UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

BRAYAN FERNEY LOPEZ LIZARAZO, Petitioner, vs. WARDEN of Folkston ICE Processing Center; MARCOS CHARLES, in his official capacity as the Acting Executive Director of Enforcement and Removal Operations for U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; KRISTI NOEM, in his official capacity as U.S. Secretary of Homeland Security; PAMELA BONDI, in his official capacity as the U.S. Attorney General; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; and U.S. DEPARTMENT OF HOMELAND SECURITY; Defendants.	Civil Action No.: HEARING REQUESTED

PETITION FOR WRIT OF HABEAS CORPUS BY AN ALIEN DETAINEE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

To the Honorable Judges of this Court:

Petitioner, Brayan Ferney Lopez Lizarazo, respectfully petitions for a writ of habeas corpus and brings this complaint for declaratory and injunctive relief,

*See*king to remedy his unlawful detention. Defendants are detaining him in violation of the Constitution and laws of the United States.

I. INTRODUCTION

1. Petitioner is a 28-year-old Colombian national who entered the United States on April 6, 2022, by presenting himself at a port of entry. He has resided in the United States continuously since his entry. He resided with his wife in Pooler, Georgia, and was lawfully and gainfully employed. His mother, who also resides in Georgia, is a lawful permanent resident.

2. On April 7, 2022, the day after he presented himself at the border, DHS released Petitioner from custody pending removal proceedings, which were initiated by DHS Form I-862, Notice to Appear ("NTA"), charging Petitioner with having entered the United States without being admitted or paroled under 8 U.S.C. § 1182(a)(6)(A)(i). Exhibit A, Notice to Appear.

3. Upon information and belief, DHS provided no documentation specifying whether the release was on bond, conditional parole under 8 U.S.C. § 1226(a), or another mechanism. In the absence of such documentation, Petitioner presumes his release was pursuant to 8 U.S.C. § 1226(a), which governs the detention and release of noncitizens pending removal proceedings and authorizes release on bond or conditional parole. DHS's failure to provide written notice of the release conditions constitutes a procedural deficiency that undermines the lawfulness of

his subsequent re-detention. *See* 8 C.F.R. § 236.1(d)(1)(requiring written notice of conditions of release). In addition, the absence of documentation confirming Petitioner's initial release status does not negate his liberty interest or DHS's obligation to provide due process. *See* Clark v. Martinez, 543 U.S. 371, 380–81 (2005)(extending due process protections to all noncitizens).

4. For over three (3) years, Petitioner complied with every requirement of his release. He timely filed for asylum, appeared for all hearings, and has a hearing scheduled on the merits of his application for relief on January 14, 2026, before the Executive Office of Immigration Review (Immigration Court) in Atlanta, Georgia. Exhibit B, Notice of Hearing. He has no criminal history and no immigration violations since his release.

5. On September 4, 2025, ICE officers re-detained Petitioner during a workplace raid at the Hyundai Motor Group Metaplant in Ellabell, Georgia, where he was lawfully employed with a valid Employment Authorization Document issued by DHS, which expires in August of 2030. Exhibit C, Approval notice of Form I-765. No explanation was provided. He was not committing any crime or immigration violation at the time of his arrest. He was transported to the Folkston ICE Processing Center, where he remains detained.

6. ICE re-detained Petitioner without providing notice, a hearing, or an individualized determination justifying the revocation of his release. If Defendants

classify Petitioner's initial release under 8 U.S.C. § 1226(a), his re-detention violates 8 U.S.C. § 1226(b), which permits revocation of bond or parole only through a reasoned exercise of discretion. *See* 8 C.F.R. § 236.1(c)(9) (authorizing revocation by designated ICE officials in their discretion). DHS's failure to document the basis for Petitioner's initial release or provide notice of its conditions further renders the revocation arbitrary, as it deprives Petitioner of the ability to challenge the decision. *See* Mathews v. Eldridge, 424 U.S. 319 (1976) (requiring procedural safeguards to prevent erroneous deprivations of liberty). Additionally, in Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals stripped immigration judges of jurisdiction to conduct custody redeterminations for noncitizens who entered without inspection, as in Petitioner's case, leaving habeas corpus as his only avenue for relief. To the extent Yajure-Hurtado eliminates all review mechanisms, it violates due process under Zadvydas v. Davis, 533 U.S. 678 (2001).

7. If Defendants reclassify Petitioner as an "arriving alien" under 8 U.S.C. § 1225(b)(2)(A), his detention remains unlawful. Under § 1225(b)(2)(A), custody redetermination is unavailable (8 C.F.R. § 1003.19(h)(2)(i)), leaving DHS's discretionary parole authority as the sole mechanism for release (8 C.F.R. § 235.3(b)(5)). DHS's failure to provide notice, a hearing, or a reasoned explanation for re-detention, particularly after three years of compliance with removal

proceedings, renders its action arbitrary and capricious, violating the Fifth Amendment and 5 U.S.C. § 706(2)(A). *See* Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 140 S. Ct. 1891, 1913 (2020) (requiring reasoned agency action).

8. Accordingly, Petitioner *See*ks a writ of habeas corpus requiring that he be immediately released from custody.

II. JURISDICTION AND VENUE

9. This Court has original jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writes Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and Article I, Section 9, Clause 2, of the U.S. Constitution (Suspension Clause) as Petitioner is presently in custody under or by color of the authority of the United States, and he challenges his custody as in violation of the Constitution, laws, or treaties of the United States.

10. Venue is proper in the Southern District of Georgia, Waycross Division, under 28 U.S.C. §1391(e)(1) because Petitioner is being detained at the Folkston ICE Processing Center in Folkston, Georgia, at the time of filing. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Defendants' custody. 28 U.S.C. § 1391(e).

III. PARTIES

11. Petitioner, Brayan Ferney Lopez Lizarazo, is a Colombian citizen currently detained by Defendants at the Folkston ICE Processing Center.

12. Defendant Warden of Folkston ICE Processing Center is being sued in his official capacity. He is responsible for the operations of the Folkston ICE Processing Center and has control over Petitioner as his immediate custodian.

13. Defendant Marcos Charles is the Acting Executive Associate Director of Enforcement and Removal Operations for Defendant ICE and is being sued in his official capacity. He is responsible for Defendant's ICE operations in the arrest, detention, and removal of aliens. He is a legal custodian of Petitioner.

14. Defendant Todd Lyons is the Acting Director of Defendant ICE and is being sued in his official capacity. He is responsible for the administration of ICE and the implementation and enforcement of immigration laws, including detention. He is a legal custodian of Petitioner.

15. Defendant Kristi Noem is the U.S. Secretary of Homeland Security and is responsible for the administration of DHS. She is being sued in her official capacity. She is a legal custodian of Petitioner.

16. Defendant Pamela Bondi is the U.S. Attorney General and is being sued in her official capacity.

17. U.S. Immigration and Customs Enforcement (ICE) is a governmental agency of the United States, and part of Defendant DHS, charged with the enforcement of immigration laws. It is a legal custodian of Petitioner.

18. U.S. Department of Homeland Security ("DHS") is a governmental agency of the United States charged, inter alia, with the adjudication of applications and petitions related to immigration and citizenship. It is a legal custodian of Petitioner.

IV. WRIT OF HABEAS CORPUS

19. The Constitution guarantees the right of writ of habeas corpus to every individual detained within the United States, including immigration-related detention. Zadvydas, 533 U.S. at 687. A writ of habeas corpus must be granted if the person is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3).

20. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the Defendants forthwith, unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Defendants to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

21. Petitioner is "in custody" for the purpose of 28 U.S.C. § 2241 because Petitioner is arrested and detained by Defendants.

22. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." Addington v. Texas, 441 U.S. 418, 425 (1979). Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. Reno v. Flores, 507 U.S. 292 (1993). Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. Zadvydas, 533 U.S. at 690.

23. Defendants' position that Petitioner is subject to mandatory detention by recategorizing him as an arriving alien or an applicant for admission deprives him of the opportunity to challenge his detention through any other avenue outside of habeas corpus proceedings.

a. Violation of Fifth Amendment Right to Due Process

24. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." Zadvydas, 533

U.S. at 693; *accord* Flores, 507 U.S. 292. Due process requires that government action be rational and non-arbitrary. *See* Jennings v. Rodriguez, 583 U.S. 281, 294 (2018).

25. Petitioner's detention violates his substantial due process rights under the Fifth Amendment of the U.S. Constitution, which guarantees that no person shall be deprived of liberty without due process of law. Arbitrary civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of Petitioner's liberty serve, at minimum, a legitimate purpose. Flores, 507 U.S. at 302 (explaining that infringements on fundamental liberty rights violate due process unless they are "narrowly tailored to serve a compelling state interest").

26. Petitioner's detention violates his procedural and substantive due-process rights under the three-part test set forth in Mathews, 424 U.S. at 335, to wit:

(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 probable value, if any, of additional procedural safeguards; and

(3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail.

27. First, Petitioner's liberty interest is substantial. His three-year compliance with removal proceedings, valid EAD, lack of criminal history, and community

ties—residing with his wife in Pooler, Georgia, and having a mother who is a lawful permanent resident—demonstrate a protected interest in remaining free from detention. *See* Zadvydas, 533 U.S. at 690.

28. Second, the risk of erroneous deprivation is high due to DHS's failure to provide notice, a hearing, or an individualized determination of flight risk or danger. The absence of documented release conditions, contrary to 8 C.F.R. § 236.1(d)(1), precludes meaningful review. A custody hearing would allow Petitioner to demonstrate his three-year compliance and community ties, reducing the risk of unwarranted detention. *See* Singh v. Holder, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also* Demore v. Kim, 538 U.S. 510, 523 (2003).

29.Third, the government's interest in detaining Petitioner is minimal compared to his substantial liberty interest. The goal of ensuring compliance with removal proceedings is satisfied by Petitioner's consistent attendance at hearings and adherence to all requirements over three years. *See* Jennings, 583 U.S. 281 (detention must serve a legitimate purpose). Alternatives such as electronic monitoring could address any enforcement concerns at minimal cost, rendering detention unnecessary. While workplace raids are a legitimate enforcement tool, and Defendants may argue shifting enforcement priorities, re-detaining a compliant individual without new evidence lacks a rational basis. *See* Regents, 140 S. Ct. at 1913.

30. Here, Defendants have chosen to revoke Petitioner's release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Defendants' revocation of Petitioner's release violates his right to procedural due process.

31. If Petitioner's initial release was pursuant to 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole pending removal proceedings, his re-detention violates due process. Section 1226(b) provides that

> "(t)he Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien."
>
> 8 U.S.C. § 1226(b).

This authority, implemented by 8 C.F.R. § 236.1(c)(9), requires a reasoned exercise of discretion by designated ICE officials. DHS's failure to provide documentation of Petitioner's release conditions, notice of revocation, or an individualized determination of flight risk or danger to the community renders the re-detention arbitrary and unconstitutional. *See* Mathews, 424 U.S. 319 (requiring procedural safeguards to protect liberty interests); *see also* Zadvydas, 533 U.S. at 690 (prohibiting arbitrary detention).

32. Even if classified as an arriving alien, the petitioner is entitled to due process under Clark, 543 U.S. 371. Re-detaining a compliant individual with a valid EAD after three years without notice or a hearing is arbitrary and violates the Fifth Amendment. *See* Jennings, 583 U.S. 281 (acknowledging due process limits on immigration detention).

33. Regardless of the precise release mechanism, the petitioner's three years of residence in the United States, while complying with all laws and removal proceedings, establishes a protected liberty interest under Zadvydas, 533 U.S. at 690. DHS's failure to document the release conditions is a procedural deficiency that cannot negate due process obligations. *See* 8 C.F.R. § 236.1(d)(1) (requiring written notice of release conditions). The government bears the burden of clarifying the release status, as it controls the records. *See* Singh, 638 F.3d 1196 (placing burden on government to justify detention).

34. While 8 U.S.C. § 1226(b) and 8 C.F.R. § 236.1(c)(9) grant ICE discretion to revoke release, this discretion is not unfettered and must comport with due process. Zadvydas, 533 U.S. at 690. Re-detaining a compliant individual without notice or a hearing is arbitrary, particularly given Petitioner's three-year liberty interest. *See* Casas-Castrillon v. Dep't of Homeland Sec., 535 F.3d 942, 951 (9th Cir. 2008)(due process requires an individualized determination of flight risk or danger to the community).

35. Defendants may also contend that the lack of release documentation negates revocation procedures, but this procedural deficiency lies with DHS and strengthens Petitioner's due process claim. *See* Singh, 638 F.3d at 1203.

b. Violation of the Administrative Procedures Act

36. Under the APA, the Court must set aside DHS's decision to re-detain Petitioner on September 4, 2025, as "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is arbitrary if it fails to consider relevant factors or lacks a rational connection to the facts. Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983).

37. DHS's decision to re-detain Petitioner lacks a rational basis, as DHS provided no evidence of changed circumstances or individualized findings of flight risk or danger. Petitioner's three-year compliance, valid EAD (expiring August 2030), lack of criminal history, and community ties, residing with his wife and having a mother who is a lawful permanent resident, establish a liberty interest that DHS failed to consider. *See* Zadvydas, 533 U.S. at 690. The absence of documented release conditions, contrary to 8 C.F.R. § 236.1(d)(1), and lack of notice or a hearing further demonstrate arbitrariness. The workplace raid context does not provide a rational basis for detaining a compliant individual. *See* Regents, 140 S. Ct. at 1913.

38. Alternatives to detention, such as electronic monitoring, could achieve enforcement goals without depriving Petitioner of liberty, underscoring DHS's abuse of discretion. *See* Nat'l Ass'n of Home Builders v. Defs. of Wildlife, 551 U.S. 644, 658 (2007).

39. Defendants may argue that ICE's discretion under 8 U.S.C. § 1226(b) or § 1225(b)(2)(A) is unreviewable, but agency action must be rational and comport with due process. Zadvydas, 533 U.S. at 690.

40.For all the reasons above, Petitioner's continued detention is in violation of his constitutional rights and other laws, and he should be immediately released.

WHEREFORE, Petitioner prays this Honorable Court:

(a) Assume jurisdiction over this matter;

(b) Expedite consideration pursuant to 28 U.S.C. § 1657;

(c) Issue an order directing Defendants to show cause within three days, per 28 U.S.C. § 2243;

(d) Declare that Petitioner's three-year compliance with removal proceedings and community ties establish a substantial liberty interest protected by the Fifth Amendment;

(e) Declare that DHS's failure to document release conditions violates 8 C.F.R. § 236.1(d)(1);

(f) Declare that Petitioner's re-detention without notice, a hearing, or individualized findings violates the Fifth Amendment and 5 U.S.C. § 706(2)(A);

(g) Issue a writ of habeas corpus ordering Petitioner's immediate release;

(h) Enjoin Defendants from transferring Petitioner outside this district without court approval;

(i) Award attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

(j) Grant such other relief as the Court deems just and proper.

Respectfully submitted this September 25, 2025.

/s/ Giovanna Andrea Holden
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VERIFICATION

I, Giovanna Andrea Holden, counsel for Petitioner, pursuant to 28 U.S.C. § 2242, verify under penalty of perjury that the factual statements made in this Petition are true and correct to the best of my knowledge and belief, based on information provided by Petitioner and documents available to me.

This September 25, 2025.

/s/ Giovanna Andrea Holden
Attorney for Petitioner