

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

EDVIN ADOLFO LOPEZ-SANABRIA
(A# 201-714-857),

Petitioner,

v.

PAMELA BONDI, U.S. Attorney General;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security;
TODD M. LYONS, in his official capacity as
Acting Director of U.S. Immigration and Customs
Enforcement;
JAMES A. MULLAN, in his official capacity
as Assistant Field Office Director in charge of
ICE Washington Field Office; and
JEFFREY CRAWFORD, in his official capacity
as warden of the Farmville Detention Center

Respondents.

Case No. 1:25-cv-1511

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Edvin Adolfo Lopez-Sanabria (“Mr. Lopez-Sanabria”), a native and citizen of Honduras, challenges his continued custodial detention by the Department of Homeland Security Immigration and Customs Enforcement (“ICE”) since on or about August 21, 2025 as an unconstitutional and unjustified restraint and deprivation of his physical liberty, and seeks immediate relief from this Court.
2. Mr. Lopez-Sanabria is being unlawfully subjected to continued custodial detention by Respondents, despite pursuing administrative remedies with the Department of Justice Executive Office for Immigration Review (“EOIR”). The immigration judge granted bond of \$1,500 to Mr. Lopez-Sanabria on September 2, 2025. ICE exercised

its regulatory automatic stay authority under 8 C.F.R. 1003.19(i)(2) to prevent Mr. Lopez-Sanabria's release from custody in violation of the Immigration and Nationality Act (the "INA").

3. Mr. Lopez-Sanabria's continued detention by ICE, without any further meaningful mechanism to challenge his confinement, violates the U.S. CONST. Due Process Clause of the Fifth Amendment (the "Fifth Amendment"), the Excessive Bails Clause of the Eighth Amendment (the "Eighth Amendment"), the INA and the Administrative Procedures Act, 5 U.S.C. § 702 (the "APA").
4. Mr. Lopez-Sanabria petitions for a writ of habeas corpus to remedy his unlawful detention, and prays this Court will 1) issue an order staying Mr. Lopez-Sanabria's transfer outside of the Eastern District of Virginia and his removal or deportation from the United States; 2) issue an order granting Mr. Lopez-Sanabria his immediate release from the custody of the Respondents or allowing him to pay the bond granted by the immigration judge; and 3) issue an order preventing Respondents from once again taking Mr. Lopez-Sanabria into custody unless he is determined to be a flight risk and/or a danger to the community.

JURISDICTION AND VENUE

5. Mr. Lopez-Sanabria is detained in Farmville, Virginia at the Abyon Farmville Detention Center, which is within the jurisdiction of the United States District Court for the Eastern District of Virginia ("EDVA").
6. This action arises under the Due Process Clause of the Fifth Amendment, the Excessive Bails Clause of the Eighth Amendment, the INA and the APA.
7. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 ("Habeas Corpus"), 28 U.S.C. § 1346 (civil actions against the United States), 28 U.S.C. § 1651 ("All Writs Act"), and 28 U.S.C. §§ 2201-02 ("Declaratory Relief"), as Mr. Lopez-Sanabria is presently held in custody under or by color of the authority of the United States. His detention by Respondents is a "severe restraint" on his individual liberty "in violation of the...laws ... of the United States." See Hensley v. Municipal Court, San Jose-Milpitas Jud. Dist., 411 U.S. 345, 351 (1973).
8. This Court has jurisdiction to hear Habeas Corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by U.S. immigration officials.

See, e.g., Jennings v. Rodriguez, 138 S. Ct. 830,841 (2018); Demore v. Kim, 538 U.S. 510, 516-17 (2003); Zadvydas v. Davis, 533 U.S. 678, 687.

9. In addition to the habeas protections in the Constitution and INA, federal district courts have subject-matter jurisdiction under 28 U.S.C. § 1331 (“Federal Questions”) to hear claims by individuals challenging the lawfulness of agency action.
10. Venue is proper because Mr. Lopez-Sanabria is currently detained within the EDVA. At 8:19 a.m. Eastern Time on September 9, 2025, the ICE Detainee Locator indicated that he is detained ICE custody in Farmville, Virginia.

PARTIES

11. Petitioner Edvin Adolfo Lopez-Sanabria is a citizen and national of Honduras. He is currently detained by the Respondents at the Farmville Detention Center within the EDVA since on or about August 21, 2025.
12. Respondent Pamela Bondi is the U.S. Attorney General, and in that capacity is responsible for the EOIR which includes the Board of Immigration Appeals and immigration courts. She is sued in her official capacity.
13. Respondent Kristi Noem is the Secretary of Homeland Security, and in that capacity is responsible for the Department of Homeland Security (“DHS”) and all sub-cabinet agencies of DHS, including ICE and the United States Citizenship and Immigration Services (“USCIS”). She is sued in her official capacity.
14. Respondent Todd M. Lyons is the Acting Director of ICE, responsible for ICE’s detention and removal operations of non-citizens such as Petitioner, among all its other functions. He is sued in his official capacity.
15. Respondent James A. Mullan is the Assistant Field Office Director of the ICE Washington Field Office, and is responsible for ICE's operations in the State of Virginia. Upon information and belief, he is the immediate custodian of Mr. Lopez-Sanabria. He is sued in his official capacity.
16. Respondent Jeffrey Crawford is the Warden of Farmville Detention Facility and is directly responsible for overseeing the daily aspects of Mr. Lopez-Sanabria’s detention. He is sued in his official capacity.

STATEMENT OF FACTS

17. Mr. Lopez-Sanabria, born in Honduras on November 6, 1994, first entered the United States on January 1, 2019 and was detained by DHS after entry. DHS exercised its discretion to detain Mr. Lopez-Sanabria under Section 236 of the INA.
18. Mr. Lopez-Sanabria was placed into INA Section 240 proceedings through the issuance of a Notice to Appear (the “NTA”) after being detained under Section 236 of the INA. Mr. Lopez-Sanabria was then released on recognizance by DHS on January 2, 2019 with an Order of Supervision (the “OSUP”) under Section 236 of the INA.
19. Mr. Lopez-Sanabria subsequently sought relief from removal from the United States in the form of an application for Asylum (the “Asylum Application”) under Section 208 of the INA before the USCIS. The Asylum Application has been pending adjudication by USCIS for over five years.
20. Mr. Lopez-Sanabria was prevented from filing the Asylum Application with EOIR because the NTA was never filed with the EOIR by DHS in 2019. Mr. Lopez-Sanabria filed his Asylum Application with USCIS as the agency with legal jurisdiction over his Asylum Application. See 8 C.F.R. § 208.2(a)(1)(i) and 8 C.F.R. § 208.2(b) (establishing the jurisdiction of USCIS over Asylum Applications for an alien physically present in the United States so long as the NTA is not filed with EOIR).
21. Mr. Lopez-Sanabria filed his Asylum Application with USCIS within one year of his arrival in the United States and continued to report to ICE under the OSUP yearly until 2023 when he was informed by ICE that he no longer needed to report.
22. Mr. Lopez-Sanabria has never been arrested, charged or convicted of any crimes either in his home country or in the United States. He has continuously lived in the State of Maryland after his entry in 2019 with his wife and children, one of whom is a United States citizen. Mr. Lopez-Sanabria is an active member of his church community and has been gainfully employed as a construction worker.
23. Mr. Lopez-Sanabria was detained by ICE on or about August 21, 2025 in Washington D.C. as he was on his way to work. He was initially transferred to the ICE Washington Field Office in the State of Virginia where he was told that he would be

detained without bond pending proceedings before an immigration judge. He was subsequently transferred to the Farmville Detention Center.

24. Mr. Lopez-Sanabria filed a request for bond redetermination with the EOIR, which was granted by the immigration bond in the form of a \$1,500 bond (the "IJ Bond Order") on September 2, 2025. The bond was granted by the immigration judge due to the extensive evidence demonstrating that Mr. Lopez-Sanabria was not a flight risk nor was he a danger to the community.
25. DHS reserved appeal of the IJ Bond Order because DHS argued that the immigration judge lacked jurisdiction to grant bond to Mr. Lopez-Sanabria under Section 235 of the INA. DHS then filed a Form EOIR-43 Notice of Intent to Appeal on September 3, 2025, invoking an automatic stay of the IJ Bond Order and preventing Mr. Lopez-Sanabria from posting bond. See 8 C.F.R § 1003.19(i)(2) (stating the stay is automatic and the bond "shall be stayed" upon filing of the form EOIR-43). As a result, Mr. Lopez-Sanabria continues to be detained by the Respondents.

EXHAUSTION

26. The decision to detain Mr. Lopez-Sanabria is subject to challenge through a petition for a writ of habeas corpus, and Mr. Lopez-Sanabria need not exhaust additional administrative remedies which might be available to him before seeking this Court's review. See e.g. McCarthy v. Madigan, 503 U.S. 140, 147-48 (1992) ("[A]n administrative remedy may be inadequate [because] ... an agency, as a preliminary matter, may be unable to consider whether to grant relief because it lacks institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute" or "where the administrative body ... has otherwise pre-determined the issue before it."); Janvier v. INS, 174 F. Supp. 2d 430, 434 (E.D. Va. 2001) (noting that "§ 2241 is silent on exhaustion.").
27. Moreover, further exhaustion would be futile because Mr. Lopez-Sanabria has pursued a remedy to no avail. See Janvier, 174 F. Supp. 2d at 434 (recognizing that exhaustion is not necessary "where the pertinent administrative agency lacks the competence to reach a definitive resolution of the particular issue presented[,] such as "where, as here, the administrative agency may consider constitutional claims, but lacks authority to rule dispositively on those claims, because "the final say on

- constitutional matters rests with the courts."). In particular, under new BIA precedent, Mr. Lopez-Sanabria is no longer considered eligible for the bond granted by immigration judge on September 2, 2025 and ICE has exercised its legal authority to prevent the paying of said bond which was ordered by the immigration judge.
28. The detention of Mr. Lopez-Sanabria by ICE, years after he last entered the United States and has been lawfully seeking relief from removal, without the ability to challenge his detention is unconstitutional, and administrative exhaustion is excused. See Guitard v. U.S. Sec'y of the Navy, 967 F.2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when ...a plaintiff has raised a substantial constitutional question.").
29. In the context of the Eighth Amendment claim by the Petitioner, this Court need not withhold relief under a petition for habeas corpus as no adequate remedy exists for the Petitioner to seek release from custody. See Stack v. Boyle, 342 U. S. 6-7.

CLAIMS FOR RELIEF

COUNT ONE

Mr. Lopez-Sanabria's Detention Violates His Right to Substantive Due Process Under the Fifth Amendment

30. Petitioner re-alleges and incorporates by reference the paragraphs above.
31. As a "person" within the meaning of the Fifth Amendment, Mr. Lopez-Sanabria is entitled to due process of law while in the United States, and certainly while in immigration custody. U.S. CONST. amend. V; see Reno v. Flores, 507 U.S. 292, 306 (1993) ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.").
32. The Substantive Due Process Clause protects a person's freedom from arbitrary confinement. See Zadvydas, 533 U.S. at 693. The Supreme Court has recognized this protection applies regardless of a person's immigration status. See id.; see also Mathews v. Diaz, 426 U.S. 67, 77 (1976).
33. Civil detention, such as immigration detention, must be carefully limited to avoid due process concerns. See e g., Foucha v. Louisiana, 504 U.S. 71, 80 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due

Process Clause from arbitrary governmental action"); Addington v. Texas, 441 U.S. 418, 425 (1979) ("This Court repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection"); see also United States v. Salerno, 481 U.S. 739, 755 (1987) ("In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception").

34. The Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and prevent flight. See Demore, 538 U.S. at 528; see also Matter of Patel, 15 I. & N. Dec. 666 (BIA 1976) ("An alien generally is not and should not be detained or required to post bond except on a finding that he is a threat to the national security, or that he is a poor bail risk[.]" (internal citation omitted)). Additionally, a period of detention must "bear [a] reasonable relation to the purpose for which the individual was committed." See Demore, 538 U.S. at 516–17.
35. Mr. Lopez-Sanabria was denied substantive due process after the IJ Bond Order was issued when DHS arbitrarily invoked its regulatory automatic stay authority to prevent Mr. Lopez-Sanabria from paying bond and being released.
36. The immigration judge, as a neutral fact-finder, considered the evidence submitted by Mr. Lopez-Sanabria and found that he was neither a flight risk nor a danger to the community. Mr. Lopez-Sanabria demonstrated that he has been seeking lawful status with USCIS, is employed legally and has ample ties to the community through his church and family. He also demonstrated that he was not a danger to the community. Thus, no justification exists to deprive Mr. Lopez-Sanabria of his liberty pending adjudication of his case.
37. The EOIR, through the BIA and subsequent to the IJ Bond Order, has also foreclosed the ability of Mr. Lopez-Sanabria to prevail in the appeal of the IJ Bond Order by DHS when it published Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025) on September 5, 2025. The EOIR took the position that an individual such as Mr. Lopez-Sanabria, who was clearly detained under Section 236 of the INA by DHS, was subject to the mandatory detention provisions of Section 235 of the INA.

COUNT TWO

Mr. Lopez-Sanabria's Detention Violates His Right to Procedural Due Process Under the Fifth Amendment

38. Petitioner re-alleges and incorporates by reference the paragraphs above.
39. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty" that the Fifth Amendment's Due Process Clause protects. See Zadvydas, 533 U.S. at 690.
40. To that end, due process demands "adequate procedural protections" to ensure that the Government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." Id. (internal quotation marks omitted).
41. Given the gravity of the liberty deprivation when the government preventively detains individuals, due process requires the jailers bear the burden of proof. See e.g., Salerno, 481 U.S. at 751 (affirming legality of pre-trial detention where burden of proof was on the government); see also Foucha, 504 U.S. at 81-82 (holding unconstitutional a state "statute that place[d] the burden on the detainee to prove that he is not dangerous"). The Court has held that it is improper to ask an "individual to share equally with society the risk of error when the possible injury to the individual-deprivation of liberty-is so significant." See Addington, 441 U.S. at 427.
42. In Mathews v. Eldridge, the Supreme Court set forth the factors to consider in determining if government action deprives an individual's Fifth Amendment right to procedural due process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976). The Mathews factors apply here to determine if Petitioner's procedural due process rights as a civil detainee have been violated by the Government's continued custodial detention by operation of the automatic stay.
43. Mr. Lopez-Sanabria demonstrated to the immigration judge that he had a substantial liberty interest both in his bodily freedom and in the form of his seeking relief before USCIS through his asylum application for nearly five years. Mr. Lopez-Sanabria followed the prescribed procedures for seeking such relief and was awaiting an opportunity to present his case before an asylum officer at USCIS.

44. Mr. Lopez-Sanabria also followed all requirements of his initial release from DHS custody in 2019 to comply with his initial release from DHS custody and was explicitly told his reporting obligations were concluded in 2023. Mr. Lopez-Sanabria justifiably expected that he would be allowed to present his Asylum Application to USCIS which has been pending for over five years through no fault of his.
45. Yet Mr. Lopez-Sanabria was not provided any process at all in the course of his arrest, processing, and detention by ICE through notice and an opportunity to respond that would reduce the risk of an erroneous deprivation of his interests. ICE deprived Mr. Lopez-Sanabria of adequate procedural protection in his substantial interest with respect to both his liberty and his application for relief before USCIS by taking him into custody with no regard to its own long-established practices, procedures and applicable regulations.
46. Finally, the Government has a substitute procedure for invoking a discretionary stay before the BIA in 8 C.F.R. § 1003.19(i)(2) that would have avoided the due process problems presented by 8 C.F.R. § 1003.19(i)(2) by providing for an individualized assessment of Mr. Lopez-Sanabria's case.

COUNT THREE

Mr. Lopez-Sanabria's Detention Violates His Right to Not be Subjected to Excessive Bail Under the Eighth Amendment

47. Petitioner re-alleges and incorporates by reference the paragraphs above.
48. The United States Supreme Court has addressed the issue of excessive bails by finding that an amount "... higher than an amount reasonably calculated to fulfill [the] purpose..." of ensuring the presence of the defendant is "excessive" under the Eighth Amendment. See Stack v. Boyle, 342 U.S. at 5. (internal citations omitted).
49. In particular, the Eighth Amendment requires that bail be set at an amount relevant to ensure the purposes of establishing bail. Id. Relevant to Mr. Lopez-Sanabria, the purpose of bail in the context of immigration detention is to ensure his appearance at future proceedings and ensure that he is not a danger to the community.
50. The application of Section 235 of the INA, as applied to Mr. Lopez-Sanabria by both DHS and EOIR, is in violation of the Eighth Amendment. Section 235 of the INA has

been interpreted by the Supreme Court as requiring the mandatory detention of individuals who are subject to Section 235 of the INA as a matter of statutory interpretation. See Jennings v. Rodriguez. Section 235 of the INA thus prevents any amount of bail to be set for Mr. Lopez-Sanabria as a matter of law without regard for any factors relevant to his detention. No individualized determination of bail is allowed by Section 235 of the INA for Mr. Lopez-Sanabria.

51. Both ICE and EOIR have incorrectly applied Section 235 of the INA as applying to Mr. Lopez-Sanabria despite evidence that he was detained under Section 236 of the INA. As such, both ICE and EOIR are preventing Mr. Lopez-Sanabria from being able to obtain bail in any amount, in violation of the Eighth Amendment.

COUNT FOUR

Mr. Lopez Sanabria's Detention by ICE is in Violation of the INA

52. 8 U.S.C. § 1225 authorizes the mandatory detention of “arriving aliens” and those noncitizens who cannot demonstrate they have “been physically present in the United States continuously for the 2-year period immediately prior[.]” 8 U.S.C. § 1225(b)(1)(A)(iii)(II).
53. As noted above, Mr. Lopez-Sanabria was detained under Section 236 of the INA upon his entry to the United States, has lived in the United States for more than five years after such entry and was not put into proceedings before EOIR until his detention on August 21, 2025.
54. However, Respondents are detaining Mr. Lopez-Sanabria as not eligible for bond by characterizing his detention under Section 235 of the INA despite DHS initially detaining him under Section 236 and the IJ Bond Order recognizing his detention under Section 236. The EOIR itself has ruled that an individual detained under Section 236 of the INA cannot by operation of law be considered to be detained under Section 235 of the INA. See Matter of Cabrera-Fernandez, 28 I&N Dec. 747 (BIA 2023).
55. DHS also invoked its authority to invoke the automatic stay under 8 C.F.R. § 1003.19(i)(1) of the IJ Bond Order in a manner that is *ultra vires* to the INA. The manner in which DHS invoked its authority effectively rewrites the INA and creates a

new class of individuals subject to mandatory detention and unable to access the discretionary protection of Section 236 of the INA.

COUNT FIVE

Mr. Lopez-Sanabria's Detention by ICE is in Violation of the APA 5 U.S.C. § 702 (Unconstitutional, unlawful, arbitrary, and capricious actions)

56. Petitioner re-alleges and incorporates by reference the paragraphs above.
57. The decision to detain Mr. Lopez-Sanabria and hold him without any opportunity to challenge his custody is arbitrary, capricious, and not in accordance with the Immigration and Nationality Act, and contrary to Mr. Lopez-Sanabria's right to due process under the Fifth Amendment.
58. This Court may set aside agency action which is arbitrary, capricious, unlawful, or contrary to constitutional right, power, privilege, or immunity. See 5 U.S.C. §§ 706(2)(A), (B).
59. Mr. Lopez-Sanabria was released on recognizance by DHS and has lived over five years seeking lawful status in the United States, after which he was arrested without any cause and has since been detained without further justification in immigration custody.
60. Additionally, the determination by ICE and EOIR that Mr. Lopez-Sanabria is subject to mandatory detention under Section 235 of the INA, despite having been detained under Section 236 of the INA, was without any basis in law.
61. Such actions are arbitrary and capricious, and should be held unlawful and set aside.
62. As a result of the arbitrary, capricious, unlawful, and unconstitutional actions by Respondents, Mr. Lopez-Sanabria has suffered prejudice, actual and substantial hardship, and irreparable injury in fact.
63. Mr. Lopez-Sanabria has no other adequate remedy at law.

PRAYER FOR RELIEF

Based on the foregoing, Mr. Lopez-Sanabria requests that this Court:

- a. Assume jurisdiction over the matter;

- b. Issue an emergency order staying Petitioner's transfer outside the District of Eastern Virginia and his removal or deportation from the United States;
- c. Declare that the continued immigration detention of Mr. Lopez-Sanabria violates the Due Process Clause of the Fifth Amendment and the Excessive Bails Clause to the U.S. Constitution;
- d. Issue a writ of habeas corpus ordering Respondents to immediately release Mr. Lopez-Sanabria from their custody or allow him pay the bond granted by the immigration judge;
- e. Issue an order preventing Respondents from once again taking Mr. Lopez-Sanabria into custody unless he is determined to be a flight risk and/or a danger to the community in accordance with the U.S. Constitution;
- f. Award Mr. Lopez-Sanabria all costs incurred in maintaining this action; and
- g. Grant any other and further relief this Court deems just and proper

Respectfully Submitted,

September 10, 2025

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CERTIFICATE OF SERVICE

I certify that on September 10, 2025, I served the filed the foregoing Petition for Writ of Habeas Corpus and delivered a copy of the same to the U.S. Attorney's Office for the Eastern District of Virginia at the following address:

Justin W. Williams United States Attorney's Building
2100 Jamieson Ave
Alexandria, VA 22314

/s/ Eileen Blessinger
Eileen Blessinger