UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

EDISON YANDEL MENCHE SAC Petitioner, v. **PAMELA BONDI**, U.S. Attorney General; **KRISTI NOEM,** Secretary of the U.S. Department of Homeland Security; **TODD M. LYONS**, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; **JAMES A. MULLAN**, in his official capacity as Assistant Field Office Director in charge of ICE Washington Field Office; and **JAMES CRAWFORD**, in his official capacity as warden of the Farmville Detention Facility Respondents.	Case No.: **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Edison Yandel Menche Sac ("Mr. Menche"), a native and citizen of Guatemala, challenges his continued custodial detention by the Department of Homeland Security Immigration and Customs Enforcement ("ICE") since December 10, 2025 as an unconstitutional and unjustified restraint and deprivation of his physical liberty, and seeks immediate relief from this Court.
2. Mr. Menche is being unlawfully subjected to continued custodial detention by Respondents without the ability to pursue substantive administrative remedies with the Department of Justice Executive Office for Immigration Review ("EOIR").
3. Mr. Menche's continued detention by ICE, without any further meaningful mechanism to challenge his confinement, violates the U.S. CONST. Due Process

Clause of the Fifth Amendment (the "Fifth Amendment"), and the Immigration and Nationality Act (the "INA").

4. Mr. Menche petitions for a writ of habeas corpus to remedy his unlawful detention, and prays this Court will issue an order 1) preventing the transfer of Mr. Menche outside of this judicial district during the pendency of this matter; 2) declaring that the continued immigration detention of Mr. Menche violates the Due Process Clause of the Fifth Amendment, and the INA; 3) granting Mr. Menche his immediate release from the custody of Respondents; and 4) preventing Respondents from once again taking Mr. Menche into custody unless he is determined to be a flight risk and/or a danger to the community.

JURISDICTION AND VENUE

5. Mr. Menche is currently detained in Farmville, Virginia at the Farmville Detention Facility, which is within the jurisdiction of the United States District Court for the Eastern District of Virginia ("EDVA").
6. This action arises under the Due Process Clause of the Fifth Amendment and the INA.
7. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 ("Habeas Corpus"), 28 U.S.C. § 1346 (civil actions against the United States), 28 U.S.C. § 1651 ("All Writs Act"), the Suspension Clause of the Constitution and 28 U.S.C. §§ 2201-02 ("Declaratory Relief"), as Mr. Menche is presently held in custody under or by color of the authority of the United States. His detention by Respondents is a "severe restraint" on his individual liberty "in violation of the...laws … of the United States." *See Hensley v. Municipal Court, San Jose-Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973).
8. This Court has jurisdiction to hear Habeas Corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by U.S. immigration officials. *See, e.g., Jennings v. Rodriguez*, 138 S. Ct. 830,841 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687.

9. In addition to the habeas protections in the Constitution and INA, federal district courts have subject-matter jurisdiction under 28 U.S.C. § 1331 ("Federal Questions") to hear claims by individuals challenging the lawfulness of agency action.
10. The All Writs Act, 28 U.S.C. § 1651(a) empowers the federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law. Courts in this district have recently invoked the All Writs Act to prevent the transfer of individuals detained within the "judicial district unless and until the Court issues a contrary order." *See Garcia Guardado v. Lyons*, et al., 1:25-cv-1741-MSN-WBP (E.D. Va. Oct. 15, 2025) (citing 28 U.S.C. § 1651; *FTC v. Dean Foods Co.*, 384 U.S. 597,603 (1966) ("The All Writs Act, 28 U.S.C. § 1651 (a), empowers the federal courts to 'issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.'"); *see also Guevara Gomez v. Crawford*, 1:25-cv-1781-PTG-LRV (E.D. Va. Oct. 16, 2025).
11. Petitioner requests that this Court invoke the All Writs Act to prevent any transfer out of the Eastern District of Virginia during the pendency of his habeas action, given the likelihood that he will be ordered to appear at a bond hearing shortly after this Court rules upon the habeas petition. His counsel operate primarily out of Virginia and Maryland, he will need to participate in the preparation for and attendance at his bond hearing, and he will incur additional, unnecessary expenses and difficulty in returning to their residence in Virginia should he be granted a bond hearing after they are transferred out of state. *See* https://www.tsa.gov/travel/security-screening/identification (listing documents required to board an airplane, which does not include ICE release paperwork); *see also Ozturk v. Trump*, 779 F. Supp. 3d 462, 497 (D. Vt. 2025) (noting that presence in the judicial district where an action is pending "facilitate[s]" the petitioner's "ability to work with [his or] her attorneys, coordinate the appearance of witnesses," and generally present claims related to detention); *cf. Suri v. Trump*, 785 F. Supp. 3d 128, 147-48 (E.D. Va. May 6, 2025) (discussing ICE's transfer of individuals throughout the country and the strain that places on lawyers attempting to represent them in habeas petitions).

12. Venue is proper because Mr. Menche is currently detained within the EDVA. At 1:15 p.m. Eastern Time on January 9, 2026, the ICE Detainee Locator indicated he was in ICE custody at the Farmville Detention Facility. *See* Ex. 1 hereto.

PARTIES

13. Petitioner Edison Yandel Menche Sac is a citizen and national of Guatemala. He is currently detained by the Respondents at the Farmville Detention Facility, which is within the jurisdiction of the EDVA, since December 10, 2025.
14. Respondent Pamela Bondi is the U.S. Attorney General, and in that capacity is responsible for the EOIR which includes the Board of Immigration Appeals and immigration courts. She is sued in her official capacity.
15. Respondent Kristi Noem is the Secretary of Homeland Security, and in that capacity is responsible for the Department of Homeland Security ("DHS") and all sub-cabinet agencies of DHS, including ICE. She is sued in her official capacity.
16. Respondent Todd M. Lyons is the Acting Director of ICE, responsible for ICE's detention and removal operations of non-citizens such as Petitioner, among all its other functions. He is sued in his official capacity.
17. Respondent James A. Mullan is the Assistant Field Office Director of the ICE Washington Field Office, and is responsible for ICE's operations in the State of Virginia. Upon information and belief, he is the immediate custodian of Mr. Menche. He is sued in his official capacity.
18. Respondent James Crawford is the warden of Farmville Detention Facility and is directly responsible for overseeing the daily aspects of Mr. Menche's detention. He is sued in his official capacity.

STATEMENT OF FACTS

19. Mr. Menche, born in Guatemala on [redacted] last entered the United States on May 13, 2018 when he was eleven years old. *See* Ex. 2 hereto. Mr. Menche was apprehended by Respondents upon his entry as an Unaccompanied Alien Child ("UAC"), detained under section 1226(a) of the INA and released to the care of his parents. *See* Ex. 3 hereto. He has lived in the State of Maryland since 2018.
20. Mr. Menche has continuously lived in the State of Maryland since 2018 with his parents.

21. Mr. Menche has been gainfully employed as an assistant apprentice electrician. He has been continuously and gainfully employed since 2024 and has filed and paid all necessary taxes in the time he has been employed.
22. Mr. Menche was detained by ICE on or about December 10, 2025 in Washington D.C.. He was transferred to the Farmville Detention Facility in the State of Virginia where he was told that he would be detained without bond pending proceedings before an immigration judge. He still detained at the Farmville Detention Facility as of 1:15 p.m. Eastern Daylight Savings Time on January 9, 2026.
23. Mr. Menche is unable to file a bond redetermination with the EOIR to challenge his custody that will be meaningfully considered as a result of the BIA publishing *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) on September 5, 2025. *Matter of Yajure-Hurtado* deemed individuals such as Mr. Menche as subject to mandatory detention under Section 1225 of the INA. Mr. Menche was denied bond on or about January 8, 2026 under *Matter of Yajure-Hurtado*.
24. The BIA's decision in *Matter of Yajure-Hurtado* has been found by dozens of Federal courts across the country as an unlawful interpretation of the INA and in violation of due process under the Fifth Amendment. Mr. Menche was unable to submit any evidence demonstrating that he is neither a flight risk nor a danger to the community to secure his release from custody by an immigration judge under the INA.

EXHAUSTION

25. The decision to detain Mr. Menche is subject to challenge through a petition for a writ of habeas corpus, and Mr. Menche need not exhaust additional administrative remedies which might be available to him before seeking this Court's review. *See, e.g.*, *McCarthy v. Madigan*, 503 U.S. 140, 147-48 (1992) ("[A]n administrative remedy may be inadequate [because] ... an agency, as a preliminary matter, may be unable to consider whether to grant relief because it lacks institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute" or "where the administrative body ... has otherwise pre-determined the issue before it."); *Janvier v. INS*, 174 F. Supp. 2d 430, 434 (E.D. Va. 2001) (noting that "§ 2241 is silent on exhaustion.").

26. Moreover, further exhaustion would be futile because Mr. Menche will be pursuing a remedy to no avail. *See Janvier*, 174 F. Supp. 2d at 434 (recognizing that exhaustion is not necessary "where the pertinent administrative agency lacks the competence to reach a definitive resolution of the particular issue presented[,]" such as "where, as here, the administrative agency may consider constitutional claims, but lacks authority to rule dispositively on those claims, because "the final say on constitutional matters rests with the courts."). In particular, under new BIA precedent, Mr. Menche is no longer considered eligible for the bond and Respondents have exercised their authority to prevent any immigration judge from granting bond.
27. The detention of Mr. Menche by ICE, years after he last entered the United States without the ability to challenge his detention is unconstitutional, and administrative exhaustion is excused. *See Guitard v. U.S. Sec'y of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when ...a plaintiff has raised a substantial constitutional question.").

CLAIMS FOR RELIEF

COUNT ONE

Mr. Menche's Detention Violates His Right to Substantive Due Process Under the Fifth Amendment

28. Petitioner re-alleges and incorporates by reference the paragraphs above.
29. As a "person" within the meaning of the Fifth Amendment, Mr. Menche is entitled to due process of law while in the United States, and certainly while in immigration custody. U.S. CONST. amend. V; *see Reno v. Flores*, 507 U.S. 292, 306 (1993) ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.").
30. The Substantive Due Process Clause protects a person's freedom from arbitrary confinement. *See Zadvydas*, 533 U.S. at 693. The Supreme Court has recognized this protection applies regardless of a person's immigration status. *See id.*; *see also Mathews v. Menche*, 426 U.S. 67, 77 (1976).
31. Civil detention, such as immigration detention, must be carefully limited to avoid due process concerns. *See, e.g., Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("Freedom

from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action"); *Addington v. Texas*, 441 U.S. 418, 425 (1979) ("This Court repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection"); *see also United States v. Salerno*, 481 U.S. 739, 755 (1987) ("In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception").

32. The Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and prevent flight. *See Demore*, 538 U.S. at 528; *see also Matter of Patel*, 15 I. & N. Dec. 666 (BIA 1976) ("An alien generally is not and should not be detained or required to post bond except on a finding that he is a threat to the national security, or that he is a poor bail risk[.]" (internal citation omitted)). Additionally, a period of detention must "bear [a] reasonable relation to the purpose for which the individual was committed." *See Demore*, 538 U.S. at 516–17.
33. Mr. Menche is being denied substantive due process as the Respondents continue to exercise their authority contrary to law in order to prevent Mr. Menche from seeking release under the INA before an immigration judge. The EOIR, through the BIA, took the position in *Matter of Yajure Hurtado* that an individual such as Mr. Menche, nearly thirteen years after his last entry to the United States, is subject to the mandatory detention provisions of Section 1225 of the INA.
34. Under Section 1226 of the INA, an immigration judge would be able to consider any relevant evidence submitted by Mr. Menche demonstrating that he was not a flight risk or a danger to the community. The immigration judge would evaluate this evidence and determine, as a neutral fact-finder, whether Mr. Menche was in fact a flight risk or a danger to the community. The Respondents have made applications for bond by Mr. Menche under Section 1226 of the INA futile by applying *Matter of Yajure-Hurtado* to cases with the same facts and circumstances as Mr. Menche.
35. But for *Matter of Yajure-Hurtado*, Mr. Menche would have the ability to demonstrate to a neutral fact-finder that he is not a flight risk as he has ample ties to the community through his family and employment. He would also have been able to

demonstrate that he was not a danger to the community. No justification exists to deprive Mr. Menche the ability to present such evidence to secure his liberty.

COUNT TWO

Mr. Menche's Detention Violates His Right to Procedural Due Process Under the Fifth Amendment

36. Petitioner re-alleges and incorporates by reference the paragraphs above.
37. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty" that the Fifth Amendment's Due Process Clause protects. *See Zadvydas*, 533 U.S. at 690.
38. To that end, due process demands "adequate procedural protections" to ensure that the Government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (internal quotation marks omitted).
39. Given the gravity of the liberty deprivation when the government preventively detains individuals, due process requires the jailers bear the burden of proof. *See, e.g.*, *Salerno*, 481 U.S. at 751 (affirming legality of pre-trial detention where burden of proof was on the government); *see also Foucha*, 504 U.S. at 81-82 (holding unconstitutional a state "statute that place[d] the burden on the detainee to prove that he is not dangerous"). The Court has held that it is improper to ask an "individual to share equally with society the risk of error when the possible injury to the individual-deprivation of liberty-is so significant." *See Addington*, 441 U.S. at 427.
40. In *Mathews v. Eldridge*, the Supreme Court set forth the factors to consider in determining if government action deprives an individual's Fifth Amendment right to procedural due process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976). The *Mathews* factors apply here to determine if Petitioner's procedural due process rights as a civil detainee have been violated by the Government's continued custodial detention.
41. Mr. Menche has a substantial liberty interest both in his bodily freedom. The unlawful detention by Respondents is preventing Mr. Menche his right to bodily freedom.

42. Mr. Menche was not provided any process at all in the course of his arrest, processing, and detention by ICE through notice and an opportunity to respond that would reduce the risk of an erroneous deprivation of his interests. ICE deprived Mr. Menche of adequate procedural protection in his substantial interest with respect to his liberty by taking him into custody with no regard to its own long-established practices, procedures and applicable regulations.

COUNT THREE

Mr. Menche's Detention by ICE is in Violation of the INA

43. Section 1225 of the INA authorizes the mandatory detention of "arriving aliens" and those noncitizens who cannot demonstrate they have "been physically present in the United States continuously for the 2-year period immediately prior[.]" *See* 8 U.S.C. § 1225(b)(1)(A)(iii)(II).
44. As noted above, Mr. Menche entered the United States as a UAC and has lived in the United States for over seven years prior to being detained. Respondents detained Petitioner despite having previously released him as a UAC to the custody of his parents.
45. Mr. Menche has been placed in removal proceedings by the Respondents without the ability to seek release under Section 1226 of the INA despite his possibility for relief from removal. Respondents claim that Mr. Menche is not eligible for bond by characterizing his detention under Section 1225 of the INA despite his entrance as a UAC and presence in the United States for over seven years and his most recent detention not occurring at the border. Dozens of Federal courts have found this legal interpretation by DHS in cases similar to Petitioner's case erroneous.

PRAYER FOR RELIEF

Based on the foregoing, Mr. Menche requests that this Court:

a. Assume jurisdiction over the matter;

b. Issue an order preventing the transfer of Mr. Menche outside of this judicial district during the pendency of this matter;

c. Declare that the continued immigration detention of Mr. Menche violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA;

d. Issue a writ of habeas corpus ordering Respondents to immediately release Mr. Menche from their custody, or in the alternative, the right to a bond hearing before an immigration judge under section 1226(a) of the INA to contest any custody determination;

e. Issue an order preventing Respondents from once again taking Mr. Menche into custody unless he is determined to be a flight risk and/or a danger to the community in accordance with the U.S. Constitution and applicable law;

f. Award Mr. Menche all costs incurred in maintaining this action; and

g. Grant any other and further relief this Court deems just and proper

Respectfully Submitted,

January 9, 2026

/s/Simon Y. Sandoval-Moshenberg
Simon Y. Sandoval-Moshenberg, Esq.
VSB No.: 77110
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, Virginia 22030
Telephone: 703-352-2399
ssandoval@murrayosorio.com
Local counsel for Petitioner

/s/ Michael E. Rosado
Michael E. Rosado, Esq. (*Pro Hac Vice* Pending)
Law Offices of Michael E. Rosado, P.C.
1425 University Blvd E., Suite 261
Hyattsville, Maryland 20783
(240) 641-8615

Attorneys for Petitioner

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

I represent Petitioner, Edison Yander Menche Sac, and submit this verification on his behalf. I hereby verify 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 9th day of January, 2026.

/s/ Michael E. Rosado
Michael E. Rosado, Esq. (*Pro Hac* Pending)
Law Offices of Michael E. Rosado, P.C.
1425 University Blvd E., Suite 261
Hyattsville, Maryland 20783
(240) 641-8615

Attorney for Petitioner