UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
Columbus Division

WILLIAM HERIBERTO VELASQUEZ, *Petitioner,* v. KRISTI NOEM, *Secretary of Homeland Security,* TODD LYONS, *Acting Director, U.S. Immigration and Customs Enforcement,* GEORGE STERLING, *Director, Atlanta ICE Field Office* PAMELA BONDI, *Attorney General, U.S. Department of Justice* JASON STREEVAL, *Warden, Stewart Detention Center,* *Respondents.*	Civil Action No. 4:25-cv-503

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner William Heriberto Velasquez (A#[redacted] is a citizen of El Salvador. He entered the United States without inspection between ports of entry on the U.S.-Mexico border. He was arrested by U.S. Immigration and Customs Enforcement ("ICE") approximately 19 years after his entry. Petitioner enjoys a valid grant of deferred action, which allows him to remain lawfully present in the United States. Petitioner Velasquez was detained by ICE under facts and circumstances that place him squarely within ICE's general detention authority 8 U.S.C. § 1226(a). Under that statute, Petitioner is eligible to seek discretionary release on bond from an Immigration Judge ("IJ"). However, due to a new policy announced by ICE in July 2025, and a September 2025

Board of Immigration Appeals (BIA) decision that overturns decades of settled law, Respondents contend that Petitioner is actually detained under 8 U.S.C. § 1225(b)(2). However, while § 1225 requires mandatory detention and does not allow release on bond, it only applies to noncitizens apprehended at the border "seeking admission." Petitioner therefore brings this action for injunctive relief from this Court to namely enjoin Respondents from holding Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and denying him a bond hearing on that basis; and seeking an order that Respondents schedule him for a discretionary bond hearing pursuant to § 1226(a) before an IJ within 15 days.

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241 and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. This Court also has federal question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA review of a final agency action may proceed, absent a special statutory review proceeding, by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction." 5 U.S.C. § 703.

3. Venue lies in this District because Petitioner is currently detained within the territorial jurisdiction of this division of this District; and each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1).

THE PARTIES

4. Petitioner William Heriberto Velasquez is a citizen and native of El Salvador and,

upon information and belief, is currently detained by Respondents at the Steward Detention Center in Lumpkin, Georgia, within the territorial jurisdiction of this Court.

5. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent George Sterling is the Director of the Atlanta ICE Field Office. He is responsible for overseeing ICE operations pertaining to noncitizens within his territorial jurisdiction, such as Mr. Velasquez, including detentions, enforcement, and removal operations. He is Petitioner's immediate legal custodian for purposes of a federal habeas petition.

8. Respondent Pamela Bondi is the Attorney General of the United States. She is the head of the U.S. Department of Justice, which oversees the Executive Office for Immigration Review, including the Board of Immigration Appeals and the Immigration Court judges, who decide removal cases and applications for bond as her designees.

9. Respondent Jason Streeval is the warden of the Stewart Detention Center in Lumpkin, GA. He is the immediate custodian who is currently holding Petitioner in physical custody. He is sued in his official capacity.

10. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

A. U Visa and Deferred Action

11. The United States legal regime affords special protections to victims of crime, even prior to the final adjudication of their visa petition. 8 U.S.C. § 1101(a)(15)(U). This protection can extend to derivative family members of crime victims as well. In 2021, USCIS modified this process introducing a streamlined Bona Fide Determination policy process, as authorized by statute, to provide benefits on a lower burden of proof and thus even more quickly. *See* 8 U.S.C. § 1184(p)(6). ("The Secretary may grant work authorization to any alien who has pending, bona fide application for nonimmigrant status under section [1101(a)(15)(U)]."); *see also* USCIS policy alert "Bona Fide Determination Process for Victims of Qualifying Crimes, and Employment Authorization and Deferred Action for Certain Petitioners," PA-2021-13 (June 13, 2021).[1]

12. Today, the agency first reviews a Form I-918 Petition for U Nonimmigrant Status, to make a "bona fide determination" (BFD). USCIS Policy Manual Vol. 3, Part C, Ch. 5.[2] USCIS will only issue the BFD if all necessary components of a U visa petition are submitted. *Id.* at § A.

13. USCIS will then consider whether to issue the discretionary benefits of deferred action and an employment authorization document (EAD), for the petitioner and any family members. *Id.* at § B. USCIS will run background checks and consider whether the petitioner or derivative family member poses a risk to national security (under 8 U.S.C. § 1182(a)(3)) or public safety, and considers other relevant discretionary factors. *Id.* As part of background checks, USCIS relies "on a variety of databases that collect information from law enforcement agencies

[1] Available at: https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210614-VictimsOfCrimes.pdf (last visited October 27, 2025).
[2] Available at: https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5 (last visited October 27, 2025).

and other federal, state, local, and tribal agencies, including information regarding arrests and convictions." *Id.* at § C.1. Only after these steps are taken, and USCIS has determined that the petitioner or derivative family member merits a favorable exercise of discretion, will deferred action and EAD issue. *Id.*

14. After a BFD grant, the deferred action supplies the basis for the EAD. 8 C.F.R. § 274a.12(c)(14). *See e.g.* Ex. 2, Employment Authorization Document ("EAD") issued under category C14, valid from September 25, 2024 through September 24, 2028.

15. Deferred action is not a creature of statute or regulation, but rather is simply an act of "administrative discretion." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999). It may be granted at any phase of the removal process, including to *inter alia* to "decline to execute a final order of deportation." *Id.* At bottom, deferred action "means that, for the humanitarian reasons described below, no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated." *Id.*

16. Moreover, "deferred action recipients are considered 'lawfully present' for purposes of, and therefore eligible to receive, Social Security and Medicare benefits. *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 10 (2020) (*citing* 8 C.F.R. § 1.3(a)(4)(vi); 42 C.F.R. § 417.422(h) (2012)).

17. USCIS retains its discretion over the BFD throughout the pendency of the U visa petition, and reserves the right to revoke the BFD and benefits, including deferred action, "at any time if it determines the BFD EAD or favorable exercise of discretion are no longer warranted, or the prior BFD EAD and deferred action were granted in error." *Id.*

B. Immigration Detention Legal Framework

18. When a noncitizen is alleged to have violated immigration laws, they are generally placed into traditional removal proceedings, during which an immigration judge will determine whether they are removable and then whether they have a legal basis to remain in the United States. 8 U.S.C. § 1229a.

19. Detention is authorized for "certain aliens already in the country pending the outcome of removal proceedings under § 1226(a) and 1126(c)." *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The statute provides that an individual may be subject to either discretionary detention under 8 U.S.C. § 1226(a) generally, or mandatory detention under 8 U.S.C. § 1226(c) if they have been arrested or convicted of certain crimes. Discretionary detention under § 1226(a) has been described as the "default" provision for immigration detention for those subject to traditional removal proceedings. *Id.* at 288. Under § 1226(a), "'[e]xcept as provided in subsection (c) of this section,' the Attorney General 'may release' an alien detained under § 1226(a) 'on ...bond' or 'conditional parole.'" *Id.*

20. Alternatively, mandatory detention is authorized for "certain aliens *seeking admission* into the country under §§ 1225(b)(1) and 1225(b)(2)," [emphasis added]. *Jennings*, 583 U.S. at 289. Individuals inspected under § 1225(b) and determined to be "applicants for admission" may be subject to mandatory detention under two separate subsections. Applicants for admission include someone:

> "present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for the purposes of this chapter to be an applicant for admission."

§ 1225(a)(1).

21. The first subset, under 8 U.S.C. § 1225(b)(1), may be subject to expedited removal and mandatory detention if they are determined to be an "arriving alien," and if they have not been physically present in the United States continuously for a two-year period immediately prior. Regulations define an "arriving alien" as:

> "an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport."

8 C.F.R. § 1.2.

22. Otherwise, 8 U.S.C. § 1225(b)(2) provides for the detention of "applicant for admission" specifically when "the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title," i.e. for traditional removal proceedings [emphasis added].

23. An "arriving alien" or an applicant for admission "seeking admission" may only be released from detention on parole (which is a form of release on recognizance), under 8 U.S.C. § 1182(d)(5). *Jennings*, 583 U.S. at 288. There is no bond available to an arriving alien or applicant for admission seeking admission. *Id.* There is no such thing as a "parole bond" – a release must be either parole under § 1182(d)(5) or a bond (conditional parole) under § 1226(a). *Id.*

24. For a noncitizen subject to discretionary detention under 8 U.S.C. § 1226(a), ICE makes an initial custody determination to either set a bond or hold the individual at no bond. The noncitizen may then seek a review of ICE's initial custody determination before the IJ (a "custody review hearing"), who has the authority to modify ICE's custody determination and set bond in a

case in which ICE has designated no bond, lower bond when ICE has set a cash bond amount, or deny bond completely. 8 C.F.R. § 1003.19.

25. Custody review hearings are separate from hearings in the underlying removal proceedings. 8 C.F.R. § 1003.19(d). If a noncitizen is granted bond by the IJ, she must still appear in immigration court for the IJ to determine her removability and hear any claim for relief from removal. At a custody review hearing, once jurisdiction over bond is established, the IJ's inquiry is limited to whether the detainee is a danger to the community or a flight risk, and bond may only be granted when an IJ has determined that the detainee meets his burden of proof that he is neither. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

26. For decades, it has been Respondents' practice to afford § 1226(a) discretionary bond hearings and custody review hearings to those individuals who have been encountered neither at a point of entry nor seeking admission to the United States. *See Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) ("Respondents' proposed application of § 1226 is also belied by the Department of Homeland Security's 'longstanding practice' of treating noncitizens taken into custody while living in the United States, including those detained and found inadmissible upon inspection and then released into the United States with the government's acquiescence, who have committed no crime after release, as detained under § 1226(a)." citing *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024)).

C. New ICE memo reinterpreting 8 U.S.C. § 1225(b)(2)

27. On July 8, 2025, Respondent ICE issued new interim guidance that announced a breathtakingly broad interpretation of 8 U.S.C. § 1225(b)(2). *See* ICE memorandum "Interim

Guidance Regarding Detention Authority for Applications for Admission."[3] This memo concerns the detention of "applicants for admission" as defined by § 1225(a)(1). "Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)(2)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)]." *Id.* DHS is explicit that this new policy is a marked deviation from prior interpretation and treatment of affected noncitizens. *Id.* ("For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated.")

28. In addition to the announcement re-interpreting § 1225(b)(2), the memo further clarifies that "[t]he only aliens eligible for a custody determination and release on recognizance, bond or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237 [8 U.S.C. § 1227], with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." *Id.* `

29. Moreover, ICE maintains that "DHS does not take the position that prior releases of applicants for admission pursuant to INA § 236(a) were releases on parole under INA § 212(d)(5) based on this change in legal position." *Id.* ICE fails to clarify under what legal authority, then, those prior releases were effectuated. Rather, ICE signals the resulting lack of "correct" paperwork is nonetheless permissible. *Id.* ("Accordingly, ERO and HIS are not required to 'correct' the release paperwork by issuing INA § 212(d)(5) parole paperwork.")

30. Nationwide implementation of the ICE § 1225(b)(2) mass detention policy ensued.

D. Recent BIA decision *Matter of Yajure Hurtado*

[3] Available at: https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last visited Sept. 25, 2025).

31. On September 5, 2025, the Board of Immigration Appeals (BIA), which oversees all appeals of IJ decisions including custody redeterminations, upheld ICE's re-interpretation of § 1225(b)(2). *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

32. The BIA held that the respondent was an "applicant for admission" within the scope of § 1225(b), and therefore subject to mandatory detention.

33. The BIA characterized the issue before it as "one of statutory construction: Does the INA require that *all* applicants for admission, even those like the respondent who have entered without admission or inspection and have been residing in the United States for years without lawful status, be subject to mandatory detention for the duration of their immigration proceedings, and thus the Immigration Judge lacks authority over a bond request filed by an alien in this category?" [emphasis added]. *Id.* at 220.

34. The BIA reasoned that individuals "who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer." *Id.* at 228.

35. The BIA acknowledged the decades of precedent preceding its decision that authorized release of individuals present without having been inspected and admitted or paroled under § 1226(a). *Id.* at 225, FN6 ("We acknowledge that for years Immigration Judges have conducted bond hearings for aliens who entered the United States without inspection. However, we do not recall either DHS or its predecessor, the Immigration and Naturalization Service, previously raising the current issue that is before us. In fact, the supplemental information for the 1997 Interim Rule titled 'Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures,' 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997), reflects that the Immigration and Naturalization Service took the position at that time

that '[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.'")

36. Ultimately, the BIA upheld the decision that the IJ lacked jurisdiction under 8 U.S.C. § 1225(b)(2) to consider the respondent for discretionary bond. *Id.* at 229.

37. The BIA decision is binding on all immigration judges nationwide.

38. Respondents' new policy and interpretation of 8 U.S.C. § 1225(b)(2) stand to sweep millions of noncitizens into mandatory detention, without any consideration for release on bond (regardless of their ties to their community or lack of dangerousness or flight risk). *Rosado*, 2025 WL 2337099, at *11 ("It has been estimated that this novel interpretation would require the detention of millions of immigrants currently residing in the United States.")

39. On November 25, 2025, the court in *Maldonado Bautista* certified a class of individuals who were seeking a bond hearing in the wake of the BIA's *Yajure Hurtado* decision:

> "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination."

Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Previously, the court had partially granted summary judgment in favor of the putative class, rejecting the reasoning in *Yajure Hurtado* and holding that the new ICE policy subjecting the putative class to mandatory detention under 8 U.S.C. § 1225(b)(2) was unlawful. *Maldonado Bautista v. Santacruz*, 2025 WL 3289861 (C.D. Cal. Nov. 20 2025).

40. On December 18, 2025, the court granted the motion to reconsider, in light of the fact that immigration judges nationwide were refusing to follow the court's prior summary

judgment decision, and granted a final judgment. The court reiterated its prior holding. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3678485, at *6 (C.D. Cal. Dec. 18, 2025) ("In spite of *Yajure Hurtado*, this Court determined that Petitioners and those similarly situated are not "applicants for admission," and therefore not subject to mandatory detention under § 1225.") The court explained that "Although the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable." *Id.* However the court did go on to hold that "the Application is GRANTED as to the clarification that the MSJ Order declared the DHS Policy unlawful and granted vacatur under the APA." *Id.* at *12.

FACTS

41. Petitioner William Heriberto Velasquez is a citizen of El Salvador. He entered the United States without inspection between ports of entry, across the U.S.-Mexico border, in or around 2006, when he was just 16 or 17 years old. Upon information and belief, he was not encountered at that time.

42. Petitioner William Heriberto Velasquez then established a peaceful life in New Jersey. He currently resides in West Long Branch, New Jersey with his family.

43. As the victim of a felonious assault, Petitioner submitted a Form I-918, Petition for U Nonimmigrant Status in January 2023. On March 28, 2024, USCIS determined that Petitioner's application was bona fide. *See generally* https://www.uscis.gov/records/electronic-reading-room/national-engagement-u-visa-and-bona-fide-determination-process-frequently-asked-questions. *See* Ex. 1, Bona Fide Determination Notice ("BFD").

44. Based on this BFD, Petitioner was then issued work authorization and deferred action from September 25, 2024 through September 24, 2028. *See* Ex. 2, C14 EAD.

45. Petitioner Velasquez was arrested by immigration officials on December 1, 2025, shortly after appearing in court for a recent set of criminal charges against him. Petitioner's criminal charges, aggravated assault and simple assault, stem from an altercation with a taxi driver that left visible marks on Petitioner's body, and they are currently under negotiation.

46. Upon information and belief, Petitioner is currently detained at the Stewart Detention Center in Lumpkin, Georgia, within the territorial jurisdiction of this Court. Petitioner was first held at the Elizabeth Contract Detention Facility, under the jurisdiction of the Newark Field Office. Counsel was informed of Petitioner's transfer from the Elizabeth facility to the Stewart facility on December 15, 2025.

47. Petitioner has pending removal proceedings (his Master Calendar Hearing is currently scheduled for January 8, 2025) and is not subject to a final order of removal. *See* EOIR Automated Case Information (available at https://acis.eoir.justice.gov/ (last visited on December 22, 2025)):

https://acis.eoir.justice.gov/en/caseinformation

Home > VELASQUEZ, WILLIAM HERI[redacted]

Automated Case Information

Name: VELASQUEZ, WILLIAM HERIBERTO | A-Number [redacted] Docket Date: 12/4/2025

Next Hearing Information

Your upcoming MASTER hearing is on January 8, 2026 at 8:30 AM.

JUDGE
Ruhle, Stephen M.

COURT ADDRESS
8915 MONTANA AVENUE
EL PASO, TX 79925

Court Decision and Motion Information

This case is pending.

BIA Case Information

No appeal was received for this case.

Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS
8915 MONTANA AVENUE
EL PASO, TX 79925

PHONE NUMBER
(915) 540-7854

48. Petitioner Velasquez is the father of two U.S. citizen children. Due to Petitioner's abrupt detention, the children are now solely being taken care of by their mother, Petitioner's U.S. citizen wife. Petitioner's family depended entirely on his contributions to the household in order to make ends meet, as his wife was laid off earlier this year due to her position being outsourced. Aside from the severe emotional toll Petitioner's detention has taken on his family, his detention has also produced profound financial and logistical effects on their day-to-day lives.

49. All Respondents consider that Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2). *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216. Accordingly, it would be futile for Petitioner to request a bond from an Immigration Judge. Exhaustion of administrative remedies would therefore be futile.

FIRST CLAIM FOR RELIEF:
No-Bond Detention in Violation of 8 U.S.C. § 1226(a)

50. Petitioner re-alleges and incorporates by reference paragraphs 1-49.

51. Since Petitioner is not an applicant for admission "seeking admission" or "an arriving alien" subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2), and has no disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), he is entitled to a bond redetermination hearing by an immigration judge pursuant to 8 U.S.C. § 1226(a).

52. Petitioner appears to be part of a class that was certified in *Maldonado Bautista* on November 25, 2025: "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The court recently issued a final judgment, which

granted vacatur of ICE's July 2025 policy to apply 8 U.S.C. § 1225(b)(2) to class members. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). However, relief sought here is injunctive, i.e. ordering Respondents to provide Petitioner with a bond hearing, or outright release. *See infra* – Request for Relief. The court in *Maldonado Bautista* is stripped of jurisdiction to provide such injunctive relief to the class by 8 U.S.C. § 1252(f). Accordingly, this Court is not precluded from granting relief on the instant habeas petition. *See, e.g. Shi v. Lyons*, --F.Supp.3d--, 2025 WL 3637288, at *FN5 (S.D. Tex. Dec. 12, 2025); and *Lopez-Neria v. Bondi*, No. 5:25-CV-1650-JKP, 2025 WL 3654329, at *5 (W.D. Tex. Dec. 12, 2025).

53. Respondents' actions, as set forth herein, violate Petitioner's statutory right to a bond redetermination hearing in front of an immigration judge.

SECOND CLAIM FOR RELIEF:
Detention in Violation of Due Process

54. Petitioner re-alleges and incorporates by reference paragraphs 1-49.

55. Immigration detention is civil, not criminal, in nature. There are only two permissible reasons for immigration detention: to avoid flight risk and danger to the community.

56. After entering the United States unlawfully, Petitioner went on to develop ties to the community over the course of several years. Petitioner is therefore a "person" within the meaning of the Due Process Clause of the Fifth Amendment to the U.S. Constitution, and has a liberty interest in freedom from physical restraint.

57. Respondents' actions in detaining Petitioner without a bond hearing before a neutral and detached magistrate deprives Petitioner of his rights without due process of law.

THIRD CLAIM FOR RELIEF:
Unlawful Detention during Period of Deferred Action

58. Petitioner re-alleges and incorporates by reference paragraphs 1-49.

59. Since Petitioner is currently lawfully present in the United States due to a valid, unexpired, not-revoked grant of deferred action from U.S. Citizenship and Immigration Services, he may not be detained by Respondents.

60. Petitioner's current detention is therefore unlawful, and he must be released from detention forthwith.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

b) Enjoin Petitioner's transfer outside of this judicial district pending this litigation;

c) Order that Respondents immediately release Petitioner from detention forthwith, pursuant to his valid grant of deferred action;

d) In the alternative:

   i) Enjoin Respondents from holding Petitioner subject to detention under 8 U.S.C. § 1225(b)(2) and denying him a bond hearing on that basis;

   ii) Enjoin Respondents from re-arresting Petitioner subject to § 1225(b)(2);

   iii) Order, in the alternative, Petitioner's immediate release and that Respondents conduct a bond hearing for Petitioner pursuant to 8 U.S.C. § 1226(a) within 15 days;

   iv) Grant the writ of habeas corpus and order Respondents to release Petitioner forthwith, upon payment of the bond as ordered by the Immigration Judge;

e) Award Petitioner his costs of suit; and

f) Grant any other relief that this Court deems just and proper.

Respectfully submitted,

Date: December 22, 2025

/s/ Benjamin Osorio
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Counsel for Petitioner

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

William Heriberto Velasquez,	)	
Petitioner,	)	
v.	)	Civil Action No.
Kristi Noem, *et al.*,	)	
Respondents.	)	

INDEX OF EXHIBITS

Ex. 1) USCIS Form I-918 U Visa Bona Fide Determination;

Ex. 2) USCIS Employment Authorization Document, issued under the C14 category on September 25, 2024.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office for the Middle District of Georgia
24 12th Street, Second Floor
Columbus, GA 31901

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0485
Washington, DC 20528-0485

Pamela Bondi
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U.S. Immigration and Customs Enforcement
500 12th Street SW, Mail Stop 5902
Washington, DC 20536-5902

Jason Streeval, Warden,
Stewart Detention Center
146 CCA Road,
Lumpkin, GA 31815

Respectfully submitted,

Date: December 22, 2025

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