

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

EFREN LOPEZ-CARRERA
Petitioner,

v.

TERRANCE DICKERSON, *in his official capacity*
as Warden of Stewart Detention Center, and
TODD LYONS, *in his official capacity as Acting*
Director of Immigration and Customs Enforcement
and GEORGE STERLING, *Field Office Director*
ICE Atlanta Field Office, and KRISTI NOEM
Secretary of Homeland Security,
Respondents.

) Case No. 4:25-cv-264
)
)

) **PETITION FOR WRIT**
) **OF HABEAS CORPUS**
)

) A#



I. INTRODUCTION

1. Petitioner Efren Lopez-Carrera (“Mr. Lopez-Carrera”) is a 48-year-old Mexican national and father of three United States citizens who has resided in in the United States since 2002.

2. On August 19, 2025, an Immigration Judge (“IJ”) ordered Mr. Lopez-Carrera released on an \$8,000 bond, finding he poses neither danger to the community nor flight risk. No additional conditions were imposed.

3. Immigration and Customs Enforcement (“ICE”) refuses to accept the bond and release him, asserting it his release is automatically stayed under 8 C.F.R. § 1003.19(i)(2).

4. As of the time of filing, ICE has filed neither a Notice of Appeal nor the

certification required to trigger § 1003.6(c)(1). Mr. Lopez-Carrera remains confined at Stewart Detention Center in Lumpkin, Georgia.

5. The automatic-stay regulation exceeds any authority Congress conferred in the Immigration and Nationality Act (“INA”) and violates the Fifth Amendment’s Due Process Clause. Even if ICE were to file an appeal now, detention under § 1003.19(i)(2) would remain unlawful.

6. Mr. Lopez-Carrera therefore seeks a writ of habeas corpus directing his immediate release.

II. VENUE AND JURISDICTION

7. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause).

8. Venue lies in this Division because Mr. Lopez-Carrera is detained in Stewart Detention Center, within the Columbus Division, and Respondent Dickerson is his immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

9. Petitioner Efren Lopez-Carrera (“Mr. Lopez-Carrera”) is a 48-year-old Mexican national who has resided in in the United States since 2002.

10. Respondent Terrance Dickerson is the Warden of Stewart Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Mr. Lopez-Carrera is detained. Because ICE contracts with private prisons such as Stewart to house immigration detainees such as Mr. Lopez-Carrera, Respondent Dickerson has immediate physical custody of the Petitioner.

11. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (hereinafter “ICE”). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity.

12. Respondent George Sterling is the Atlanta Field Office Director for Immigration and Customs Enforcement (hereinafter “FOD”). As such, Respondent Sterling is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Sterling is being sued in his official capacity.

13. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter “DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

IV. EXHAUSTION OF REMEDIES

14. No statutory exhaustion requirement applies. Moreover, ICE’s refusal to honor the IJ’s bond order leaves no administrative avenue to secure release; additional agency steps would be futile.

15. Mr. Lopez-Carrera has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

V. STATEMENT OF FACTS

16. On or about June 2025, Petitioner was detained by U.S. Immigration and Customs Enforcement (ICE) in Georgia. On the day of his apprehension, Mr.

Lopez-Carrera was pulled over while driving to work, allegedly for crossing a traffic line, a traffic stop that did not result in any criminal charges or citations. ICE took him into custody without a judicial warrant or formal arrest by local law enforcement, and he was transferred to Stewart Detention Center in Lumpkin, Georgia, where he remains confined. **(Exhibit A, ICE Custody Record).**

17. On August 19, 2025, an Immigration Judge from the Stewart Immigration Court conducted a bond redetermination hearing and granted Petitioner release on a bond of \$8,000, finding that he was neither a danger to the community nor a flight risk. **(Exhibit B, Immigration Judge's Bond Order).**

18. That same day, August 19, 2025, ICE submitted a Notice of Intent to Appeal Custody Redetermination (Form EOIR-43), purporting to invoke an automatic stay of the Immigration Judge's bond order under 8 C.F.R. § 1003.19(i)(2). **(Exhibit C, EOIR-43 Form)**

19. As a result of the automatic stay provision, Petitioner remains in custody, despite the Immigration Judge's unchallenged factual findings in favor of release. The stay operates solely due to ICE's filing of Form EOIR-43, and the Board of Immigration Appeals has issued no briefing schedule or final decision as of the filing of this Petition. **(Exhibit D, Online case status showing no Notice of Appeal filed).**

20. Petitioner's prolonged detention under the automatic stay provision, without individualized review or judicial authorization, deprives him of his liberty despite a prior, favorable custody determination.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

21. Habeas corpus relief extends to a person “in custody under or by color of the authority of the United States” if the person can show she is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

22. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008) (citations omitted). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

VI. CAUSES OF ACTION COUNT ONE THE REGULATION IS *ULTRA VIRES*

23. Petitioner incorporates paragraphs 1 through 22 as if fully set out herein.

24. The Immigration and Nationality Act, 8 U.S.C. § 1226(a), authorizes discretionary detention subject to an Immigration Judge’s bond decision; it does not authorize Immigration and Customs Enforcement to nullify that judicial decision by

administrative fiat.

25. Regulation 8 C.F.R. § 1003.19(i)(2) purports to impose an automatic stay that takes effect the moment ICE files—or merely intends to file—a notice of appeal, without any neutral review or individualized findings.

26. By turning discretionary custody into de facto mandatory detention for detainees not subject to 8 U.S.C. § 1226(c), § 1003.19(i)(2) exceeds the statutory power Congress delegated and violates the separation-of-powers principle.

27. Detention premised solely on this ultra vires regulation is “not in accordance with law,” “in excess of statutory jurisdiction,” and “arbitrary [and] capricious” under 5 U.S.C. § 706(2), entitling Petitioner to immediate release.

COUNT TWO (PROCEDURAL DUE PROCESS)

28. Petitioner incorporates paragraphs 1 through 22 as if fully set out herein.

29. The Fifth Amendment forbids a deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker.

30. Subsection 1003.19(i)(2) strips Petitioner of that protection by allowing the prosecuting agency—after losing at the bond hearing—to veto the Immigration Judge’s order with a one-page notice that requires no showing of danger, flight risk, or likelihood of success on appeal.

31. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test, Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is extreme considering the Immigration Judge’s determination that Petitioner is not subject to

mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator. *Marcello v. Bonds*, 39 U.S. 302, 305-306 (1955). In filing the Form EOIR-43, ICE is acting as both the prosecutor as well as the adjudicator. Lastly, the interest of the government in being able to invoke the challenged regulation is minimal, as there is a substitute administrative provision available. Under 8 C.F.R. §1003.19(i)(1), DHS may request an emergency stay from the BIA on the merits of the Immigration Judge's decision to release Petitioner on bond.

COUNT THREE (SUBSTANTIVE DUE PROCESS)

32. Petitioner incorporates paragraphs 1 through 28 as if fully set out herein.

33. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

34. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. CONT. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

35. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring

appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

36. Once the Immigration Judge found Petitioner neither dangerous nor a flight risk and set a bond that his friends immediately posted, the Government’s lawful objectives were satisfied; continued confinement therefore bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary under *Zadvydas*.

37. The regulation is also excessive because an alternative provision enables ICE to seek an emergency stay of the immigration judge’s release order on the merits. The “emergency stay” provision at 8 C.F.R. § 1003.19(i)(1) permits ICE to file an emergency request for a stay of release with the BIA, just as in any other proceeding in which the losing party seeks appellate review of an adverse decision and a stay pending appeal.

38. The continued detention of Petitioner pursuant to the “automatic stay” regulation violates his due process rights. *See Mohammed H. v. Trump*, No. 25-1576 (JWB/DTS), 2025 U.S. Dist. LEXIS 117197, at *15 (D. Minn. June 17, 2025); *Günaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 U.S. Dist. LEXIS 99237 (D. Minn. May 21, 2025). But for intervention by this Court, Petitioner has no means of release pending ICE’s appeal.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;

- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision;
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 days of the filing of this petition;
- 5) Award attorneys' fees to Petitioner; and
- 6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 22nd day of August, 2025.

/s/ Helen L Parsonage
Elliot Morgan Parsonage, PLLC
328 N Spring St.
Winston-Salem, NC 27101
NC Bar # 35492
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Attorney for Petitioner

CERTIFICATE OF COMPLIANCE

I hereby certify that the document to which this certificate is attached has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

/s/ Helen L Parsonage
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328 N Spring St.
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