
**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Salomon Juan Marcos Villarreal,

Petitioner,

v.

JUAN BALTASAR, Warden, GEO Group ICE
Processing Center;

ROBERT GUADIAN, Director of the Denver Field
Office for U.S. Immigration and Customs
Enforcement;

TODD LYONS, Acting Director of U.S.
Immigration and Customs Enforcement;

KRISTI NOEM, Secretary, U.S. Department of
Homeland Security; and

PAMELA BONDI, U.S. Attorney General,

in their official capacities,

Respondents.

Case No.: 25CV3328

**EXPEDITED
CONSIDERATION
UNDER 28 USC § 1657(a)
REQUESTED**

**ORAL ARGUMENT
REQUESTED**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Salomon Juan Marcos Villarreal was arrested and placed in removal proceedings on Tuesday, October 21, 2025, when he went in person to attend his adjustment interview at USCIS. Upon arrest, DHS agents informed Petitioner he could not seek a bond because he was subject to mandatory detention.
2. Mr. Juan Marcos Villarreal entered the U.S. on a B-2 visitor visa on June 16, 2015. Subsequent to his entry, on January 27, 2016, he filed an I-140 in the EB-1C category (LIN1690394702). He concurrently filed an I-485 application (LIN169034703). The I-140 was denied on July 5, 2019, as was the concurrently filed I-485. He timely filed an appeal of the I-140 and an I-290B on the denied I-485. The I-290 was accepted. On September 24, 2019, the I-290B was transferred back to the Nebraska Service Center where it remains pending (LIN1990610852), and no decision has been rendered. Mr. Juan Marcos Villarreal subsequently filed a federal complaint No. 1:24-cv-01823 on June 28, 2024, in the District of Colorado for violations of the Immigration and Nationality Act and attendant regulations as well as the Administrative Procedure Act 5 U.S.C. § 706(2). On December 26, 2013, Mr. Juan Marcos Villarreal filed another I-140 in the EB-1A category. (IOE0923690692). On August 26, 2024, that petition was approved. Mr. Juan Marcos Villarreal then requested to transfer the underlying basis of the I-485 from the EB-1C to the

EV-1A. Accordingly, he subsequently filed another I-485—the same I-485 for which he interviewed on October 21, 2025, leading to his instant detention.

3. Mr. Juan Marcos Villarreal remains eligible to adjust status under INA section 245(k), as his I-485 has been pending without decision since January 27, 2016, and he remains in a period of stay authorized by the Attorney General.
4. Mr. Juan Marcos Villarreal is not subject to mandatory detention under any provision of the Immigration and Nationality Act. Respondents' holding him under any assertion of mandatory detention is unlawful. He was admitted to the United States on a B2 visitor visa and has not committed any offense that would render him subject to mandatory detention under 8 U.S.C. § 1226(c). Accordingly, to vindicate Mr. Marcos Villarreal's constitutional, statutory, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus.

CUSTODY

5. Petitioner is in the physical custody of Respondents, imprisoned at the Aurora ICE Processing Center, an immigration detention center in Aurora, Colorado. Petitioner is under direct control of Respondents.

JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
7. 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).

8. 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

9. Venue is proper because Mr. Juan Marcos Villarreal is detained at the GEO Group's ICE Processing Center in Aurora, Colorado, which is within the jurisdiction of this District. In addition, venue is proper in this District because a substantial part of the events giving rise to Mr. Marcos Villarreal's claims occurred in this District, he resides in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

EXPEDITED TREATMENT OF HABEAS CLAIMS

10. Federal law provides that each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite consideration of certain actions including any action brought under chapter 153 of Title 18 (habeas corpus cases). 28 U.S.C. § 1657(a).
11. Congress has directed courts to grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).
12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as

“perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

13. Mr. Juan Marcos Villarreal is a native and citizen of Mexico. He is currently in the United States in a period of authorized stay pending adjudication of his I-485 application to adjust status. Prior to his current detention, he resided in Denver County, Colorado. He is being detained at the GEO Group’s ICE Processing Center in Aurora, Colorado. He is in the custody, and under the direct control, of Respondents and their agents.

14. Respondent Baltasar is sued in his official capacity as the Warden of the GEO Group’s ICE Processing Center in Aurora, Colorado. He has immediate physical custody of Mr. Juan Marcos Villarreal pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain non-citizens. Respondent Baltasar is a legal custodian of Mr. Marcos Villarreal.

15. Respondent Guadian is sued in his official capacity as Acting Field Office Director of the Denver Office of U.S. Immigration and Customs Enforcement (ICE). Respondent Guadian is a legal custodian of Petitioner and is responsible for detaining him.

16. Respondent Todd M. Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement (ICE). Respondent Lyons is responsible for Petitioner's detention.

17. Respondent Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Mr. Marcos Villarreal's detention. Respondent Noem has ultimate custodial authority over Petitioner.

18. Respondent 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 oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Mr. Marcos Villarreal.

LEGAL FRAMEWORK

19. Certain categories of noncitizens in active removal proceedings are designated as "mandatory detention" and are ineligible for bond. 8 U.S.C. § 1226(c). Those designated for mandatory detention by statute include any noncitizen who-

(A) is inadmissible by reason of having committed any offense covered in section 1182(a)(2) of this title,

(B) is deportable by reason of having committed any offense covered in section 1227(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) of this title,

(C) is deportable under section 1227(a)(2)(A)(i) of this title on the basis of an offense for which the alien has been sentence¹ to a term of imprisonment of at least 1 year,

(D) is inadmissible under section 1182(a)(3)(B) of this title or deportable under section 1227(a)(4)(B) of this title, or

(E) (i) is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 1182(a) of this title; and (ii) is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.

8 U.S.C. § 1226(c).

20. Noncitizens in removal proceedings not classified as mandatory detention under the provisions of 8 U.S.C. § 1226(c) can seek release during the pendency of their proceedings on payment of a bond or conditional parole. 8 U.S.C. § 1226(a)(2).

21. Board of Immigration Appeals precedent holds that noncitizens bear the burden of proof to establish they are not a danger to others, a threat to national security, or a flight risk in seeking an immigration bond. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

22. Board of Immigration Appeals decisions designated as precedent decisions are binding on all immigration judges. 8 C.F.R. § 1003.1(g).

STATEMENT OF FACTS

23. Mr. Juan Marcos Villarreal is a 55-year-old citizen of Mexico.

24. On June 16, 2015, U.S. Customs and Border Protection admitted Mr. Juan Marcos Villarreal into the U.S. on a B-2 visitor visa.

25. On October 21, 2025, Mr. Juan Marcos Villarreal was arrested by ICE at his adjustment of status interview taking place at the USCIS Denver Field Office and detained at the GEO Group's ICE Processing Center in Aurora, Colorado, where he currently remains detained. During his arrest, DHS personnel asserted that Mr. Juan Marcos Villarreal is not eligible to request a bond because he is "mandatory detention."

26. Mr. Juan Marcos Villarreal has not been convicted of any crime that would trigger mandatory detention and ICE has no legal basis to keep him detained without bond with a mere mandatory detention assertion.

27. There are only two possible sources of the Respondents' detention authority. The first is 8 U.S.C. § 1226, which authorizes the detention of non-citizens removable from the United States during the pendency of their removal proceedings. Those subject to detention under 8 U.S.C. § 1226 are generally able to seek release on bond. 8 U.S.C. § 1226(a). Only those with offenses precluding release under 8 U.S.C. § 1226(c) are designated as mandatory detention. Because Petitioner has no such offenses, he is not among the classes of noncitizens who may be subject to mandatory detention under 8 U.S.C. § 1226(c).

28. The second is 8 U.S.C. § 1231, which authorizes the detention of non-citizens following the issuance of an administratively final order. No such order exists in this case.

29. Mr. Juan Marcos Villarreal has not been convicted of any crime that would subject him to removability under 8 U.S.C. 1227. While no warrant or Notice to Appear was served upon Mr. Juan Marcos Villarreal at the time of arrest, any subsequently served warrant and Notice to Appear would be facially deficient. There is no legal basis for his continued detention.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

30. Petitioner hereby incorporates by reference the above paragraphs of this petition.

31. Under the Fifth Amendment to the United States Constitution, those threatened with the loss of liberty or property due to actions by the federal government are entitled to due process of law.

32. The sole basis for Respondent's detention of Mr. Juan Marcos Villarreal is that he is allegedly subject to mandatory detention.

33. However, Petitioner is not subject to any of the grounds rendering him subject to mandatory detention pursuant to 8 U.S.C. 1226(c).

34. As discussed above, absent detention authority under either § 1226 or § 1231, the Respondents' decision to detain Mr. Juan Marcos Villarreal violates the Due Process Clause of the Fifth Amendment and the DHS has provided no legal basis for his current "mandatory detention."

COUNT TWO

Violation of Fifth Amendment Right to Due Process

35. Petitioner hereby incorporates by reference the above paragraphs this petition.

36. Petitioner's entitlement to a bond hearing comes from the Fifth Amendment's Due Process Clause.

37. Civil detention for any purpose constitutes a significant deprivation of liberty that requires due process protection. *Addington v. Texas*, 441 U.S. 418, 425 (1983). The "clear, unequivocal and convincing evidence" standard should govern the decision to involuntary commit someone. *See id.* at 432.

38. Respondents, as required by the Board of Immigration Appeals decision in *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006), currently detain Petitioner unless he can demonstrate in a bond hearing that he is not a flight risk or danger to the community.

39. Respondents' refusal to release Petitioner absent him establishing that he is not a danger or flight risk violates his due process rights, which require that the *government* bear the burden in a bond hearing of showing by clear and convincing evidence that Petitioner's continued detention is legally warranted. *See, e.g., Singh v. Choate*, No. 19-cv-00909-KLM (D. Colo. Aug. 21, 2019) (ordering individualized bond hearing "in which the government shall bear the burden to demonstrate by clear and convincing evidence that [the detainee] is a flight risk or a danger to the community"), *Diaz-Ceja v. McAleenan (f/k/a Diaz-Ceja v. Nielsen)*, No. 19-cv-00824-NYW (D. Colo. July 2, 2019) (requiring bond hearing "in which [the] Government shall bear the burden to demonstrate by clear and convincing evidence that he is a danger to the community"), *L.G. v. Choate*, No. 1:24-cv-01200-RMR (D. Colo. Aug. 2024) (ordering bond hearing

“where ... DHS bears the burden of establishing by clear and convincing evidence that continued detention is justified”).

COUNT THREE
Violation of the Immigration and Nationality Act and Implementing Regulations

40. Petitioner hereby incorporates by reference the above paragraphs this petition.

41. The Immigration and Nationality Act requires that a Notice to Appear specify conduct alleged to be in violation of the law and the charges of deportability triggered by such conduct. 8 U.S.C. § 1229(a)(1). A warrant for arrest and detention can be issued by immigration officers at the time of or after the issuance of a Notice to Appear. 8 C.F.R. § 236.1(a)(b).

42. No Notice to Appear was issued prior to or at the time of Petitioner’s arrest.

43. Without a legally sufficient charging document, there is no basis for detaining Petitioner under the Immigration and Nationality Act or its implementing regulations.

44. Absent the issuance of an arrest warrant at or after the issuance of a Notice to Appear, the only circumstances where an Immigration Officer may effectuate a lawful arrest are provided at 8 U.S.C. § 1357(a) “Powers Without Warrant” clause. Those circumstances are: (1) actual or attempted illegal entry by an alien who is “likely to escape before a warrant can be obtained” (8 U.S.C. § 1357(a)(2)); (2) commission of a felony “regulating the admission, exclusion, expulsion, or removal of aliens” by an alien where there is “likelihood of the person escaping before a warrant can be obtained for his arrest” (8 U.S.C. §

1357(a)(4)); (3) commission of an “offense against the United States, if the offense is committed in the officer’s or employee’s presence” (8 U.S.C. § 1357(a)(5)(A)); (4) commission of “any felony” “if the officer or employee has reasonable grounds to believe that person to be arrested has committed or is committing such a felony” and “there is a likelihood of the person escaping before a warrant can be obtained for his arrest.” (8 U.S.C. § 1357(a)(5)(B)).

45. All four of the circumstances authorizing arrest without warrant or Notice to Appear relate to (1) exigent circumstances (*i.e.*, the commission of a crime or immigration violation in the presence of an immigration officer) where (2) there is a likelihood of escape before a warrant can be issued. Here, Respondents could have easily prepared an arrest warrant and/or Notice to Appear prior to Petitioner’s attendance at Respondent’s pre-scheduled interview. There are no exigent circumstances (*i.e.*, commission of a crime or civil immigration violation) which Respondents allege Petitioner undertook *during* the interview. Nor can there be a likelihood of escape when Petitioner’s whereabouts were known to the Respondents for years, as evidenced by the Respondents’ own interview notice compelling Petitioner’s presence at Respondents’ office. All of the alleged grounds upon which Petitioner’s arrest was effectuated were known to Respondents for weeks, creating a statutory obligation to issue a Notice to Appear and arrest warrant *before* Petitioner’s arrest.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court grant the following:

- (1) Assume jurisdiction over the matter;
- (2) Issue an order barring transfer of petitioner out of this Court's jurisdiction during the pendency of this case;
- (3) Pursuant to 28 U.S.C. § 2243, forthwith award the writ or issue an order directing respondents to show cause why the writ should not be granted within three days;
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- (5) Declare that Petitioner's detention violates the Immigration and Nationality Act and its implementing regulations;
- (6) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner or, if ordering a bond hearing, require the Government hold a bond hearing within three days of the Court's order with the Government bearing the burden to show that Petitioner is a danger to the community or a flight risk by clear and convincing evidence, so as to justify his continued detention;
- (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 this 21st day of October, 2025,

/s/ Aaron C. Hall

Aaron C. Hall
Colorado Reg. No. 40376
Joseph & Hall, P.C.
12203 East Second Avenue
Aurora, CO 80011

303-297-9171

aaron@immigrationissues.com

Zachary R. New

Joseph & Hall, P.C.

12203 East Second Ave.

Aurora, CO 80011

(303) 297-9171

zachary@immigrationissues.com

Jeffrey D. Joseph

Berry Appleman & Leiden, LLP

1900 Wazee St.

Denver, CO 80202

(720)-999-5617

joseph@bal.com

Attorneys for Petitioner