

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Johan Jacinto ARRAIZ PEREZ,

Petitioner,

v.

LaDeon FRANCIS, in his official capacity as Acting Field Office Director of New York, Immigration and Customs Enforcement; Kristi NOEM in her official capacity as Secretary of Homeland Security; Pam BONDI, in her official capacity as Attorney General.

Respondents.

Case No. 1:25-cv-5786

**PETITION FOR
WRIT OF HABEAS
CORPUS**

INTRODUCTION

Petitioner Johan Jacinto Arraiz Perez is an asylum seeker from Venezuela. When he first entered the United States at the end of 2023, Respondents apprehended him but decided to release him while he pursued asylum in removal proceedings. Consistent with that process, Mr. Arraiz Perez appeared for a routine immigration court hearing on July 11, 2025. The hearing was ultimately adjourned until January 27, 2026. But rather than go home, masked agents working on behalf of Respondents arrested Mr. Arraiz Perez just outside the courtroom, whisked him away, and detained him inside of 26 Federal Plaza. He has been there ever since, with limited access to the outside world.

In the few calls he has been able to make to those close to him, he has described conditions that raise significant concerns: the absence of a place to sleep, the inability to shower or to change clothes, and inadequate access to food. Mr. Arraiz Perez's detention and confinement are unlawful, and he bring this Petition seeking immediate release. He also asks this

Court to enjoin his transfer out of the New York City area and to immediately provide him unfettered access to counsel.

PARTIES

1. Petitioner Johan Jacinto Arraiz Perez is a citizen of Venezuela who lives in New York City. At the time of filing, he was detained at 26 Federal Plaza in New York, New York. A copy of the ICE locator is attached to the instant petition.

2. Respondent LaDeon Francis is named in his official capacity as the Acting Field Office Director of the New York Field Office for Immigration and Customs Enforcement (“ICE”) within the United States Department of Homeland Security. In this capacity, he is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Francis’s address is New York ICE Field Office Director, 26 Federal Plaza, 7th Floor, New York, New York 10278.

3. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 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 remove the Petitioner; and as such is a legal custodian of the Petitioner. Respondent Noem’s address is U.S. Department of Homeland Security, 800 K Street N.W. #1000, Washington, District of Columbia 20528.

4. Respondent Pam 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.

JURISDICTION

5. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioner was detained by Respondents on July 11, 2025.

6. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

VENUE

7. Venue is proper in this Court because Petitioner was detained by Respondents in Manhattan at the time of filing.

SPECIFIC FACTS ABOUT PETITIONER

8. Mr. Arraiz Perez is a 38-year-old asylum seeker from Venezuela. Upon entry to the U.S., Mr. Arraiz Perez was detained by Respondents. He was charged with removability under 8 U.S.C. § 1182(a)(6)(A)(i). And after about two days, Respondents released him on his own recognizance on or about December 12, 2023.

9. Since then, he has lived in New York City and primarily sought to build a better life for himself in this country. He has paid close attention to his legal obligations by filing a timely asylum application, which the immigration court docketed on February 29, 2024, just a few months after his initial entry. Beyond that, he has enrolled in English classes, hoping to improve his language abilities. He earned work authorization and found employment with a company that provides food services at local New York City airports.

10. On October 11, 2024, Mr. Arraiz Perez attended an initial master immigration hearing at 26 Federal Plaza in Manhattan and was told to come back for another hearing on July 11, 2024. He dutifully complied and appeared while accompanied by one of his English class teachers. Because Mr. Arraiz Perez had been unable to secure legal representation, the immigration judge adjourned the July 11th hearing until January 27, 2026.

11. However, as he left that hearing, Mr. Arraiz Perez was ambushed and suddenly detained by masked agents working on behalf of Respondents. Since July 11, 2025, they have held him inside 26 Federal Plaza—a government office building with no beds or basic sanitation facilities to hold people for any prolonged period of time.

12. Through brief calls to his niece and a close friend, he has described concerning conditions. This includes that he sleeps on the floor; that he has no access to showers or adequate food; and that he has remained in the same clothes from July 11th in which he was detained. Mr. Arraiz Perez suffers from chronic asthma, a condition that prior to his detention required him to carry medication to manage any breathing difficulties.

CAMPAIGN OF DETENTIONS

13. On or about May 20, 2025, Respondents began a nationwide campaign to seek dismissal of removal proceedings for people present in the U.S. for under two years and, irrespective of the

outcome of that motion, to detain individuals immediately after their appearance in immigration court.

14. In New York City, this campaign has led to a large number of detentions in all three Manhattan immigration courthouses. The detentions are not individualized: on information and belief, Respondents create lists of individuals to be detained and then proceed to detain every single one, even in the face of protests such as that the person has minor children or medical conditions or cannot lawfully be subject to expedited removal.

15. Once detained, New Yorkers targeted by this campaign are held incommunicado for several days. Family members often not hear from them for days and the ICE locator, an online portal, often does not reflect their location for several days or reflects a detention center at which (according to facility staff there) detainees are not actually present. Reporting has indicated that like Petitioner hundreds of people are being for prolonged periods in rooms inside Manhattan federal buildings that are intended as temporary holding areas for a much smaller number of people.

16. The conditions inside 26 Federal Plaza are inhumane. Individuals detained do not have access to beds, regular meals, or meaningful communication with loved ones or counsel. Like Petitioner, detainees also report that they are not able to bathe or change clothes; that the temperature can be extremely hot or cold; and that medical care is not provided.

LEGAL FRAMEWORK

17. The INA provides for removal proceedings to be the “sole and exclusive” procedures for removing people from the United States, subject to a few narrow exceptions. 8 U.S.C. 1229a. Section 1229a(a)(3) states that “[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be

admitted to the United States or, if the alien has been so admitted, removed from the United States.”¹

18. Mr. Arraiz Perez is currently in removal proceedings under section 1229a. His proceedings remain pending, with a next court date in January 2026.

19. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). For individuals who are arriving in the U.S. or who are subject to expedited removal because they have been present under two years and meet certain other requirements, mandatory detention is authorized by 8 U.S.C. § 1225(b)(2). For individuals who are in removal proceedings following entry without inspection and who are not subject to mandatory detention based on criminal history, detention is normally authorized by 8 U.S.C. § 1226(a). Individuals with a final order of removal may be subject to mandatory or discretionary detention pursuant to 8 U.S.C. § 1231(a).

20. In May 2025, the Board of Immigration Appeals held that “an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).” *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025). As a result of this new decision, many individuals who were encountered or presented themselves to immigration authorities shortly after entering the U.S. and who previously qualified for release on bond now no longer do.

¹ “Attorney General” in Section 1254a now refers to the Secretary of the Department of Homeland Security. *See* 8 U.S.C. § 1103; 6 U.S.C. § 557.

21. Although civil immigration detention is authorized by statute, that detention serves only two legitimate purposes: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

22. DHS makes initial custody determinations pursuant to 8 C.F.R. § 1236.1(c)(8), which requires that noncitizens be released from custody *only* “if they demonstrate 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.” *See Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) (“Defendants do not dispute, that 8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination”).

23. A person’s liberty cannot be infringed upon without “adequate procedural protections.” *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Mathews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). This test requires process sufficient to mitigate the risk of erroneous deprivation of a liberty interest. Revocation of conditional release from confinement, even civil immigration confinement, infringes on a protected liberty interest. The liberty interest in even conditional release is well-established in the context of parole; probation; and freedom from civil immigration confinement. *See Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (finding immigration petitioner’s “liberty interest is clearly established”); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (applying case law from the probation and parole contexts to conclude that the non-citizen petitioner had a “liberty interest in remaining out of [immigration] custody”).

24. As to process, at a minimum, in the context of revocation of civil release, “an individual whose release is sought to be revoked is entitled to due process such as notice of the alleged grounds for revocation, a hearing, and the right to testify at such a hearing.” *Villiers v. Decker*, 31 F.4th 825, 833 (2d Cir. 2022).

25. Despite these baseline requirements, Respondents now regularly re-detain individuals notwithstanding an earlier determination to release them without according any notice or process whatsoever.

CLAIMS FOR RELIEF

COUNT ONE **VIOLATION OF THE DUE PROCESS CLAUSE** **OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION** **(Redetention and Conditions of Confinement)**

26. Mr. Arraiz Perez repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

27. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

28. Petitioner’s detention violates the Due Process Clause. He was determined not to pose danger or flight risk when he was released from custody in 2023. He was not accorded sufficient process prior to his sudden re-detention by ICE in July 2025. He received neither notice nor an opportunity to be heard as to whether a change in custody status was warranted. *See Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025) (ordering release of petitioner re-detained after an immigration court hearing and concluding “Respondents ongoing detention of Petitioner with no process at all, much less prior notice, no showing of

changed circumstances, or an opportunity to respond, violates his due process rights.”); *Chipantiza-Sisalema v. Francis*, 25 CIV. 5528 (AT) (S.D.N.Y. July 13, 2025) (same); *Lopez v. Sessions*, No. 18 CIV. 4189 (RWS), 2018 WL 2932726, at *12 (S.D.N.Y. June 12, 2018) (“Petitioner’s re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment”).

29. Respondents are likely to now contend in administrative proceedings that Mr. Arraiz Perez is ineligible for bond under *Matter of Q Li*, 29 I. & N. Dec. 66 (BIA 2025). Mandatory detention without access to a bond hearing violates Petitioner’s right to due process. Further, even if Mr. Arraiz Perez were granted a bond hearing at some point, such “a hearing is no substitute for the requirement that ICE engage in a ‘deliberative process *prior to, or contemporaneous with*’ the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause.” *Chipantiza-Sisalema*, 25 CIV. 5528 (AT) at 6 (S.D.N.Y. July 13, 2025) (emphasis added).

30. Respondents have detained Mr. Arraiz for four days (and counting) in inhumane conditions not fit for long-term habitation. They did not allow him to have sufficient access to family or to legal counsel.

31. Respondents’ actions violate Mr. Arraiz Perez’s right to due process.

COUNT TWO
VIOLATION OF THE FOURTH AMENDMENT (Redetention)

32. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

33. Mr. Arraiz Perez 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 him while he litigated that charge in immigration court. At the time of Mr. Arraiz Perez's arrest, he had been living at liberty pursuant to that determination by federal immigration authorities.

34. 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 he is subject to removal proceedings is unreasonable and therefore violates the Fourth Amendment.

COUNT THREE
RELEASE PENDING ADJUDICATION

35. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

36. Pursuant to *Mapp v. Reno*, this Court has the "inherent authority" to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) extraordinary circumstances that (3) "make the grant of bail necessary to make the habeas remedy effective." 241 F.3d 221, 226 (2d Cir. 2001).

37. Mr. Arraiz Perez presents substantial claims; his ongoing confinement in inhumane conditions without access to family or counsel present extraordinary circumstances; and he requests immediate release pending adjudication of the instant petition.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Enjoin Petitioner's transfer out of the New York City area;
3. 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;

4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the Immigration and Nationality Act and implementing regulations;
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
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 such further relief as this Court deems just and proper.

Dated: July 14, 2025

/s/ Harold A. Solis
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CERTIFICATE OF SERVICE

I certify that on July 14, 2025, I electronically filed the attached the foregoing Petition for Writ of Habeas Corpus and accompanying Exhibits with the Clerk of the Court for the United States District Court for the Southern District of New York using the CM/ECF system. Service will therefore be effected by the CM/ECF system.

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