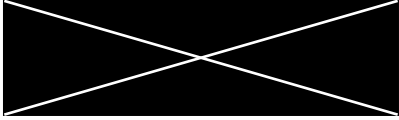


**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND**

Jose Jaime CABRERA-CHAVEZ



Petitioner,

v.

Kristi Noem, Secretary of DHS  
2707 Martin Luther King Jr Ave, SE  
Washington, DC 20528-0525

Pam Bondi, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave, NW  
Washington, DC 20530-0001

Todd Lyons, Acting Director  
Immigrations and Customs Enforcement  
500 12<sup>th</sup> Street SW  
Washington, DC 20536

Vernon Liggins, Acting Director  
ICE Baltimore Field Office  
31 Hopkins Plaza #630  
Baltimore, MD 21201

Respondents.

No.

**PETITION FOR WRIT OF HABEAS  
CORPUS**

**PETITION FOR A WRIT OF HABEAS CORPUS**

**INTRODUCTION**

1. Mr. Jose Jaime CABRERA-CHAVEZ is a 59-year-old native and citizen of El Salvador. Petitioner entered the United States in or about October of 2014, was not apprehended at the time of entry, and has lived in the United States ever since.
2. On Sunday, January 18, 2026, as Petitioner was on his way to work, he stopped at McDonald's for breakfast. After pulling into the parking lot, Petitioner was approached by ICE officials and immediately arrested without a warrant, detained, and transferred to Baltimore. Petitioner is being held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable conditions.
3. Petitioner Jose Jaime CABRERA-CHAVEZ petitions this Honorable Court to issue a Writ of Habeas Corpus seeking relief to remedy his arbitrary, capricious, and unlawful detention by ICE. 28 U.S.C. § 2241.
4. Mr. CABRERA-CHAVEZ has very strong family and community ties in Maryland, including his two children, one of whom is a legal permanent resident, who depend on him for their well-being and financial stability, stable employment, and local counsel. (Petitioner's son's LPR card is attached hereto and made a part hereof as Exhibit 1). Further, and importantly, Petitioner has no criminal record.

**CUSTODY**

5. Petitioner is in the physical custody of Respondents. Petitioner is detained at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201. Petitioner is under the direct control of Respondents and their agents.

**JURISDICTION AND VENUE**

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (APA), 5 U.S.C. § 701, et seq. 4. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I § 9, cl. 2 of the United States Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under the alleged color of authority of the United States, and such custody is in violation of the Constitution, laws, and/or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.
7. Venue is proper in the District of Maryland because that is where Petitioner is detained and where Petitioner resides. *See* 28 U.S.C. § 1391(b); *Kholyavskiy v. Achim*, 443 F.3d 946 (7th Cir. 2006).

**THE PARTIES**

8. Petitioner Jose Jaime CABRERA CHAVEZ is a male citizen and national of El Salvador who has been present in the United States since in or about October 2014.
9. Defendant Krisiti Noem is the Secretary of the Department of Homeland Security in Washington, D.C. Ms. Noem is responsible for the enforcement of the U.S. immigration laws, including those governing the admissibility of foreign nationals in the U.S. Ms. Noem

and agents acting under her direction are at present detaining Petitioner. Ms. Noem is being sued in her official capacity only.

10. Defendant Todd Lyons is the Acting Director of Immigration and Customs Enforcement in Washington, D.C. Mr. Lyons is responsible for the enforcement of the U.S. immigration laws, and the agents holding Mr. CABRERA-CHAVEZ are under his direction. Mr. Lyons is being sued in his official capacity only.

11. Defendant Vernon Liggins is the current Acting Deputy Director of the ICE Baltimore Field Office, the facility where Petitioner was first detained. Mr. Liggins is responsible for ICE operations in the Maryland area. Mr. CABRERA CHAVEZ is held by ICE agents under Mr. Liggins's direction. Mr. Liggins is being sued in his official capacity only.

#### **FACTUAL ALLEGATIONS**

12. Petitioner is a national and citizen of El Salvador who entered the United States in or about October of 2014. He was not inspected, admitted, or apprehended by CBP at the time of his entry. It was not until this year that he first had contact with DHS.

13. On Sunday, January 18, 2026, as Petitioner was on his way to work, he stopped at McDonald's for breakfast. After pulling into the parking lot, Petitioner was approached by ICE officials and immediately arrested without a warrant, detained, and transferred to Baltimore. Petitioner is being held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable conditions.

14. Petitioner works very hard to support his family both financially and emotionally. They are suffering both financially and emotionally without his presence.

## LEGAL BACKGROUND

### **A. Statutory and Constitutional Limits for Immigration Detention**

15. The Fifth Amendment to the U.S. Constitution provides limits on detention. As the Supreme Court has noted, "[i]t is well-established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Hyung Joon Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of liberty," that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678,690 (2001). This fundamental due process protection applies to all noncitizens, even if they are removable or inadmissible. *See id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious."). Under these due process principles, detention must "bear [a] reasonable relation to the purpose for which the individual [was] committed." *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).
16. Due process, therefore requires "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.* at 690 (internal quotations omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 538.
17. Following *Zadvydas*, *supra*, and *Demore*, *supra*, most circuit courts to confront the issue have protected the due process rights of people detained in civil immigration detention by requiring a custody hearing for noncitizens subject to unreasonably prolonged detention

pending removal proceedings. *See Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199 (11th Cir. 2016); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015); *Rodriguez v. Robbins (Rodriguez Ill)*, 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003).

18. In addition to the amount of time in detention, courts weigh the following factors when assessing reasonableness: (1) how long the detention will likely continue in the absence of judicial relief; (2) the nature and extent of removal proceedings, including whether any delays are attributable to the government or the immigrant; (3) the conditions of detention; and (4) the likelihood that the proceedings and judicial review will end with a removal order.
19. Importantly, a majority of federal courts have held that an individual who entered the United States without inspection and was not apprehended, and has been in the United States for more than two years without apprehension, is covered by 8 U.S.C. § 1226(a). *See Bautista v. Santacruz*, 2025 U.S. Dist. LEXIS 262265 (C.D. Cal. Dec. 18, 2025); *Velasquez v. Noem*, Civil Action No. GLR-25-3215, 2025 LX 400577 (D. Md. Oct. 27, 2025); *Maldonado de Leon v. Baker*, Civil Action No. 25-3084-TDC, 2025 LX 473505 (D. Md. Oct. 21, 2025).
20. Further, the Fourth Amendment prohibits arbitrary, warrantless seizures unsupported by any legitimate governmental purpose. U.S. Const. amend. IV. A warrantless arrest is per se unreasonable unless the government establishes that it was justified by probable cause based on specific, articulable facts, not speculation or conclusory assertions. As Judge Howell, in the DC District Court, held in *Escobar Molina et al. v. DHS*, warrantless civil

immigration arrests are unlawful where immigration officers fail to make an individualized, pre-arrest determination that the noncitizen poses an escape risk. *See Escobar Molina*, Civ. Action No. 25-3417 (D.D.C. Dec. 2, 2025) (granting class action injunction in DC against warrantless arrests lacking escape-risk probable cause).

21. Finally, under the APA, a court shall “hold unlawful and set aside agency action” that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). An agency action is arbitrary and capricious if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

#### **FIRST CLAIM FOR RELIEF**

##### **VIOLATION OF THE DUE PROCESS CLAUSE OF THE U.S. CONSTITUTION**

22. Petitioner re-alleges and incorporates by reference the paragraphs above.
23. Petitioner’s detention violates substantive and procedural Due Process guarantees of the U.S. Constitution. Petitioner entered the United States in October of 2014 without a visa and was not inspected, apprehended, or admitted. He had no contact with DHS until January of this year. Therefore, he is covered until 8 U.S.C. § 1226(a) and not § 1225. A majority of federal courts have held that an individual similarly situated to Petitioner, who entered the United States without inspection and was not apprehended, and has been in the United States for more than two years without apprehension, is covered by 8 U.S.C. § 1226(a). He was never arrested or apprehended by ICE until January 18, 2026. *See Bautista*,

*supra*; *Velasquez, supra*; *Maldonado de Leon, supra*. Thus, it is a violation of due process, inter alia, for Respondents to have arrested and detained Petitioner and not allowed him at least a bond hearing.

24. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. Amend. V. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [non-U.S. citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas, supra*, at 693 (2001). For this reason, even “removable and inadmissible [non-U.S. citizens] are entitled to be free from detention that is arbitrary and capricious,” *Id.* at 721 (Kennedy, J., dissenting).
25. Before depriving Petitioner of his liberty interest, he should at least be afforded an opportunity to be heard before a neutral decision maker. Procedural due process requires, at a minimum, an opportunity to be heard “at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Applying the Mathews factors, courts consistently find that: (a) the private interest in freedom from physical restraint is “the most elemental of liberty interests”; (b) the risk of erroneous deprivation is high where detention occurs without a hearing; and (c) the government’s interest in immediate detention without process is minimal. *See P.T. v. Hermosillo*, No. 2:2025cv02259 (W.D.W.A) (applying Mathews and finding detention unconstitutional where ICE failed to provide pre-deprivation process); *see also Ngha v. Noem*, No. 8:25-C-V-04055-BAH, 2025 (D. Md. Dec. 11, 2025). Applying the three factors to Petitioner’s facts show: 1) Petitioner CABRERA CHAVEZ invokes “the most significant liberty interest there is—the interest in being free from imprisonment,” and a “person’s liberty interest cannot be abridged

without adequate procedural protections;” 2) the risk of erroneous deprivation is high because Petitioner was not afforded a hearing before a neutral decision maker, before or at the time of, Petitioner’s arrest; and 3) the Government’s interest in immediate detention without process is minimal. *See Artiga v. Genalo*, No. 25-CV-5208, Mem. & Order at 19 (E.D.N.Y. Oct. 5, 2025). Due to Petitioner’s unique circumstances, including his legal permanent resident child and no criminal record, his *Mathews* factors support that he should be entitled to be free from unlawful, arbitrary, and capricious detention under the inter alia due process clause.

26. Additionally, Respondents’ arrest and detention of Petitioner violates his substantive due process rights. The Supreme Court in *Zadvydas v. Davis*, 522 U.S. 678 (2001), held that detention where removal cannot occur within the reasonably foreseeable future is unconstitutional and found that a six-month period is a presumptive maximum period of reasonable detention. Here, Petitioner’s removal is not reasonably foreseeable, as he is currently still in immigration proceedings and is entitled to pursue and is eligible for relief. Thus, Petitioner’s continued custody exceeds statutory authority and violates due process.
27. Finally, this Court “cannot ignore the conditions of confinement.” *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Where “the facility for the civil immigration detention is [not] meaningfully different from a penal institution for criminal detention[,]” prolonged immigration detention is more likely to be unreasonable. *Sopo*, 825 F.3d at 1218 (citing *Chavez-Alvarez*, 783 F.3d at 478; *Ly v. Hansen*, 351 F.3d 263, 272 (6th Cir. 2003)).
28. Petitioner should be released or at least be permitted an immigration bond hearing regarding the alleged change in circumstances or any other reasons for why he was

unexpectedly arrested and detained on January 18, 2026, because he falls under 8 U.S.C. § 1226(a). See *Bautista, supra*; *Velasquez, supra*; and *Maldonado de Leon, supra*.

## **SECOND CLAIM FOR RELIEF**

### **VIOLATION OF THE FOURTH AMENDMENT OF THE U.S. CONSTITUTION**

29. The Fourth Amendment prohibits arbitrary, warrantless seizures unsupported by any legitimate governmental purpose. U.S. Const. amend. IV. A warrantless arrest is per se unreasonable unless the government establishes that it was justified by probable cause based on specific, articulable facts, not speculation or conclusory assertions.
30. Petitioner's arrest was unlawful because ICE effected a warrantless civil immigration arrest while he was stopping for breakfast, without probable cause to believe he was likely to escape before a warrant could be obtained, as required by 8 U.S.C. § 1357(a)(2). As Judge Howell, in the DC District Court, held in *Escobar Molina et al. v. DHS*, warrantless civil immigration arrests are unlawful where immigration officers fail to make an individualized, pre-arrest determination that the noncitizen poses an escape risk. See *Escobar Molina*, Civ. Action No. 25-3417 (D.D.C. Dec. 2, 2025) (granting class action injunction in DC against warrantless arrests lacking escape-risk probable cause). Here, while Petitioner was stopping for breakfast, he was arrested without a warrant, without probable cause, and without any individualized showing of necessity, in direct violation of the Fourth Amendment. Respondents presented no evidence to justify the warrantless seizure, nor any exigent circumstances that would permit it. An arrest under these circumstances, with no ongoing investigation and no indication of danger or flight risk, constitutes an arbitrary and

unreasonable seizure, offending both the Fourth Amendment and fundamental principles of due process.

**THIRD CLAIM FOR RELIEF**

**VIOLATION OF 28 U.S.C. § 1361 (Writ of Mandamus)**

31. Petitioner re-alleges and incorporates by reference the paragraphs above.
32. Petitioner's detention despite having over 10 years of presence in the United States, two children in the U.S., one of whom is a legal permanent resident, employment, family, and community ties, is an abuse of discretion and unlawful.
33. For these reasons, this Court should order Immigration and Customs Enforcement to immediately release Petitioner from detention based on violations of, inter alia, his Fourth and Fifth Amendment rights, his eligibility for relief, and strong family and community ties within the United States. He is not a danger to the community, nor is he likely to abscond due to his ties here in the community.

**FOURTH CLAIM FOR RELIEF**

**VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT**

34. Petitioner re-alleges and incorporates by reference the paragraphs above.
35. Under the APA, a court shall "hold unlawful and set aside agency action" that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). An agency action is arbitrary and capricious if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007)

(quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

36. Here, ICE's decision to detain Petitioner, who was simply stopping for breakfast, has two children who depend on him greatly, is eligible for immigration relief, has no criminal record, and has strong family and community ties in Maryland, is arbitrary and capricious. Despite this, Respondents abruptly arrested and detained Petitioner without articulating any change in real factual circumstances, legal authority, or public-safety justification.
37. For these reasons, this Court should order Immigration and Customs Enforcement to immediately release Petitioner from detention and/or order a bond hearing based on violations of, inter alia, his Fourth and Fifth Amendment rights, eligibility for relief, and strong family and community ties within the United States. He is not a danger to the community, nor is he likely to abscond due to his ties here in the community.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- 1) Assume jurisdiction over this matter;
- 2) Grant a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, on reasonable conditions of supervision if necessary, and/or order Respondents to arrange a bond hearing before an immigration judge within seven days;
- 3) Order Respondents to show cause, returnable within seven days pursuant to 28 U.S.C. §2243, as to why the relief requested in this petition should not be granted;
- 4) Declare the Petitioner's detention is unlawful and violates, inter alia, the Fourth and Fifth Amendments, and the APA.
- 5) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Ronald D. Richey

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