IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Cedric F. Massigoge Chevez Petitioner v. Bret Bradford, Director, HOUSTON DHS-ICE Field Office & Grant Dickey, Warden, Joe Corley Processing Center	Case No. 4:25-cv-5737 WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 USC §2241

TO THE HONORABLE COURT:

COMES NOW Cedric F. Massigoge-Chevez, through the undersigned counsel, and most respectfully **STATES ND PRAYS** as follows:

I. INTRODUCTION

"Every statute has limits which are capable of being exceeded thus even under statutes granting an official the broadest discretion there will be some I'll be at fewer cases capable of arising under the statute which will present issues to which the court will have to apply the law." Abdelhamid v. Ilchert, 774 F 2d 1447, 1449 (CA9 1985) This court has the authority to ensure that the Executive Office for Immigration Review and the Board of Immigration Appeals. Both federal agencies do not act beyond the legislative intent of their enabling statute.

"Any hearing held by the agency must be fair, there must be no error of law, there must be evidence to support the findings of fact. If one of the elements mentioned is lacking the proceeding is void and must be set aside." (Internal quotations omitted.) Kessler v. Strecker, 307 US 22, 34, 59 S. Ct. 694, 83 L. Ed. 1082 (1939).

This is a petition for a writ of Habeas Corpus challenging the illegal detention of petitioner Cedric F. Massigoge-Chevez by Immigration and Customs Enforcement (ICE) under 28 USC §2241. He is currently held at the Joe Corley Processing Center, 500 Hilbig Road, Conroe, TX 77301. His ***A#221-273-391.***

II. JURISDICTION AND VENUE

The district court has subject matter jurisdiction under 28 U.S.C. § 2241, AND under 28 U.S.C. § 1331 (federal question). The court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651 and Article I § 9, cl. 2 of the U.S. Constitution (Suspension Clause). See INS v. Cyr, 533 US 289 (2001) and Guerrero-Lasprilla v. Barr, 589 US 221, 140 S. Ct. 1062, 1067-73, 206 L. Ed. 2d 271.

This action arises under the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

Jurisdiction is proper as he is detained and the proceedings challenged took place within the jurisdiction of the court. Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004) Venue is proper under 18 USC §1391 (e) as he is currently detained within the jurisdiction of the court by the officers and agencies of the United States identified as defendants.

This is a challenge to "detention simpliciter" under § 2241—not to the validity of the removal order itself—so the jurisdiction-stripping provisions of 8 USC § 1252 don't bar review of the immigration detention conditions and duration. This district court (in habeas) and courts of

appeals (in petitions for review) retain jurisdiction to review legal and mixed questions arising from custody determinations, notwithstanding § 1226(e) and related bars. Guerrero-Lasprilla v. Barr, 589 U.S. ___, 140 S. Ct. 1062, 1068–69 (2020).

III. PARTIES

Bret Bradford is the Director of the Houston ICE Field Office, located in 126 Northpoint Drive, Houston, Texas, 77060. He has responsibility over the detention facility or contract governing the detention facility where Petitioner is held.

Grant Dickey is the warden and "immediate custodian" at the Joe Corley Processing Center, 500 Hilbig Road, Conroe, TX 77301 where Petitioner is being held. He is who makes custodial decisions regarding non-citizens detained in immigration custody.

See Rumsfeld v. Padilla, 542 US 426, 439 (2004); 28 U.S.C. § 2242 and § 2243.

IV. AGENCY FINAL DECISION

The immigration court issued an order on July 10, 2025 denying Mr. Massigoge Chevez request for bond on the basis of danger to persons and property. See **Exhibit 1**. It had the NCIC negative record for Mr. Massigoge. See **Exhibit 2**. The only charge against him was an Information for a State Jail Felony that was dismissed for cause, in the interest of justice, by the 221st Montgomery County District Judge on October 9, 2025. See **Exhibit 3**.

V. STATEMENT OF FACTS

Mr. Cedric Massigoge, A#[redacted], is a citizen and national of Argentina. He entered the United States legally, on a tourist visa, in 2014. At the time of entry, Mr. Massigoge was a minor. Om June 14, 2016 he received an F2 Visa. At the time he was 16 years old. He has never left the United States since his entry in 2014. The F2 visa ended on May 10. 2021.

Mr. Massigoge attended and graduated from Memorial Senior High School in Houston, Texas, in 2019. Prior to that he attended Soring Branch Middle School, also in Houston, Texas.

He was living with and engaged to be married to Sophia Kendal, a US citizen and resident of Conroe, Texas. She suffers from a chronic and permanent medical condition, and Cedric was her primary caregiver. They had been living together in Conroe, in a house next to her parent's house.

The National Crime Information Center (NCIC) returned a negative or no records found for Mr. Massigoge. **Exhibit 2.**

On October 4, 2025, Mr. Massigoge was stopped for speeding in Montgomery County, Texas. He presented a valid, unexpired California driver's license. The officer effecting the traffic stop conducted a canine inspection of the vehicle suspecting possession of a controlled substance. After Mr. Massigoge refused consent to search, a canine unit arrived. He was arrested after the dog gave a "positive alert" for controlled substance. A THC/Marihuana LOGO" edible was found. He was placed under arrest for "suspected or charged offense" of" PCS PG2 <1G, a state jail felony.[1] Mr. Massigoge was arrested and detained in Montgomery County Jail, Conroe, Texas. An Information was filed against him in the 221st District Court on October 9, 2025 that was dismissed. See **Exhibit 3**. The information is an unsworn document ruled by Tex. Code Crim. Pro. Arts. 21.21 and 21.22.

On October 6, 2026 he was detained by Immigration and Customs Enforcement, ICE. On October 8, 2025, he was issued an I-862, Notice to Appear (NTA), before an immigration judge.

[1] Tetrahydrocannabinols (THC's) are classified in TX Penal Code §481.103, as Penalty Group 2, and are penalized under §481.116 (b) as a state jail felony if under 1G weight.

On October 24, 2025, the 221st District Court in Montgomery County, Texas, granted a Motion to Dismiss by the Assistant District Attorney "IN THE INTEREST OF JUSTICE". **Exhibit 3.**

A custody redetermination or bond hearing was held for November 4, 2025 before Immigration Judge (IJ) Timothy Cole. However, it was Immigration Judge Kevin Burras who signed an order denying bond to Mr. Massigoge based on "danger to persons and property". See **Exhibit 1.** His bond redetermination application included ***Exhibit 4***, a Character Memorandum from US Army Sargeant Leonard Karoly supporting petitioner's bond request and depicts him as an asset to the community. It also included ***Exhibit 5,*** a letter to the IJ from Sophia Kendal, his Fiancée, establishing his place of residence, his ties to the community and his prospect of a future means to adjust status in the USA.

He has been in detention since his November 4, 2025 arrest.

CLAIMS FOR RELIEF

We ask the court to order the immediate release of petitioner from detention and:

1. Find that the IJ unlawfully determined that Mr. Massigoge is a danger to persons and property".
2. Find that Mr. Massigoge' detention is unlawful because the immigration court violated his right to have a detention according to the legal requirements and the correct and findings of fact and law before denying his request for bond.

VI. APPLICABLE LAW

Habeas review depends upon the circumstances of the case, including the thoroughness of procedures provided during the underlying administrative proceedings. Boumediene v. Bush, 553 US 723, 781, 128 S. Ct. 2229, 171 L. Ed. 2d 41 (2008) Courts in habeas proceedings will generally

not review the agency's findings of fact to ensure there is substantial evidence to support the findings. HOWEVER, agency is not free to make up facts in an arbitrary or irrational manner a federal court can review factual determinations to ensure that such findings are lawful that is fair and reasonable in light of the record. See Vajtauer v. Commissioner, 273 U.S. 103, 106 (1927) See also Katz v. Commissioner of Immigration, 245 F. 316, 319 (CA9 1917) ("...the court is not permitted to look behind a finding...when it is a matter of weighing the evidence; but where there is substantially no evidence competent to establish the charge preferred, it then becomes a question of law for the court.") Courts can review the lawful exercise of discretion in habeas proceedings.[2]

At the time of his ICE detention Petitioner was not an applicant for admission and he has been detained under the Immigration and Naturalization Act (INA) §236, the discretionary detention statute, which applied to distinct groups pf respondents in immigration proceedings. See Jennings v. Rodriguez, 583 U.S. 281, 288–89 (2018). Petitioner belongs to the category of aliens already present in the United States and who *may* be detained pending removal proceedings, with certain exceptions for certain criminal offenses and terrorism. *Id,* at p. 303. See 8 USC §1226 (c)(1)(A)-(D) The NTA charges Mr. Massigoge with remaining in the United States for a time longer than permitted by his VISA, in violation of §237 (a)(1)(B), 8 USC §1227. Therefore, because Petitioner is charged with removability, he still comes under the provisions of §236/1226 that apply to respondents charged as removable. See *Matter of Guerra,* 24 I&N Dec. 37, (BIA 2006)

In Matter of Guerra, at p. 40, the Board lists nine, non-exclusive discretionary factors an IJ may weigh in deciding whether to grant or deny bond (and in what amount) under INA § 236(a):

[2] Robert Pauw, Litigating Immigration Cases in Federal Court, Fifth Edition, 2020. Pp. 430-434.

1. Fixed address: Whether the respondent has a stable, verifiable address in the United States.
2. Length of residence: How long the respondent has lived in the United States.
3. Family ties and immigration prospects: The respondent's family ties in the United States and whether those relatives may provide a basis for the respondent to obtain lawful permanent residence in the future.
4. Employment history: The respondent's work history in the United States, including duration and stability of employment.
5. Record of court appearance: The respondent's past record of appearing for court proceedings when required.
6. Criminal history: The respondent's criminal record, including how extensive it is, how recent the conduct is, and the seriousness of the offenses.
7. Immigration violations: The respondent's history of immigration law violations (e.g., prior removals, EWI re-entries, failed voluntary departure, etc.).
8. Flight or evasion of authorities: Any attempts by the respondent to flee from prosecution or otherwise escape or evade law enforcement authorities.
9. Manner of entry: How the respondent entered the United States (e.g., with a visa, entry without inspection, use of fraud, smuggling circumstances).

This is the law that the IJ had to follow in evaluating the record before him. The legal issue under *Matter of Guerra* is that the reasons stated in the order are not based on any evidence before the court. No piece of evidence establishes that Petitioner is a danger to persons or property, and the finding is clearly not based on sound legal principles or on the correct appreciation of the evidence before the court. If the IJ denied bond after failing to address the factors set out in *Matter*

of Guerra, denying the bond was legally erroneous. Sales v. Johnson, 323 F. Supp 3d 1131, 1141 (ND CA 2017). See also Judulang v. Chertoff, 562 F. Supp. 2d 1119, 1127 (SD CA 2008) (court has jurisdiction to review whether the IJ's decision to deny bail complies with the court's order; the court held that the IJ's findings of present dangerousness was and error of law and the denial of bond was inappropriate") (Internal quotations omitted.)

In United States ex rel. Barbour v. District Director of INS, 491 F.2d 573 (CA5 1974) a habeas challenge to immigration detention, Fifth Circuit holds that denial of release is lawful so long as there is a "reasonable foundation" in fact for the decision. In Guerrero Lasprilla v. Barr, supra, pp. 1067-1069, the Supreme Court allowed judicial review of mixed issues of fact and law from immigration court decisions, reversing a long held view of the Fifth Circuit that courts lacked jurisdiction under 8 USC §1252(a)(2)(D), including the application of a legal standard to *undisputed or established facts*. The incorrect application of a bond redetermination standard and regulations to undisputed facts is therefore a proper subject for review under habeas corpus of the misapplication of the statutory, immigration law regime.

The Fifth Circuit has described the historical scope of the writ to illegal imprisonments. In Deters v. Collins, 985 F.2d 789 (5th Cir. 1993) the writ is described as established upon the goal of protecting individual liberty interests from governmental oppression,", stating that its "root principle is that neither men nor women should suffer illegal imprisonment". The scope of the writ clearly includes the review of the legality of custody itself, not collateral matters. " "[H] abeas is not available to review questions unrelated to the cause of detention. Its sole function is to grant relief from unlawful imprisonment or custody and it cannot be used properly for any other purpose. While it is correctly alluded to as the Great Writ, it cannot be utilized ... as a springboard to adjudicate matters foreign to the question of the legality of custody." Pierre v. United States, 525

F.2d 933, 935-936 (CA5 1976). Habeas is confined to defects in the cause of detention (legal authority for custody), and the fact or duration of confinement (whether the person is held at all, and for how long). Therefore, because we are questioning the legality (cause or authority for) of the detention itself, not conditions or ancillary injunctions, habeas is the proper mechanism to review the custody determination. The bond redetermination decision is not a collateral prison-conditions issue; it is the current legal "cause of detention" within Pierre's meaning.

The IJ failed to apply the established legal framework in deciding to deny bond to Mr. Massigoge.

EVIDENCE BEFORE THE IJ

The denial of the bond is premised upon a finding that Mr. Massigoge is a danger to persons and property. ***Exhibit 1***, the Order denying bond of 11/4/2025.

What in the record for the bond redetermination hearing did the judge have to support this finding? ***Nothing.***

In ***Exhibit 2*** we have the results from the FBI's National Crime Information Center, NCIC, which purpose is to provide law enforcement agencies with instant access to natin-wide crime related data. The report states that no files were found for Petitioner.

In ***Exhibit 3***, we have an Information and an Order ***dismissing*** the charges "in the interest of justice", signed by the Montgomery County District Judge presiding the case.

What does this mean? Clearly, the IJ either *did not know the meaning of the documents before him or disregarded their meaning* when considering it under the criminal history prong of the *Matter of Guerra* test, ante.

This is what they mean.

The Texas Code of Criminal Procedure art. 32.02 allows the State's attorney to dismiss a criminal action "for good cause shown" with court approval, and the reason must be stated in the dismissal order. One of the recognized reasons for good cause is lack of probable cause. The leading Texas case discussing the meaning of the term "in the interest of justice" is Smith v. State, 70 S.W.3d 848 (Tex. Crim. App. 2002). Under Tex. Code Crim. Proc. art. 32.02, the prosecutor must state reasons for dismissal in writing, but the Court holds that the statement-of-reasons requirement is "directory, not mandatory," and substantial compliance is enough; the phrase "in the interests of justice" could simply "reflect a deference to any rational basis that the prosecutor had to dismiss the prosecution." *Id.*, p. 853. However, this dismissal was of charges contained in an INFORMATION filed against Mr. Massigoge, not an indictment or a complaint supported by a sworn statement.

In State v. Yakushkin, 625 S.W.3d 552 (Tex. App.—Houston [14th Dist.] 2021, pet. ref'd), the court examines a series of *misdemeanor* cases charged by information supported by sworn affidavits and finds that under Tex. Crim. Pro. Code art. 21.22 the information does not need be supported by a sworn complaint alleging sufficient facts to establish probable cause. This means that *a misdemeanor information (and its supporting complaint) does not come with a grand-jury-type probable-cause guarantee.* A felony indictment creates the presumption of probable cause. See Hall v. State, 450 S.W.2d 90, 92 (Tex. Crim. App. 1969). Therefore, under Texas law, a complaint supporting a misdemeanor information need not recite facts sufficient to establish probable cause; an information therefore lacks any built-in, judicial or grand-jury probable-cause determination. By contrast, once an indictment has been presented, Texas courts recognize a presumption of probable cause arising from that indictment. See also Studer v. State, 799 S.W.2d 263 (Tex. Crim. App. 1990), where the Texas Court of Criminal Appeals clarified that an

indictment is a charging instrument returned by a grand jury, while an information is a charging instrument filed by a prosecutor based on a sworn complaint. The case emphasized that probable cause is inherent in an indictment because it requires grand jury review, whereas an information requires a supporting complaint to establish probable cause.

Iti s clear that the Information charged Petitioner with a state jail felony. Exhibit 3. Can this be done?

No.

A Texas state jail felony cannot be charged by information. Under Tex. Code Crim. Proc. art. 1.05 and art. 21.01–21.03, felonies in Texas must be prosecuted upon indictment by a grand jury, unless the defendant waives indictment in writing in open court as allowed by art. 1.141. A state jail felony is still a "felony" under Texas law (see Tex. Penal Code § 12.04), so it falls under this rule. Therefore, Petitioner HAD to be indicted upon a finding of probable cause by a grand jury for eh charges to proceed.

Because Petitioner was never indicted, the district court had to dismiss the information against him, the state could not charge a felony against Mr. Massigoge with an information.

The dismissal reason in Exhibit 3, "in the interest of justice" means just that: the case could not proceed unless an indictment for the state jail felony under the Texas penal code was filed with the court.

In Texas, dismissals for lack of probable cause are considered for cause (because they rest on evidentiary insufficiency), but they are not "on the merits" in the same way an acquittal after trial would be. Courts treat them as preliminary rulings that stop prosecution at that stage, but they do not bar refiling if new evidence emerges.

As of today, there has been no indictment of the state felony charge against Mr. Massigoge.

Did the IJ correctly identify and weigh DOCUMENTARY EVIDENCE relating to the dismissal of the charges filed against Mr. Massigoge? He did not. But the plain meaning of the documents before the IJ meant that, at the time of the dismissal of the information, there had been no finding of probable cause to indict Petitioner of the drug state felony charges against him. Therefore, the cause of the dismissal is clear from the face of the document, and the dismissal was for cause, that is, no probable cause. Because the district attorney never complied with the required finding of probable cause by a grand jury to charge a state jail felony, the dismissal is proper because the state did not have enough evidence to move forward with the case.

SEPARATE PROCEEDINGS FOR BOND AND MERITS

The proceedings for a bond redetermination hearing are separate from the proceedings on the merits of an immigration court case before the Executive Office of Immigration Review, EOIR. This is set out in 8 C.F.R. § 1003.19(d) (Custody/bond). That subsection provides that an Immigration Judge's consideration of any custody or bond request: "shall be separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding." This text formally establishes that bond (custody) redetermination hearings are distinct from, and not part of, the merits (removal/deportation) proceedings. EOIR's Immigration Court Practice Manual, Chapter 9.3 (Bond Proceedings) expressly relies on and cites 8 C.F.R. § 1003.19(d) for the same proposition, noting that bond hearings are conducted under that regulation and are treated procedurally separate from removal hearings.

DEFECTIVE BOND PROCEEDINGS

Petitioner challenges the lawfulness of being detained at all as a consequence of an IJ bond decision that rested on an unlawful order. Under Pierre, supra, this writ squarely reaches questions about the cause and legality of custody

Custody under INA § 236(a) is implemented by 8 C.F.R. § 236.1(c)(8) / 8 C.F.R. § 1236.1(c)(8). Those regulations require that a criminal alien seeking release "first demonstrate, by clear and convincing evidence, that release would not pose a danger to the safety of other persons or of property." Matter of Guerra, ante, sets for the IJ's balancing of factors in making such a determination. "Danger" is assessed forward-looking based on the language of §236.1 (a) whether release *now* would pose an unacceptable risk to people or property, based on the totality of the record (criminal history, serious criminal conduct with or without conviction, police reports, pending charges, protective orders, substance abuse, etc.) *that justify continued detention as a preventive measure.* That is a risk-of-future-harm assessment, not a backward-looking punishment. See *Matter of Fatahi*, 26 I&N Dec. 791, 795, fn. 3 (BIA 2016).

There is no evidence in the bond record that supports the finding of prospective danger to persons and property from the release of Mr. Massigoge. The danger finding is not just *any* danger; under *Fatahi*, supra, it must be found to be an unacceptable risk to people or property at the time of the hearing. There is no such thing on the full record before the IJ. Of the *Guerra* and *Fatahi* factors:

1. Criminal convictions and charge documents
2. Police reports and arrest records
3. Pending charges
4. Protective orders / family-violence records
5. Evidence of substance abuse or similar patterns
6. Community ties, employment, and rehabilitation evidence,
   1 through 5 are not existent in the record.

Petitioner meets all the requirement for no. 6. Petitioner is an 11 year resident of Texas, entered legally but remained after the expiration of his visa. His status depended upon his mother's status, and she if a valid F1 resident in Texas. He has lived here with his father and mother since his arrival in 2014. He is living with and engaged to a US citizen since before this ICE detention

and they have plans to marry. ***Exhibit 4*** is a Character Memorandum from US Army Sargeant Leonard Karoly supporting petitioner's bond request and depicts him as an asset to the community. Thus, Petitioner has long lasting ties to Houston, Texas, meeting the requirements in item no. 6.

He also has a real prospect of acquiring legal status once he marries his US citizen fiancée.

The prospect of a marriage to a US citizen with whom he has been living with provides the court with:

- A fixed address.
- The length and quality of residence.
- Family ties that weigh against flight.
- An incentive to appear for proceedings before the court.
- A likelihood of relief due to a bona fide marriage in the near future.

See ***Exhibit 5***.

In the absence of any of the negative factors like criminal history, criminal activity, strong evidence of dangerousness or risk of flight, the positives clearly weigh in favor of granting bond. Not as a matter of discretion, but as a matter of law based on the evidence and misuse and/or misapplication of the correct legal standard at the bond redetermination proceedings.

Finally, the dangerousness determinations at bond proceedings are reviewable as mixed questions of law and fact, and the district courts on habeas can review whether the IJ applied the correct legal standard. Martinez v. Clark, 124 F.4th 775 (CA9 2024) A prior denial of review was vacated and remanded, __US__, 144 S. Ct. 1339, 218 L Ed 418 (2024).

VII. ORDERING A FURTHER DETENTION HEARING IS FUTILE

Although the IJ conducted a detention hearing, the denial of bond is wholly contrary to the record is a de facto denial of a bond hearing under binding BIA precedent and regulations.

The IJ incorrectly found Petitioner a "danger to persons and community" based on the dismissal for cause of the state felony charges that are the only charges or convictions in his NCIC record. Because of the BIA's deference framework when reviewing IJ denials of bond, the prospect of appealing the denial and waiting for the BIA to resolve any appeal will mean that Petitioner will be held in continued detention for an extended period of time when there is no evidence to support a finding of dangerousness under the correct standard of law for bond redeterminations. See Matter of Siniauskas, 27 I&N Dec. 207, 209 (BIA 2018). His detention as dangerous, unsupported and contrary to law, is unlawful and in danger of being extended for an undetermined period of time, all in violation of his rights under the law. See Zadvydas v. Davis, 533 U.S. 678, 701 (2001). See for example Guerrero-Sanchez v. Warden York County Prison, 905 F.3d 208, 223-4 (CA3 2018) (Third Circuit: habeas relief requires bond hearings after six months.)

VIII. CONCLUSION

Mr. Massigoge's detention is unlawful. This Honorable Court should GRANT this petition, order a new bond redetermination hearing or, in the alternative, order him released, a so that the immigration courts

WHEREFORE, we respectfully request the Most Honorable Court to:

- ORDER that Respondents immediately release Mr. Massigoge from custody, or in the alternative, provide him with a bond hearing under 8 U.S.C. § 1226(a).
- If released, ORDER that Respondents must notify Mr. Massigoge' counsel of the exact time and location of his release no less than three hours prior to releasing him.
- ORDER that Respondents provide the Court with a status update on the outcome of any bond hearing conducted pursuant to this Order.

- ORDER that if no bond hearing is held, advise the Court as to the status of Mr. Massigoge' release from custody pursuant to this Order.
- ORDER that the parties should also notify the Court if the Government seeks a stay of the bond under 8 C.F.R. § 1003.19(i).

VERIFIED PETITION

I hereby declare, under penalty of perjury, that the information contained in this petition is true and correct and that I have personally verified its contents before signing and submitting it.

Signed on this 1st day of December, 2025, in Houston, Texas.

Julie Soderlund, Attorney

RESPECTFULLY SUBMITTED on this 1st day of December, 2025, in Houston, Texas.

S/. Julie Soderlund

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