdiction of this District. As 5:00 PM on July 3, the ICE Detainee Locator notes that Petitioner is detained in “NY” but lacks a specific location. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004) (citing *Ex Parte Endo*, 323 U.S. 283 (1944)).
5. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to his claims occurred in this District.

**REQUIREMENTS OF 28 U.S.C. § 2243**

6. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
7. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

**PARTIES**

8. Petitioner Edwin Velasquez Munoz is lawfully present in the United States as an applicant for asylum, withholding of removal, and protection under the Convention Against Torture. He was detained by ICE at 209 Varick Street, New York, New York 10014. As of July 3, 2025, at 5:00 PM, the ICE detainee locator notes he is detained in the state of New York. He is in the custody, and under the direct control, of Respondents and their agents.
9. Respondent William P. Joyce is named in his official capacity as the Deputy Field Office Director of the New York City ICE Field Office within DHS. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations and is a custodian of Petitioner. Respondent Joyce's address is New York City ICE Field Office, 26 Federal Plaza, 9th Floor, Suite 9-110, New York, New York 10278.
10. Respondent Kristi Noem is named in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Southern District of New York; is legally responsible for pursuing any effort to detain and remove Petitioner; and as such is a custodian of Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.5.
11. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review (EOIR), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Southern District of New York and is legally responsible for administering Petitioner's removal and custody proceedings and for

the standards used in those proceedings. As such, she is the custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

### STATEMENT OF FACTS

12. Petitioner is a 31-year-old citizen of Peru. He timely sought asylum in the United States as a result of the harm he experienced for having "special needs" in Peru and was accompanied by his caretakers—his sister and her partner—as well as his sister's daughter.
13. On March 14, 2025, Edwin filed a timely *pro se* application for asylum with the Immigration Court, detailing his fear of removal to Peru.
14. Following his release into the United States, Edwin and his family moved to Long Island.
15. In his home country of Peru, Edwin was diagnosed with "special needs" and presents with characteristics of autism. He was born with medical conditions which severely impact his speech, his ability to hear, and understand information. These conditions also affect his memory, and he relies on his sister to help care for him. His sister ensures he gets the medical care that he needs and often acts as a translator for her brother during appointments. He has struggled hearing since entering the United States and has had various operations to address this.
16. On July 2, 2025, Edwin had this third master calendar hearing at the Immigration Court at 209 Varick Street, New York, New York 10014.
17. At the end of the hearing, Edwin was reset for another Master Calendar Hearing on November 19, 2025 before Immigration Judge Jennifer Durkin.
18. At some point after he finished his hearing, he was apprehended by ICE officers. Edwin did not understand what was going on. He called his sister to say he was detained. Upon information and belief, aside from the July 2, 2025 apprehension by ICE, and initial

detention at the border, Edwin has not had any contact with law enforcement since entering the United States, nor in his home country of Peru.

19. Edwin never made it out of 209 Varick Street after his court date, instead appearing on U.S. Immigration and Customs Enforcement's Online Detainee Locator System, as "in ICE Custody" at, upon information and belief, at 209 Varick Street or 26 Federal Plaza, New York, New York 10278.
20. Edwin's family, particularly his sister and caretaker, are also suffering from his detention. His sister is panicked at the special care Edwin needs and him being in detention, scared, and struggling to communicate.

#### **LEGAL FRAMEWORK**

21. Since mid-May 2025, DHS has been employing a new campaign by which counsel for DHS moves to dismiss the cases of noncitizens who have been in the United States for under two years in Immigration Court to instead immediately pursue expedited removal. Even in cases where dismissal is not granted, where someone has been in the United States less than two years, there is a largescale policy to detain these individuals.
22. ICE officers waiting in lobbies, hallways, and elevator wells in Immigration Court buildings arrest individuals leaving their hearings. Initially, this was only upon dismissal to invoke expedited removal, but now apparently is targeting everyone, regardless of how the motion to dismiss is adjudicated.
23. The ongoing civil arrests at Immigration Courts by Respondents stem from a significant change in policy and practice. On April 27, 2021, Respondents issued a memorandum titled "Civil Immigration Enforcement Actions in or near Courthouses" That memo strictly limited civil immigration enforcement in or near courthouses to four specific circumstances: (1) national security threats; (2) imminent risk of death, violence, or physical harm; (3) hot

pursuit of public safety threats; or (4) imminent risk of evidence destruction in criminal cases. Moreover, absent hot pursuit, ICE could only make civil arrests of public safety threats where no safe alternative location existed or with senior-level pre-approval. *Id.* at 2. The memo explicitly covered Immigration Courts, and one of the core rationales underlying this policy was that “[e]xecuting civil immigration enforcement actions in or near a courthouse may chill individuals’ access to courthouses, and as a result, impair the fair administration of justice.” *Id.* at 1.

24. This framework underwent a fundamental transformation on January 20, 2025, when Respondents rescinded the April 2021 Memo and issued new interim guidance. The guidance was finalized on May 27, 2025. In or around May 21, Respondents built upon this memo by initiating a policy of indiscriminate detentions at Immigration Courts around the country. The policy proceeds in two parts: first, Respondents move to dismiss removal proceedings for the purpose of placing the non-citizen into expedited removal proceedings. Then, irrespective of the outcome of that motion, Respondents detain individuals as they leave court. No individualized custody review—considering, *inter alia*, the disposition of the motion to dismiss; pending applications for relief; or other equitable factors such as age, health, or caretaking responsibilities—occurs.
25. As a result of his arrest pursuant to this DHS policy, Edwin remains detained, though it is unclear where, as his location is merely listed as “NY” and “Call Field Office” and is currently scheduled for a Master Calendar Hearing before the Varick Immigration Court on November 19, 2025.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION**

### SUBSTANTIVE DUE PROCESS

26. The allegations in the above paragraphs are re-alleged and incorporated herein.
27. Edwin is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.
28. The government's ongoing detention of Edwin is unjustified and unlawful.
29. While civil immigration detention is authorized by statute, that authorization does not free immigration detention from the constricts of the Constitution. *See Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024). Courts have identified only two legitimate purposes for immigration detention: to "ensur[e] [the noncitizen's] appearance ... at future immigration proceedings," and to "[p]revent[] danger to the community." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Neither goal is served by Edwin's detention.
30. Upon his Release on Recognizance, Edwin was determined to be neither a flight risk nor a danger to the community. 8 C.F.R. § 1235.1(c)(8) (permitting release by DHS *only* "if [the noncitizen] demonstrates to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding").
31. There have been no changed circumstances supporting any finding that Edwin is a flight risk or a danger to the community. In fact, the contrary is true.
32. Edwin was detained by ICE at his immigration proceedings, demonstrating that there was no need for him to be detained to ensure his presence at those proceedings. His very presence in the Immigration Court at the time of his detention demonstrated that he was willing and able to attend his immigration proceedings.
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the Immigration Court at the time of his detention demonstrated that he was willing and able to attend his immigration proceedings.

34. Moreover, Edwin is not a danger to the community, nor have Respondents asserted otherwise. Aside from his detentions by ICE, Edwin has never been arrested, charged, or convicted of any crime in the United States or otherwise.
35. His detention jeopardizes Edwin's ability to gather the evidence needed to equitably pursue his immigration relief, especially in light of his special needs.
36. The Due Process Clause guarantees detained immigrants the right to be detained in a safe situation, free from punitive conditions of confinement. *See* U.S. Const. amend. V.
37. Respondents' failure to adequately protect Edwin from these punitive conditions, or release him from detention altogether, violates his due process rights.
38. Edwin has no adequate remedy at law, as he seeks immediate release and may be ineligible for bond pursuant to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).
39. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

**COUNT TWO  
VIOLATION OF THE DUE PROCESS CLAUSE  
OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION  
PROCEDURAL DUE PROCESS**

40. The allegations in the above paragraphs are realleged and incorporated herein.
41. Edwin is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.
42. The Procedural Due Process Clause of the Fifth Amendment prohibits the government from depriving an individual of a protected interest without notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

43. Respondents provided Edwin with no notice or opportunity to be heard prior to arresting and detaining him.
44. Respondents have offered Edwin no meaningful opportunity to be heard or challenge his detention since detaining him.
45. Edwin's detention thereby deprives him of his rights to Due Process under the Fifth Amendment of the United States Constitution.
46. Edwin has no adequate remedy at law, as he seeks immediate release and has been found by an immigration judge to be ineligible for bond pursuant to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

**COUNT THREE  
VIOLATION OF THE FOURTH AMENDMENT**

47. The allegations in the above paragraphs are realleged and incorporated herein.
48. Edwin was detained by federal immigration officials as removable when he entered the United States. The government exercised its discretion under the Immigration and Nationality Act to release her while he litigated that charge in immigration court. At the time of Edwin's arrest, he had been living at liberty pursuant to that detention by federal immigration authorities.
49. The government lacked reliable information of changed or exigent circumstances that would justify his arrest after federal immigration authorities had already decided he could pursue his claims for immigration relief at liberty. His re-arrest based solely on the fact that she he is subject to removal proceedings is unreasonable and therefore violates the Fourth Amendment.

**COUNT FOUR  
VIOLATION OF SECTION 504 OF THE REHABILITATION ACT**

50. The allegations in the above paragraphs are realleged and incorporated herein.

51. Edwin has been diagnosed with “special needs” which presents with symptoms similar to autism. It impacts his ability to speak, to hear, to understand, and impacts his memory. He relies on his sister to care for him.
52. During his time in detention, upon information and belief, Edwin has been given no accommodation despite his disabilities in violation of Section 504 of the Rehabilitation Act, including communicating with counsel. *See Tennessee v. Lane*, 541 U.S. 509, 526-27 (2004).
53. Due to his disabilities, Edwin needs access to counsel and, given his competency concerns and difficulty in communicating, he must be released to be able to meaningfully participate in his proceedings and work alongside counsel.

#### **PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court grant the following:

- 1) Maintain jurisdiction over this matter;
- 2) Order Respondents to show cause why the writ should not be granted within three days and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243, consistent with this Court’s scheduling order, Dkt. No 18;
- 3) Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment;
- 4) Declare that Respondents’ actions violate the Administrative Procedure Act;
- 5) Issue a Writ of Habeas Corpus ordering Respondents to release Edwin Velasquez Munoz immediately;
- 6) Award reasonable attorney’s fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- 7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/Melissa Lim Chua  
Melissa Lim Chua  
Sadie Casamenti  
*Pro Bono Counsel for Petitioner*

Date: July 3, 2025