

UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

ALEX ANDRES JAPON BENITES,

Petitioner,

-against-

GREG HALE, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT OF NORTHWEST STATE CORRECTIONAL FACILITY, PATRICIA HYDE, IN HER OFFICIAL CAPACITY AS ACTING BOSTON FIELD OFFICE DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; VERMONT SUB-OFFICE DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; TODD M. LYONS, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY; MARCO RUBIO, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE; AND PAMELA BONDI, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL,

Docket No. 2:25-cv-885

**AMENDED PETITION FOR WRIT OF HABEAS CORPUS**

1. Petitioner, Alex Andres Japon Benites, is citizen of Ecuador, and a resident of Cambridge, Vermont.
  2. Petitioner has been continuously present in the United States for more than two years.
  3. Mr. Japon Benites has a fear of persecution in Ecuador, and wishes to apply for asylum.
- Mr. Japon Benites also is engaged to marry a U.S. Citizen, which would allow him to apply for permanent residency. Upon information and belief, he currently has no pending removal

proceedings before the Immigration Court. This case concerns the government's inability to articulate why it has detained Petitioner.

4. On or about November 5, 2025, Mr. Japon Benites was violently detained, along with several others, by U.S. Customs and Border Protection ("CBP") and Homeland Security Investigations.

5. Mr. Japon Benites was held for an unknown period in CBP custody, and then transferred to Northwest State Correctional Facility, in Swanton, Vermont, where he continues to be detained.

6. Ordinarily, people arrested by ICE are served a Notice to Appear ("NTA") and placed into removal proceedings in the Immigration Court. Removal proceedings contain certain procedural protections required by the applicable statutes and regulations. The person attends hearings before an Immigration Judge and, if he or she is found removable, may apply for various forms of relief from removal. The decision of the Immigration Court is subject to appellate review by the Board of Immigration Appeals (the "BIA") and then via a petition for review to U.S. Court of Appeals.

7. While the removal proceeding is pending, people without a criminal record or involvement in terrorism are constitutionally entitled to a bond hearing with certain procedural protections, which may result in their release for the pendency of the proceeding. See 8 U.S.C. § 1226; *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021) (for Section 1226(a) detainees, due process requires a bond hearing in which government bears burden of proof to show flight risk or dangerousness); *Brito v. Garland*, 22 F.4th 240, 256-57 (1st Cir. 2021) (affirming class-wide declaratory judgment of same).

8. Public reporting on Mr. Japon Benites's detention indicates that he may have been placed in removal proceedings. Counsel, however, has been unable to verify that DHS has served Mr. Japon Benites with a NTA, nor that one has been filed with the Immigration Court.

9. If Mr. Acosta has a valid NTA that has been lawfully served and filed with the Immigration Court, Mr. Japon Benites would have the right to request a bond hearing, given that he has no criminal history and is not a danger to the community.

10. Upon information and belief, DHS has not placed Mr. Japon Benites in removal proceedings. Counsel has reached out to the Enforcement and Removal Operations ("ERO") office with jurisdiction over Mr. Japon Benites, but has received no response.

11. Because Mr. Japon Benites has not been placed in removal proceedings, his detention is unlawful.

12. The lack of a lawfully served NTA also deprives Mr. Japon Benites of his right to request a bond hearing before an Immigration Court, which furthers the unlawfulness of his detention.

### **PARTIES**

13. Petitioner, Vicente Japon Benites, is a citizen of Ecuador, who, upon information and belief, entered the U.S. on or around December 16, 2022, and has continuously resided in the U.S. since that time.

14. Respondent, Greg Hale is named in his official capacity as the Superintendent of Northwest State Correctional Facility ("NWSCF"). NWSCF has a contract with the Department of Homeland Security to house ICE detainees. In this capacity, Superintendent Hale, and NWSCF have immediate custody and control over the Petitioner.

15. Respondent Patricia Hyde is named in her official capacity as the Acting Field Office Director of the Boston Field Office for Immigration and Customs Enforcement ("ICE") within

the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws and the execution of detention and removal determinations and is a custodian of Petitioner. At all times relevant hereto, Respondent Hyde's address is Boston ICE Enforcement and Removal Operations Field Office, 1000 District Avenue, Burlington, MA 01803.

16. Respondent the Director of the Vermont Sub-Office of ICE Enforcement and Removal Operations, whose name is currently unknown to the undersigned, is named in his or her official capacity as the Director of the Vermont Sub-Office of the Boston Field Office for

Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws and the execution of detention and removal determinations and is a custodian of Petitioner. At all relevant times, the Director's address is 64 Gricebrook Road, St. Albans, VT 05478.

17. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of Vermont, is legally responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the Petitioner. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12<sup>th</sup> St. SW, Mail Stop 5900, Washington DC 20536-5900.

18. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the District of Vermont; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a

custodian of the Petitioner. At all times relevant hereto, Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

19. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. She routinely transacts business in the District of Vermont in this capacity; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g) (2007); and as such is a custodian of the Petitioner. At all times relevant hereto, Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

#### **JURISDICTION & VENUE**

20. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 2241, Article I, §9, cl. 2 (the Suspension Clause) and Article III of the U.S. Constitution, the Administrative Procedure Act, 5 U.S.C. § 701 et seq.; and 28 U.S.C. § 2201 (Declaratory Judgement).

21. An actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201 and this Court has authority to grant declaratory and injunctive relief. *Id.* § 2201, 22023. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651.

22. Venue is proper in the District of Vermont under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. At the time this proceeding was initiated, Mr. Japon Benites was detained in Vermont. The petitioner has been and is presently being detained in Vermont and a substantial part of the events giving rise to this petition occurred within this district.

**FACTS**

23. Mr. Japon Benites is a citizen of Ecuador. He entered the U.S. without inspection on or around December 16, 2022.

24. Mr. Japon Benites fears persecution if he is removed to Ecuador, and would like to apply for asylum in the United States.

25. Upon information and belief, Mr. Japon Benites is engaged to be married to a U.S. Citizen. They were hoping to get married this month, but because of his current detention, they are unable to do so. If Mr. Japon Benites marries a U.S. Citizen, his wife can sponsor his residency application, which would grant him lawful status.

26. Mr. Japon Benites has lived in Cambridge, Vermont, and he is a beloved member of the community there.

27. Upon information and belief, on the morning of November 5, 2025, Mr. Japon Benites was violently arrested and detained by CBP at a Maplefields gas station as he and his work crew were on their way to work.

28. Upon information and belief, it was unclear where Mr. Japon Benites was held for several days while his family and community waited for him to appear in the ICE Detainee Locator system. To date, he has been in custody for more than one week, and his detention location is still not available through the detainee locator. Ex. 1.

29. Currently, Mr. Japon Benites, is being detained at the Northwest State Correctional Facility.

30. Upon information and belief, undersigned counsel has serious concerns that Mr. Japon Benites does not have adequate access to drinking water at the detention facility.

31. Mr. Japon Benites's immigration counsel, upon information and belief, has been unable to ascertain whether Mr. Japon Benites has been served with a NTA, or otherwise placed in removal proceedings.

32. Upon information and belief, Mr. Japon Benites has no criminal record, and is not a flight risk, and would be entitled to seek bond.

### **CLAIM 1**

#### **Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution**

33. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

34. The Due Process Clause of the United States Constitution applies to "all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001).

35. Immigration detention must further the twin goals of ensuring a noncitizen's appearance during removal proceedings and preventing danger to the community.

36. In light of these goals, Mr. Japon Benites's detention is wholly unjustified. Indeed, it bears no reasonable relation to any legitimate government purpose.

37. Mr. Japon Benites is not a flight risk. He has legitimate fears of persecution in Ecuador. He is engaged to be married to a U.S. Citizen. He has employment prospects and a community in Cambridge that care for him and will support him.

38. Mr. Japon Benites is not a danger to the community. He is a hard-working individual who was literally working when he was detained by CBP.

39. Because Mr. Japon Benites's detention bears no reasonable relation to a legitimate government purpose, it is punitive.

40. At this time, it is completely unclear what the basis of his detention is because nothing in any of the DHS or EOIR systems indicate that he is in removal proceedings.

41. The justification of "preventing flight ... is weak or nonexistent where removal seems a remote possibility at best." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

### PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Enjoin Respondents from transferring the Petitioner from the jurisdiction of this District pending these proceedings;
- 3) Order the immediate release of Petitioner pending these proceedings;
- 4) Order the release of Petitioner;
- 5) Order the Immigration Court to provide Petitioner with a bond hearing;
- 6) Declare that Respondents' actions to arrest and detain Petitioner violate the Due Process Clause of the Fifth Amendment;
- 7) Award reasonable attorneys' fees and costs for this action; and
- 8) Grant such further relief as the Court deems just and proper.

Dated: November 18, 2025



BY: Kristen J. E. Connors, Esq.  
Montroll, Oettinger & Barquist, P.C.  
126 College St. Ste. 400  
Burlington, VT 05401  
P: (802) 540-0250  
E: kconnors@mblawoffice.com

*Counsel for Petitioner*