

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

EDWARD TED LUNA QUISPE,

Petitioner,

v.

**JEFFREY CRAWFORD, Warden,
Farmville Detention Center;
MATTHEW ELLISTON, Deputy
Assistant Director for Field
Operations, Eastern Division,
Enforcement and Removal Operations,
U.S. Immigration and Customs
Enforcement; KRISTI NOEM,
Secretary of the U.S. Department of
Homeland Security; and PAMELA
BONDI, Attorney General of the
United States, in their official
capacities,**

Respondents.

Case No: 1:25-cv-1471

PETITION FOR WRIT OF HABEAS CORPUS

This is a petition for a Writ of Habeas Corpus filed on behalf of Mr. Edward Luna Quispe seeking relief to remedy his unlawful detention. Respondents are detaining the Petitioner in violation of his Fifth Amendment due process rights, effectively depriving him of a meaningful bond re-determination hearing, exceeding the limits of the Department of Homeland Security's statutory authority. By depriving Petitioner of adequate medical care and needed medications while in detention, Respondents also violate Petitioner's Eighth Amendment rights by inflicting cruel and unusual punishments.

Petitioner fully cooperated with Respondents in their pursuit of his arrest and detention.

On or about Monday August 18, 2025, federal agents stopped the Petitioner as he was departing from purchasing materials for his business in Washington, D.C. The federal agents arrested the Petitioner and placed him in the custody of U.S. DHS Immigration and Customs Enforcement where they took him to the Farmville Detention Center in Farmville, Virginia. The petitioner's detention was for the purpose of placing him in removal proceedings and possible deportation.

Subsequently, Petitioner, through counsel, filed a bond motion with the Annandale Immigration Court. On August 26, 2025, Immigration Judge Raphael Choi determined that the Respondent was not a danger to the community nor was he a flight risk and issued a \$5,000 bond. Prior to his detention, he was not in removal proceedings and does not have a criminal record. The Department of Homeland Security immediately exerted a stay of the bond decision, prohibiting Petitioner from being able to release. Should the Department of Homeland Security continue to pursue its appeal of the decision, Petitioner will be unable to release during his removal proceedings as the duration of the bond appeal will likely exceed the duration of removal proceedings. In effect, the Department of Homeland Security is exerting the stay as a litigation tactic to deter and limit the Petitioner from pursuing relief in immigration court, unlawfully depriving him of liberty.

Petitioner submits that his prolonged detention is in violation of his Fifth Amendment rights. Petitioner's detention is no longer justified under the Constitution or the Immigration and Nationality Act ("INA"). Petitioner seeks an order from this Court declaring his continued detention unlawful and ordering Respondents to allow Petitioner to post bond and be released from their custody.

CUSTODY

1. Petitioner is in the physical custody of Respondent Matt Elliston, Field Office Director for

Detention and Removal, U.S. Immigration and Customs Enforcement (“U.S. ICE”), the Department of Homeland Security (“DHS”), and Respondent Jeffrey Crawford, Warden of the Farmville Detention Center located in Farmville, Virginia. At the time of the filing of this petition, the Petitioner is detained at the Farmville Detention Center in Farmville, Virginia. The Farmville Detention Center contracts with the DHS to detain noncitizens such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570. 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), as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

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 in the United States District Court for the Eastern District of Virginia, the judicial district in which Respondents, Matthew Elliston and Jeffrey Crawford reside and where Petitioner is detained. 28 U.S.C. § 1391(e).

PARTIES

5. Petitioner Luna Quispe is a national and citizen of Peru. He is detained by Respondents pursuant to 8 U.S.C. § 1226.

6. Respondent Crawford is the Warden of Farmville Detention Center, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. ICE to detain noncitizens and is a legal custodian of Petitioner.

7. Respondent Elliston is sued in his official capacity as the Deputy Assistant Director for Field Operations, Eastern Division, for Enforcement and Removal Operations within U.S. ICE. Respondent Ellis is a legal custodian of Petitioner and has authority to release him.

8. Respondent Kristi Noem is sued in her official capacity as the Secretary of the DHS. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. ICE, the component agency responsible for Petitioner's detention.

9. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals ("BIA").

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. The petitioner exhausted his administrative remedies to the extent required by law.

11. After securing a \$5,000 immigration bond by the Annandale Immigration Court, the Petitioner was immediately blocked from being able to post bond due to an unconstitutional stay of the decision.

12. On September 2, 2025, the undersigned counselor's office sent a demand letter to the DHS Office of Principal Legal Counsel for Annandale, Virginia.

13. Petitioner fully cooperated with Respondents and did not delay or obstruct his

detention.

14. Petitioner's only remedy is by way of this judicial action.

STATEMENT OF FACTS

15. Petitioner is a national and citizen of Peru who entered the United States without inspection in March 2006 and resided continuously in the United States since his entry for nearly two decades.

16. Petitioner was never previously in immigration court proceedings.

17. The petitioner is engaged to a US citizen, Julisa Maribel Baez, and has a US citizen child, Christopher Huaman, who is over 21 years-old and filed a relative petition on his behalf on August 25, 2025.

18. On August 18, 2025, Petitioner left Home Depot in Washington, D.C. after buying supplies for his home remodeling business. As he was driving away at a normal speed, an unidentified vehicle appeared behind him and a masked man ordered Petitioner to stop his vehicle. Petitioner complied, as the man yelled that he open his vehicle door and provide documentation. Petitioner was scared, as a helicopter circled above. Petitioner provided the man with his Maryland driver's license. Petitioner repeatedly asked the men what they were doing because he had not committed a crime. The men told Petitioner that he was "illegal." They took away his wallet and obtained his Peruvian identification card. During this exchange, the men never identified themselves. Again, the Petitioner asked what he had done or where they were taking him. The men grabbed Petitioner and hurt his arm, as they restrained and arrested him. They never informed Petitioner where they were taking him.

19. Respondent transported Petitioner to the U.S. ICE Field Office in Chantilly, Virginia, where he was held for two days before transferring him to Farmville Detention Center in Farmville, Virginia on August 20, 2025.

20. Immigration authorities initially held Petitioner at the ICE Chantilly Field Office. When he arrived, Petitioner requested medication for diabetes, as he felt the effects of his agitated emotional state on his body, but the authorities did not provide any.

21. While in the ICE Chantilly Field Office, immigration authorities interrogated the Petitioner who was not free to leave the office. During the interrogation, Petitioner divulged that he was Peruvian, as he felt that he had to answer when immigration authorities threatened immediate deportation if he did not respond. During the interrogation, he attested that he had not committed a crime that day and had no criminal record.

22. The petitioner fully cooperates with the authorities.

23. On August 20, 2025, through undersigned counsel's office, Petitioner filed a motion for bond and custody redetermination with the Annandale Immigration Court. On August 25, 2025, he supplemented the motion with evidence of his family ties to the United States, evidence for eligibility for relief, and other favorable discretionary evidence.

24. On August 26, 2025, Petitioner appeared for a custody redetermination hearing in front of Immigration Judge ("IJ") Choi. Judge Choi granted Mr. Luna Quispe a bond of \$5,000.

25. However, that same day, Respondents filed Form EOIR-43, Notice of ICE Intent to Appeal Custody Redetermination, which placed an automatic stay on Petitioner's bond decision.

26. As of the time of filing this petition, the Petitioner's detention has lasted for more than seventeen (17) days and more than nine (9) days since his bond decision. Respondents continue to detain the Petitioner.

27. Petitioner suffers from Type 2 Diabetes, high cholesterol, a deviated septum, and is now experiencing anxiety and depression symptoms. Petitioner does not have access to his medications in detention, which he requires and has requested. His daily medications include atorvastatin (high

cholesterol), fexofenadine (allergies), fluticasone propionate nasal spray (allergies), metformin (Type 2 diabetes), pseudoephedrine-guaifenesin (allergies/respiratory syndrome).

28. Petitioner's fiancée reports that he is now suffering from a sore throat and other flu-like symptoms, including fatigue, inability to sleep, congestion, cough, body aches, and headaches. Despite repeated requests, he has not been allowed access to his medications. His prolonged detention will likely cause serious and adverse consequences for his physical and mental health.

29. Petitioner is not a danger to the community or a flight risk. He has no criminal history in this country or outside the United States.

30. Petitioner has deep roots in this community. He has one U.S. citizen adult child, who has filed an I-130, Immigrant Visa Petition, on his behalf, and a U.S. citizen fiancée who would both qualify him for an unlawful presence waiver and non-lawful permanent resident cancellation of removal.

31. Petitioner is pursuing a divorce to his current spouse in Peru, Emma Vargas Cruz, so that he may marry his fiancée and pursue a path to legal permanent residency. Petitioner's detention makes pursuing the divorce immensely challenging.

32. Petitioner is self-employed as the owner of a home remodeling business for over ten years now. Petitioner provides financial support for his fiancée and has four employees. Petitioner's clients require him to be there to continue the contract work, and he is suffering financial loss as a result.

33. Petitioner's fiancée suffers from hypothyroidism, sleep apnea, high blood pressure, and gastritis. His removal from the United States would cause her extreme emotional, psychological, medical, and financial suffering.

34. Prior to his arrest, Petitioner was working, paying his taxes, and providing for his family

members. Petitioner's continued detention deprives his loved ones of his companionship and income.

35. Respondents' decision to detain Petitioner is no longer legally justifiable and is capricious and arbitrary. There is no better time for the Court to consider the merits of Petitioner's request for release and clarify that he is entitled to release.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Substantive and Procedural Due Process

36. Petitioner alleges and incorporates by reference paragraphs 1 through 35 above.

37. The automatic stay provision at 8 C.F.R. § 1003.19(i)(2) violates the Petitioner's substantive due process rights under the Fifth Amendment to the United States Constitution as it subjects him to arbitrary detention.

38. "Government detention violates the Fifth Amendment "unless the detention is ordered in a *criminal proceeding* with adequate procedural protections or, in certain special and 'narrow' nonpunitive 'circumstances' where a special justification . . . outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Zadvydas v. Davis*, 553 U.S. 678, 690 (2001) (emphasis in original).

39. There is no "special justification" which allows the Respondents to deny the Petitioner the liberty he is entitled to under the Immigration Judge's bond order. The Immigration Judge found the Petitioner was not a danger to the community or a flight risk. Respondents did not identify any specific reason for appealing the Immigration Judge's decision. The automatic stay provision contravenes the decision of an independent fact finder and allows the government to infringe on

Petitioner's liberty interest in violation of substantive due process.

40. Substantive due process also affords Petitioner "a right to adequate food, shelter, clothing and *medical care* . . . [and to] safety and freedom from bodily restraint." *Youngberg v. Romeo*, 457 U.S. 307, 315-18 (1982) (emphasis added). The Petitioner is languishing in detention without access to the vital medications which help him manage his diabetes, high cholesterol, and respiratory ailments. He has reported elevated blood sugar levels which can lead to severe health complications. The longer that Petitioner remains in detention, the more his medical conditions will continue to deteriorate.

41. The automatic stay of the bond redetermination grossly deprives the Petitioner of his procedural due process rights. This court applies the three-factor balancing test set out in *Matthews v. Eldridge* in the context of civil immigration detention. *See, e.g., Santos Garcia v. Garland*, No. 1:21-cv-742 (E.D. Va Mar. 31, 2022). The three factors are (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Matthews v. Eldridge*, 424 U.S. 319, 335 (1976).

42. Here, the factors weigh heavily in favor of the petitioner. First, the Petitioner has a significant private interest at stake. Freedom from bodily restraint "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 at 630. The petitioner is being detained hundreds of miles from his family and without access to vital medications. The violation of Petitioner's liberty interest is even more stark in this situation because the IJ already determined Petitioner should be released from detention.

43. As to the second factor, there is an enormous risk of the erroneous deprivation of Petitioner's liberty interest. In fact, it has already occurred. Petitioner is categorically not subject to mandatory detention under the INA, as evidenced by the IJ exercising his discretionary authority to issue Petitioner a bond. Additionally, the automatic stay provision allows Respondents to unilaterally deprive Petitioner of his liberty interest, despite being granted bond from a neutral fact finder. This dangerously conflates the Respondents' role in immigration proceedings and allows Respondents to usurp the role of the adjudicator.

44. Respondents also did not effectuate an individualized assessment as is implied under the automatic stay regulation, which further erroneously deprives Petitioner of his private liberty interest. rights. 8 C.F.R. . § 1003.6(c) lists the procedures that must accompany an automatic stay pursuant to 8 C.F.R. . § 1003.19(i)(2). This includes that "to preserve the automatic stay, the attorney for DHS shall file with the notice of appeal a certification by a senior legal official that – (1) the official has approved the filing of the notice of appeal according to review procedures established by DHS; and (ii) the official is satisfied that the contentions justifying the continued detention of the alien have evidentiary support, and the legal arguments are warranted by existing law or by a non-frivolous argument for the extension, modification or reversal of existing precedent of the establishment of new precedent." No such certification was filed in this case as of the date of filing this petition and, as such, the Respondents have failed to follow their own regulatory requirement. With no individualized review as is required under regulation and lacking any factual or legal basis for justifying Petitioner's continued detention, the risk of erroneously depriving Petitioner's liberty is high.

45. Regarding available alternatives, the regulations already provide one: DHS may request a discretionary emergency stay from the BIA. *See* 8 C.F.R. § 1003.10(i)(1). This would cure some

of the procedural due process concerns of the automatic stay because the government would have to demonstrate to the BIA's satisfaction that a stay was appropriate based on an individualized review of Petitioner's case. It would also ensure that another neutral adjudicator is involved in the decision to continue detaining Petitioner.

46. Regarding the third *Matthews* factor, the government does not have a significant interest at stake in Petitioner's detention pursuant to the automatic stay provision. Petitioner has no criminal record. The IJ issued Petitioner's bond based on the reasoning that he is neither a danger to the community nor a flight risk. Petitioner has every incentive to show up to his immigration court proceedings as he is eligible for multiple forms of relief from removal. In contrast to the enormous interest at stake for the Petitioner, the government's interest is miniscule. On balance, the *Matthews v. Eldridge* factors weigh heavily in favor of the Petitioner.

47. Petitioner's due process right is violated by keeping him in detention for an unnecessary period as it deprives him of fundamental fairness in his removal proceedings. Despite the IJ finding that Petitioner is not a flight risk or a danger to the community, Petitioner cannot be released while the emergency stay is in effect. This prolonged detention deprives Petitioner the ability to finalize his divorce and marrying his long-time U.S. citizen partner, which obstructs his eligibility for relief in immigration court (applying for EOIR-42B, Cancellation of Removal for Certain Nonpermanent Residents or, alternatively, qualifying for an I-601A provisional unlawful presence waiver so that he may consular process for legal permanent residence).

48. The regulation permitting the stay effectively promulgates prolonged detention even when an immigration judge has issued bond, which essentially deprives the Petitioner from an actual or meaningful bond hearing, as the judge's decision cannot actually go into effect. The automatic stay effectively renders the IJ's bond decision as an "empty gesture." *Ashley v. Ridge*, 288

F.Supp.2d 662, 669 (D.N.J. 2003), as it essentially removes all the legal authority of the IJ to redetermine bond and unlawfully gives it to DHS.

49. While the Immigration Judge is correct that the petitioner is eligible for bond, DHS is continuing the detention in error on the mistaken belief that persons who entered without inspection are not ineligible for bond. This argument is a dangerous misreading of the INA and immediate clarification from a federal court is needed that they are wrong. Under INA § 236(a), U.S. ICE “may” detain an alien pending the removal proceedings, *or* release the alien on bond or the alien's own recognizance. If ICE decides to maintain custody, the alien may request review of ICE's custody determination at a bond hearing before an IJ.

50. Without federal court action, Petitioner will likely continue to remain detained for months, despite the IJ's order releasing him. Given that the Board of Immigration appeals has over 186,000 cases pending in relation to 19 members on the Board (fourteen permanent members and five temporary members) immediate action from this court is required to prevent Petitioner's continued prolonged and unjustified detention. *Executive Office for Immigration Review Adjudication Statistics*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/eoir/media/1344986/dl?inline> (last updated July 31, 2025); *Board of Immigration Appeals*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/eoir/board-of-immigration-appeals> (last updated Aug. 29. 2025).

COUNT TWO

Violation of Eighth Amendment Right to Protection from Cruel and Unusual Punishments

51. Petitioner suffers from various chronic and serious medical conditions including Type II Diabetes. Petitioner regularly takes medication for these conditions; however, despite requests, has not received them from the Respondent while under their custody at the Farmville Detention Center.

52. Respondent's refusal to provide medications upon Petitioner's request is grossly negligent and wholly inadequate.

53. Respondent's continued detention of the Petitioner will most certainly lead to severe medical complications and possibly death. Accordingly, the Petitioner should be immediately released for humanitarian reasons, regardless of the constitutionality of the detention of the Petitioner.

54. To state a cognizable claim under the Eighth Amendment, Petitioner must allege acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs. *See e.g., Estelle v. Gamble*, 429 U.S. 97, 106 (1976). Here, Respondent's refusal to address Petitioner's medical conditions and provide necessary medications are the actions that violate Petitioner's constitutional rights.

55. Even if no harm occurred so far, the unsafety of Petitioner's conditions is sufficient cause for judicial intervention. *See Helling v. McKinney*, 509 U.S. 25, 33 (1993) (explaining that the Supreme Court and Courts of Appeals have recognized a remedy for unsafe conditions where a tragic event has not yet occurred, i.e., one need not wait for a tragic event to occur to file a claim for future harm under the Eighth Amendment claim).

56. The U.S. Supreme Court has not foreclosed or even limited Eighth Amendment protections for foreign nationals in civil detention. *Vazquez Barrera v. Wolf*, 455 F. Supp. 3d 330, 336 (S.D. Tex. 2020); *see also Poree v. Collins*, 866 F.3d 235, 242–43 (5th Cir. 2017); *see generally Boumediene v. Bush*, 553 U.S. 723 (2008). Accordingly, the Petitioner prays that this court intervene and order his detention without access to adequate medical care unconstitutional under the Eight Amendment.

COUNT THREE

Violation of 8 U.S.C. § 1226(a) and Implementing Regulations

57. Petitioner alleges and incorporates by reference paragraphs 1 through 45 above.

58. The automatic stay is ultra vires in that it exceeds the authority that Congress conferred upon DHS and unlawfully removes the authority from the immigration judge to determine bond eligibility. The immigration judge exercised his discretion pursuant to the authority granted to him as an appointee of the attorney General, and the automatic stay renders this authority a nullity.

59. While the immigration judge is correct that the petitioner is eligible for bond, DHS continues the detention in error on the mistaken belief that persons who entered without inspection are not ineligible for bond. This argument is a dangerous misreading of the INA and immediate clarification from a federal court is needed that they are wrong.

60. Petitioner's continued detention violates the Immigration and Nationality Act and the U.S. Constitution.

COUNT FOUR

61. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an order directing Respondents to show cause why the writ should not be granted;
3. Issue a writ of habeas corpus ordering Respondents to release Mr. Luna Quispe on

his own recognizance or under parole, a low bond or reasonable conditions of supervision show;

4. Award Petitioner reasonable costs and attorney's fees; and,
5. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

/s/ Yusuf Ahmad

Yusuf Ahmad

Counsel for Petitioner

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Dated: September 4, 2025

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

I represent Petitioner, Edward Luna Quispe, 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.

Dated this 4th day of September, 2025.

s/Yusuf Ahmad