

Name/名字/Nombre: DAVID MEJIA AMAYA

A Number/ A 号码/ Número A:



*PRO SE*

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

DAVID MEJIA AMAYA

*Petitioner,*

v.

ERIC ROKOSKY, Warden, Elizabeth  
Detention Center;

JOHN TSOUKARIS, in his official  
capacity as Newark Field Office  
Director for U.S. Immigration and  
Customs Enforcement; KRISTI  
NOEM, in her official capacity as  
Secretary, U.S. Department of  
Homeland Security; TODD LYONS,  
in his official capacity as Director,  
U.S. Immigration and Customs  
Enforcement; U.S. DEPARTMENT  
OF HOMELAND SECURITY; and  
U.S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT,

*Respondents.*

Civil Action No.:

Petition for Writ of Habeas Corpus  
Pursuant to 28 U.S.C. § 2241

*Oral Argument Requested*

## INTRODUCTION

1. **DAVID MEJIA AMAYA** (hereinafter “Petitioner” or “Mr. Mejia Amaya”) is a long-time resident of New Jersey who was unlawfully detained by Immigration and Customs Enforcement (I.C.E.), along with around ten other individuals, while he was on his way to work on September 13, 2025 at James J. Braddock North Hudson County Park around 7:30 AM. I.C.E. officials did not present a warrant, or allow Petitioner to present any information about his immigration status.
2. Petitioner is a noncitizen currently detained by Respondents pending immigration removal proceedings. Although Petitioner has not been given the opportunity to ask for a credible fear interview, Petitioner would be pursuing the following claims in removal hearings: asylum, withholding of removal, Convention Against Torture, humanitarian parole, and cancellation of removal due to extreme hardship to his U.S. Citizen child.
3. Petitioner has been detained in immigration custody for two weeks even though no neutral decisionmaker, whether a federal judge or an immigration judge, has conducted a hearing to determine whether this incarceration is warranted based on danger or flight risk.
4. Since Petitioner was detained, immigration officials have only visited the center twice, during which he was threatened into signing documents he did not understand on September 17.
5. He has not been given information or access to phone calls while detained and therefore has been denied access to counsel.
6. Petitioner’s unlawful detention without a hearing on danger and flight risk violates the Due Process Clause of the Fifth Amendment.

7. Petitioner entered the United States in 2011 as a fourteen-year-old minor from El Salvador, brought by his parents. He is now 29 and the proud father of an eight-year-old U.S. Citizen son, N [REDACTED] Exh.A. Birth Certificate.
8. After crossing as a minor, he was immediately forced to start working as a butcher in New Jersey but was forced to turn over all of his earnings to his father.
9. Soon after arriving, the family moved to New Jersey. Unfortunately, his father was abusive to Petitioner and his brother. His father also moved away, and Petitioner has no knowledge of their whereabouts.
10. Due to his history of [REDACTED] [REDACTED] in El Salvador, he has severe depression and anxiety.
11. His ongoing detention has caused him enormous and continued harm. He has not been able to access appropriate medical care and has been denied access to counsel.
12. I.C.E.'s actions violate Petitioner's rights under the Fifth Amendment of the U. S. Constitution, the INA, the Administrative Procedure Act and its own federal regulations. Accordingly, this Court should declare I.C.E.'s actions unlawful, enjoin their transfer outside of this District, and order his immediate release.

### **PARTIES**

13. Petitioner, David Mejia Amaya is a 29-year-old individual who has lived in the United States since 2011. Petitioner is currently detained at Elizabeth Contract Detention Facility at, 625 Evans St, Elizabeth, NJ 07201. Petitioner is in the custody and direct control of Respondents and their agents.
14. Respondent Eric Rokosky is named in his official capacity as the Facility Administrator of Elizabeth Contract Detention Center, which detains individuals suspected of civil

immigration violations pursuant to a contract with ICE. Respondent Rokosky is the immediate physical custodian responsible for the detention of Petitioner.

15. Respondent John Tsoukaris is named in his official capacity as the Newark Field Office Director for U.S. Immigration and Customs Enforcement within the United States Department of Homeland Security (“DHS”). In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations and is legal custodian of Petitioner. Respondent Tsourkaris’ address is 970 Broad St #2506, Newark, NJ 07102. Respondent Tsourkaris is charged with exercising authority over the I.C.E.’s Newark Field Office including, but not limited to, the detention of Petitioner.
16. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement (ICE), an agency of the United States and a division of DHS. Respondent Lyons address is 500 12th St SW Washington, DC 20536. In this capacity, he is responsible for the administration of I.C.E.’s mission includes the enforcement of criminal and civil laws related to immigration. Among other things, I.C.E. is responsible for the stops, arrests, and custody of individuals believed to be in violation of civil immigration law.
17. Respondent, Kristi Noem, is named in her official capacity as the Secretary, U.S. Department of Homeland Security. In this capacity, she is responsible for overseeing I.C.E.’s operations, leading approximately 20,000 I.C.E. employees, including Respondents Tsoukaris and Rokosky.



18. Respondent U.S. Department of Homeland Security (“DHS”) is an executive department of the United States Government headquartered in Washington, D.C. DHS is the parent agency of I.C.E. Respondent DHS is a legal custodian of Petitioner.
19. Respondent I.C.E. is a component agency of DHS and is responsible for enforcing federal immigration law, including the detention and removal of immigrants. Respondent DHS is a legal custodian of Petitioner.

**Jurisdiction and Venue**

20. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 (“The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public safety may require.”). The Suspension Clause protects the right to the writ of habeas corpus where no adequate or effective alternative remedy exists. *See Boumediene v. Bush*, 553 U.S. 723, 745 (2008).
21. This Court also has subject matter jurisdiction under 28 U.S.C. § 2241 (Habeas Corpus); 28 U.S.C. § 1331 (Federal Question); 28 U.S.C. § 1651 (the All-Writs Act); and 5 U.S.C. § 701 (the Administrative Procedure Act).
22. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act), to grant injunctive and declaratory relief.
23. Administrative exhaustion is unnecessary as it would be futile.
24. Venue is proper in the U.S. District Court for the District of New Jersey because Respondents are officers of United States agencies, and at the time of filing, Petitioner is detained at Elizabeth Contract Detention Center, within the jurisdiction of the U.S. District Court of New Jersey. A substantial part of the events or omissions giving rise to these

claims occurred in New Jersey, and there is no real property involved in this action. *See* 28 U.S.C. § 1391(e)(1).

### **RELEVANT FACTS AND PROCEDURAL HISTORY**

25. Petitioner is a long-time resident of New Jersey who entered the United States in 2011. He was only fourteen years old at the time and traveled with his father, who decided to leave El Salvador and bring his minor children.
26. As a minor, he was given no choice regarding whether or not or how to enter the United States. In fact, his father was abusive and soon abandoned him and his sibling. Although he may have qualified for Special Immigrant Juvenile Status or Deferred Action for Childhood Arrivals, without the right resources and information, he did not apply.
27. Petitioner has two family members in the United States who are citizens and green card holders. His uncle, Alfredo Mejia has a green card. Petitioner's minor son, N   
, is an eight-year-old US Citizen who was born at North Bergen TWP, Hudson, NJ. Exh. A. Petitioner works hard to support his son financially and emotionally.
28. Prior to his detention, Petitioner was employed as a butcher at a local business in New Jersey.
29. On September 13, 2025, Petitioner and his friends were approached by masked ICE officers around 7:30 AM at James J. Braddock North Hudson County Park. Petitioner does not know the immigration statuses of his friends, and does not work with them, but believes they were all targeted and seized simply due to their race.
30. The officers did not ask him or the other individuals they detained any questions or information, read them any information about their rights, but immediately arrested them and put them in an unmarked van.

31. The officers were heartless, did not say much, but were very aggressive.
32. Since arriving at the Elizabeth Detention Center, he has not been given the opportunity to ask for a credible fear interview or even speak to a judge.
33. He received one visit from an ICE official on September 17, during which he was pressured into signing a document he now believes may have been a voluntary departure order, against his wishes.
34. Because he was a minor, and was abandoned by his parents, he does not have access to any of his original immigration paperwork. The EOIR portal also shows no information about any prior cases, removal orders, or hearing dates. Exh. B. EOIR Portal.
35. He is currently detained at an immigration detention center at Elizabeth Contract Detention Facility at, 625 Evans St, Elizabeth, NJ 07201.
36. The facility is severely overcrowded, the detainees are not given enough food, adequate clothing for the frigid conditions, no change of clothes, or soap to bathe.
37. I.C.E.'s detention of petitioner has deprived petitioner of access to counsel. He has not even been allowed to make any phone calls and has been informed he needs a "PIN," which he has not received.
38. Petitioner helps financially support his ex-partner and his USC child. He is kind, patient, friendly, always helpful to his community, hardworking, and a good father and family man. Exh. C. Letters of Support.
39. Therefore, Petitioner David Mejia Amaya brings this action to seek injunctive, habeas, and declaratory relief ordering Respondents to release him. Petitioner's ongoing detention—the purpose of which is presumably remove them from the United States—flow from their unlawful detention or about September 13, 2025.

## LEGAL FRAMEWORK

### *A. Suspicion-less Stops Based on Racial Profiling*

40. The constitutional, statutory, and regulatory framework is clear about the practices immigration officers must follow. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. amend. IV. “Except at the border and its functional equivalents,” immigration agents may stop individuals in public only after identifying “specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion” of a violation of immigration law. United States v. Brignoni-Ponce, 422 U.S. 873, 884 (1975); Benitez-Mendez v. I.N.S., 752 F.2d 1309, 1311 (9th Cir. 1983), amended, 760 F.2d 907 (9th Cir. 1983); see also 8 C.F.R. § 287.8(b)(2). Reasonable suspicion cannot be based “on broad profiles which cast suspicion on entire categories of people without any individualized suspicion of the particular person to be stopped.” United States v. Rodriguez Sanchez, 23 F.3d 1488, 1492 (9th Cir. 1994).
41. The federal agents that detained Petitioner did not abide by that framework.
42. Petitioner was not provided or demonstrated a warrant for his arrest when he was detained.
43. The manner in which the foregoing stop had been conducted bears no hallmarks of reasonable suspicion: there are no indicia that agents had any specific articulable facts sufficient to justify a seizure. Instead, only those who appear to be nonwhite, at a time when non-white restaurant workers may be on their way to work, were seized.
44. It is illegal for Defendants to stop anyone—U.S. citizens or not— without reasonable suspicion. But predictably, in addition to noncitizens, Defendants’ practices have led to

numerous U.S. citizens who work, reside, or just happen to be in neighborhoods with large numbers of people of color also getting swept up.

***B. A Show of Force: Intimidation, Violence, and Anonymity***

45. While the government may describe the encounters agents and officers are having with individuals as consensual, they are far from that. A stop, even brief, must be supported by reasonable suspicion if “a reasonable person would [believe] that he was not free to leave.” See United States v. Mendenhall, 446 U.S. 544, 554 (1980).
46. In this situation, military style officers stationed themselves around this local park around dawn. As the Petitioner and other passerby went through the park, they were stopped by these agents, who crowded around them, preventing them from leaving or interacting with anyone around them.
47. Agents and officers have not only employed these tactics with alarming regularity, but they have also refused to identify themselves or what agency they are with when asked.<sup>2</sup> Such refusal to identify themselves endangers public safety, frustrates any efforts at accountability, including in this case, and ultimately normalizes lawless and dangerous conduct behind the shield of anonymity.
48. Defendants have a policy and practice of effectuating warrantless arrests without making an individualized flight risk determination.

***C. Arrests Without Identification of Authority or Reason***

43. Regulations also require immigration officers to (1) identify themselves “as an immigration officer who is authorized to execute an arrest”; and (2) “[s]tate that the person is under arrest and the reason for the arrest,” as soon as it is practical and safe to do so. 8 C.F.R. § 287.8(c)(2)(iii).

44. Defendants have a policy and practice of failing to identify themselves or explain the basis for an arrest upon taking someone into custody. Agents and officers have often shown up masked, without any visible badges or insignia indicating what agency they are with and have refused to identify themselves when asked. This has extended through the time of arrest, with individuals left in the dark about who they are interacting with or why they are under arrest.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION PROCEDURAL DUE PROCESS**

49. The allegations in the above paragraphs are realleged and incorporated herein.
50. Petitioner David Mejia Amaya is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.
51. The Procedural Due Process Clause of the Fifth Amendment prohibits the government from depriving an individual of a protected interest without notice and an opportunity to be heard. Mathews v. Eldridge, 424 U.S. at 319, 333 (1976).
52. Respondents provided Petitioner with no notice or opportunity to be heard prior to arresting and detaining him.
53. Respondents have offered Petitioner no meaningful opportunity to be heard or challenge his detention since detaining him. Petitioner has been told he needs a PIN and that he needs to talk to an immigration officer in order to make calls, but the officer only comes once a week and Petitioner has not been provided a PIN to make calls.
54. Petitioner's detention thereby deprives him of his rights to Due Process under the Fifth Amendment of the United States Constitution.

55. Petitioner David Mejia Amaya has no adequate remedy at law.

### **COUNT TWO**

#### **VIOLATION OF THE OF THE FIRST AND FIFTH AMENDMENTS TO THE UNITED STATES CONSTITUTION**

56. Petitioner realleges and incorporates by reference the paragraphs above.

57. U.S. citizens and noncitizens alike are guaranteed the right to due process under the Fifth

58. Amendment to the United States Constitution, which includes the rights to access courts and to participate in state court proceedings as a witness, party or complainant.

59. U.S. citizens and noncitizens alike are guaranteed the right of petition under the First Amendment to the U.S. Constitution, which includes the right to petition the Government for a redress of grievances. This right to petition includes the right to access courts and to participate in court proceedings as a witness, party or complainant.

60. The Immigration Courts are courts within the meaning of the First and Fifth Amendments.

61. As a result of Respondents' unlawful arrest and detention of Petitioner, his rights were violated, and he has and continues to suffer prejudice.

62. Detention or transferring Petitioner Mr. Mejia Amaya may also deny the other individuals that were seized with him a witness to this unlawful seizure and arrest.

63. Petitioner David Mejia Amaya has no adequate remedy at law.

### **COUNT THREE**

#### **RELEASE ON BAIL PENDING ADJUDICATION**

64. David Mejia Amaya realleges and incorporates by reference the paragraphs above.

65. This Court has the "inherent authority" to grant bail to habeas petitioners like David Mejia Amaya. See Vega v. United States, 514 F. Supp. 2d 767, 770 (W.D. Pa. 2007)

(citing *Johnston v. Marsh*, 227 F.2d 528, 531 (3d Cir.1955)); see also *Mapp v. Reno*, 241 F.3d 221, 230 (2d Cir. 2001).

66. Bail pending habeas matter is pending is appropriate “when the petitioner has raised substantial constitutional claims upon which he has a high probability of success, and also when extraordinary or exceptional circumstances exist which make the grant of bail necessary to make the habeas remedy effective.” *Landano v. Rafferty*, 970 F.2d 1230, 1239 (3d Cir. 1992).
67. Petitioner meets this standard here. This petition raises constitutional claims on which he has a high probability of success. And Petitioner’s immediate release is necessary to make his remedy effective. As long as he remains detained, his physical and mental health is at continued, serious risk; his ability to litigate his asylum and immigration claims is jeopardized; and he will be unable to continue providing for his family.

#### **COUNT FOUR**

#### **VIOLATION OF FOURTH AMENDMENT: UNREASONABLE SEIZURES ON BEHALF OF THE STOP/ARREST DAVID MEJIA AMAYA AND THE SUSPICIONLESS STOP CLASS AGAINST ALL RESPONDENTS**

68. Petitioner David Mejia Amaya repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
69. Except at the border and its functional equivalents, the Fourth Amendment prohibits Respondents from conducting a stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States.
70. “A person’s mere propinquity to others independently suspected of [unlawful] activity does not, without more, give rise to probable cause to search [or seize] that person.”

Perez Cruz v. Barr, 926 F.3d 1128, 1138 (9th Cir. 2019) (quotation omitted).

“‘Reasonable suspicion’ is no different.” *Id.*

71. Respondents have a policy, pattern, and practice of stopping individuals without regard to reasonable suspicion that they are unlawfully in the United States.
72. As a part of Respondents’ policy, pattern, and practice, when conducting stops, Respondents engage in a show of force so overwhelming that a reasonable person would not feel free to leave. As a matter of policy, pattern, and practice, Respondents do not evaluate the need for force or tailor the force they use to the circumstances of individual stops and arrests.
73. Respondents’ policy, pattern, and practice violates the Fourth Amendment to the U.S. Constitution.

#### **COUNT FIVE:**

#### **VIOLATION OF THE INA, REGULATIONS THEREUNDER, AND THE FIFTH AMENDMENT’S DUE PROCESS CLAUSE**

74. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
75. Respondents presumed basis for detaining Petitioner is unknown.
76. Under the terms of the INA and the governing regulations, Petitioner’s detention is unlawful.

#### **COUNT SIX**

#### **VIOLATION OF 8 U.S.C. § 1357(A)(2) WARRANTLESS ARRESTS WITHOUT PROBABLE CAUSE OF FLIGHT RISK**

77. Petitioner David Mejia Amaya repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

78. 8 U.S.C. § 1357(a)(2) requires that arrests without a warrant be accompanied by “reason to believe” that an individual is “likely to escape before a warrant can be obtained for [their] arrest.”
79. Respondents have a policy, pattern, and practice of making arrests without any warrant without making an individualized determination of flight risk. They have no mechanism for ensuring compliance with the statutory limits of agents’ and officers’ warrantless arrest authority and do not provide guidance to agents and officers on how to make an individualized determination of likelihood of escape. Respondents permit agents and officers to make warrantless arrests carte blanche in violation of law.
80. Respondents’ policy, pattern, and/or practice of making warrantless arrests without the required individualized flight risk analysis is “final agency action” that is “in excess of statutory jurisdiction, authority, or limitations” under 8 U.S.C. § 1357(a)(2). 5 U.S.C. §§ 704, 706(2)(C).
81. Separate from the APA, Respondents’ policy, pattern, and practice of making warrantless arrests without the required individualized flight risk analysis is ultra vires.

### **COUNT SEVEN**

#### **DENIAL OF ACCESS TO COUNSEL**

82. Petitioners repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.
83. Petitioners have constitutional and statutory rights to counsel pursuant to the Fifth Amendment, the First Amendment, and the Immigration and Nationality Act, 8 U.S.C. §1362.

84. Immigrants challenging efforts to remove them from the United States have a right to counsel, at their own expense, pursuant to the Fifth Amendment. See United States v. Campos Asencio, 822 F.2d 506, 509 (5th Cir. 1987).
85. Moreover, “[t]here is also a long-recognized First Amendment right to hire and consult an attorney.” Nat’l Fed’n of Indep. Bus. v. Perez, 5:16-CV-00066-C, 2016 WL 3766121, at \*31 (N.D. Tex. June 27, 2016). “[T]he scope of the First Amendment’s right is determined by balancing the [plaintiff’s] interests in communication with the government’s interest in preventing communication.” Jacobs v. Schiffer, 204 F.3d 259, 265 (D.C. Cir. 2000).
86. “Restrictions on speech between attorneys and their clients directly undermine the ability of attorneys to offer sound legal advice. As the common law has long recognized, the right to confer with counsel would be hollow if those consulting counsel could not speak freely about their legal problems.” Martin v. Lauer, 686 F.2d 24, 32 (D.C. Cir. 1982). 33
87. Petitioner was seized without cause, detained without given an opportunity to call or reach out to counsel, or even access to a neutral decisionmaker. He has only met with immigration officials twice since he was detained, once on September 17 to be pressured to sign papers without the ability to consult with a lawyer first, and again on September 23 when he was informed he would be transferred to another facility.
88. Petitioner has been completely denied the access to counsel through this detention.

### **PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- 1) Assume jurisdiction over this matter;
- 2) Declare that Petitioner's detention violates the Due Process Clause of the Fifth
- 3) Amendment, the Administrative Procedure Act; Section 1225(b)(1)(A) of the
- 4) Immigration and Nationality Act; the First Amendment, and the Rehabilitation Act;
- 5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner David Mejia Amaya immediately.
- 6) Order that Petitioner David Mejia Amaya not be transferred outside the District of New Jersey, except to be released;
- 7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- 8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

David Mejia Amaya

Petitioner, *Pro Se*

Dated: September 24, 2025

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

I am the Petitioner, David Mejia Amaya, and submit this verification on my own behalf. I hereby swear under penalty of perjury 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 24 day of Sep, 2025.

Signature David Mejia Amaya  
David Mejia Amaya