

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Israel RORRES AREVALO

  
Gaithersburg, MD 20877

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

Garret Ripa, Field Office Director  
Miami Office of U.S. Immigration and  
Customs Enforcement  
18201 SW 12<sup>th</sup> Street  
Miami, Florida 33194

Warden, Broward Transitional Center  
3900 N. Powerline Rd.  
Pompano Beach, FL 33064

Respondents.

No.

PETITION FOR WRIT OF HABEAS  
CORPUS

**PETITION FOR A WRIT OF HABEAS CORPUS**

**INTRODUCTION**

1. Mr. Israel RORRES AREVALO is a 44-year-old native and citizen of El Salvador. Petitioner entered the United States in or about 2004, was not apprehended at the time of entry, and has lived in the United States ever since. Petitioner has three U.S. citizen children, two of whom are minors. (A copy of Petitioner's U.S. citizen children's birth certificates is attached hereto and made a part hereof as Exhibit 1). Moreover, Petitioner is eligible for cancellation of removal.
2. On December 17, 2025, as Petitioner was on his way to work, he was pulled over and immediately arrested by ICE officials in Maryland without a warrant, detained, and transferred to the Baltimore, Maryland, ICE Field Office. Subsequently, Petitioner was transferred to Florida. Petitioner is currently being held at Broward Transitional Center, 3900 N. Powerline Rd. Pompano Beach, FL 33064.
3. Petitioner Israel RORRES AREVALO 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. RORRES AREVALO has very strong family and community ties in Maryland, including his three U.S. citizen children and partner, who depend on him for their well-being and financial stability, stable employment, and local counsel. Further and importantly, Petitioner has no criminal record.

**CUSTODY**

5. Petitioner is in the physical custody of Respondents. Petitioner is currently detained at 3900 N. Powerline Rd., Pompano Beach, FL 33064. 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 Southern District of Florida because that is where Petitioner is currently detained. *See* 28 U.S.C. § 1391(b); *Kholyavskiy v. Achim*, 443 F.3d 946 (7th Cir. 2006).

**THE PARTIES**

8. Petitioner Israel RORRES AREVALO is a male citizen and national of El Salvador who has been present in the United States since in or about 2004.
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 Pam Bondi is the Attorney General of the United States. The Attorney General has supervisory authority over the Executive Office of Immigration Review, which adjudicates immigration proceedings, such as Petitioner's. She is sued in her official capacity only.

11. 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. Martinez Calderon are under his direction. Mr. Lyons is being sued in his official capacity only.

12. Defendant Garret Ripa is the Field Office Director of the Miami Field Office of U.S. ICE Enforcement and Removal Operations (ERO), located at 18201 SW 12<sup>th</sup> Street, Miami, Florida 33194. In this capacity, he oversees operations at the Broward Transitional Center, located at 3900 N. Powerline Road, Pompano Beach, Florida 33064. Mr. Ripa is the Petitioner's immediate custodian and has direct authority over his detention. He is sued in his official capacity only.

13. Defendant, Warden of the Broward Transitional Center, is the official in charge of operations at Broward Transitional Center, 3900 N. Powerline Road, Pompano Beach, Florida 33064, where Petitioner is currently detained.

#### **FACTUAL ALLEGATIONS**

14. Petitioner is a national and citizen of El Salvador who entered the United States in or about 2004. Petitioner was not inspected, admitted, or apprehended by CBP at the time of his entry. It was not until December of 2025 that he first had contact with DHS.

15. On December 17, 2025, when Petitioner was on his way to work, he was pulled over and immediately arrested by ICE officials in Maryland without a warrant, detained, and transferred to the Baltimore ICE Field Office. Subsequently, Petitioner was transferred to Broward Transitional Center, 3900 N. Powerline Rd., Pompano Beach, Florida 33064.
16. Petitioner RORRES AREVALO has been placed in removal proceedings since his detention and has an upcoming preliminary master hearing on January 29, 2026. (A screenshot of the EOIR case status showing Petitioner's upcoming hearing is attached hereto and made a part hereof as Exhibit 2).
17. Before his recent detention, Petitioner lived with his wife and his three U.S. citizen children, two of whom are minors. Petitioner works very hard to support his family both financially and emotionally. They are suffering both financially and emotionally without his presence or support.

#### **LEGAL BACKGROUND**

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).
19. District Courts have the authority to grant writs of habeas corpus. See 28 U.S.C. § 2241(a). Habeas corpus is fundamentally "a remedy for unlawful executive detention." *Munaf v. Geren*, 553 U.S. 674, 677 (2008) (citation omitted). A writ may be issued to a petitioner who demonstrates that he is being held in custody in violation of the Constitution or federal

law. See 28 U.S.C. § 2241(c)(3); see also *Munaf*, 553 U.S. at 685. District court jurisdiction further extends to challenges involving immigration-related detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

20. Immigration judges are currently bound by *Matter of Hurtado*, 28 I. & N. Dec. 428 (BIA 2022), and are holding that they lack jurisdiction to consider a bond for any noncitizen who did not enter the U.S. lawfully with a visa. Therefore, it would be futile for Petitioner to attempt to seek a bond hearing without an order from this Court.
21. The key question in this case is whether Petitioner’s detention is governed by 8 U.S.C. § 1225(b), which generally mandates detention, or by 8 U.S.C. § 1226(a), which allows for release on bond. Section 1225(b) mandates detention of applicants for admission “if the examining immigration officer determines that an alien seeking admission is not clearly beyond a doubt entitled to admission.” 8 U.S.C. § 1225(b).
22. The INA defines “admission” and “admitted” as “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). By using the term “seeking admission,” § 1225(b)(2) limits its application to aliens actively attempting to lawfully enter the United States. This interpretation is supported by § 1225’s repeated reference to “arriving [noncitizen]” and by the existence of § 1226, a separate statute that allows for detention and release of noncitizens already present in the United States.
23. The Supreme Court addressed the distinction between §§ 1225 and 1226 in *Jennings v. Rodriguez*, explaining that § 1225 “authorizes the Government to detain certain aliens seeking admission into the country,” while § 1226 authorizes detention of “aliens already present in the United States pending the outcome of removal proceedings.” 583 U.S. 281,

289 (2018). Similarly, the Court has long recognized the distinction between “aliens who have come to our shores seeking admission” and “those who are within the United States after an entry, irrespective of its legality.” *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958). Once a noncitizen enters the country, the legal circumstance changes, and the Due Process Clause applies to all “persons” within the United States, including noncitizens, regardless of lawful status. *Zadvydas*, 533 U.S. at 693.

24. Congress has likewise acknowledged that noncitizens present in the United States possess more substantial due process rights than new arrivals. See H.R. Rep. No. 104-469, pt. 1, at 163–66 (recognizing that an alien present in the United States has a constitutional liberty interest to remain, particularly in the case of lawful permanent residents). Following amendments to the INA, federal regulations clarified that “[d]espite being applicants for admission, aliens who are present without having been admitted or paroled will be eligible for bond and bond redetermination.” *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).
25. On July 8, 2025, DHS announced a policy change instructing ICE officers that an “applicant for admission” includes any noncitizen present in the United States who has not been admitted or who arrives in the United States, regardless of location, and that such individuals are subject to detention under INA § 235(b) and may not be released except through parole under INA § 212(d)(5). *ICE Memorandum: Interim Guidance Regarding Detention Authority for Applicants for Admission*, AILA Doc. No. 25071607 (July 8, 2025) (emphasis in original). This policy relies on *Matter of Hurtado*, 28 I. & N. Dec. 428 (BIA 2022), but it is inconsistent with longstanding principles of statutory interpretation. Historically, the label “applicant for admission” was not applied to every noncitizen present

without admission and was limited by temporal and geographic considerations. DHS's current interpretation contradicts this historical practice and undermines Congress's deliberate preservation of distinct detention authorities under §§ 235 and 236, respectively.

26. The immigration courts' reliance on the agency's interpretation is further inconsistent with the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024). There, the Court held that while agency interpretations of ambiguous statutes may still be considered, they are no longer entitled to controlling weight. DHS's interpretation collapses two distinct statutory schemes—§ 235, which governs inspection and detention of arriving aliens at or near the border, and § 236, which governs arrest and release of noncitizens apprehended within the United States and placed in § 240 removal proceedings. Reading § 235 so broadly as to eliminate § 236 would erase Congress's deliberate preservation of discretionary bond authority. After *Loper Bright*, courts must reject agency interpretations that erase statutory distinctions and instead adopt interpretations that best reflect congressional design.
27. The plain structure of the INA further demonstrates Congress's intent to preserve § 236 bond authority. Congress recently amended the INA through the Laken Riley Act, codified at 8 U.S.C. § 1226(c)(1)(E), which subjects certain inadmissible individuals who commit specified crimes to mandatory detention. DHS's interpretation would render this amendment meaningless. If inadmissibility alone already mandated detention under § 1225, Congress's recent amendment would have no effect.
28. Additionally, Petitioner brings this habeas action to enforce his rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). On December 18, 2025, the district court, having previously granted

partial summary judgment to the named plaintiffs and having previously certified a nationwide class and extended declaratory relief to all class members, finalized its decision. *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 LX 523334 (C.D. Cal. Dec. 18, 2025).

29. The court certified the Bond Eligible Class as consisting of all noncitizens in the United States without lawful status who entered or will enter without inspection, were not apprehended upon arrival, and are not subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time DHS makes its initial custody determination.
30. The *Maldonado Bautista, supra*, declaratory judgment held that Bond Denial Class members are detained under § 1226(a) and therefore may not be denied bond consideration under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3288403, at \*11; *see also 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). The court further held that Respondents violate the INA by applying § 1225(b)(2)'s mandatory detention scheme to class members. *Maldonado Bautista, supra*.
31. Moreover, 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, supra*. 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)).

32. 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 generally 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.
33. 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).
34. 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**

35. Petitioner re-alleges and incorporates by reference the paragraphs above.
36. Petitioner’s detention violates substantive and procedural Due Process guarantees of the U.S. Constitution. Petitioner entered the United States in 2004 without a visa and was not inspected, apprehended, or admitted. He had no contact with DHS until December of 2025, when he was arrested and detained. Therefore, he is covered by 8 U.S.C. § 1226(a) and not § 1225. Many 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). *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 allow him at least a bond hearing.
37. 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).

38. 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 RORRES AREVALO 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 detention; 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 three U.S. citizen children, two of whom are minors, for whom he is the primary caregiver and provider, 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.

39. Therefore, Petitioner should be released or at least be permitted an immigration bond hearing regarding any alleged change in circumstances or any other reasons for why he was unexpectedly arrested and detained on December 17, 2025, 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**

40. 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.
41. Petitioner's arrest was unlawful because ICE effected a warrantless civil immigration arrest while he was driving to work, 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, supra.* (granting class action injunction in DC against warrantless arrests lacking escape-risk probable cause). Here, while Petitioner was driving to work, he was arrested without a warrant, without probable cause to believe he committed or crime in the act of committing a crime, 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, inter alia, the Fourth Amendment.

### **THIRD CLAIM FOR RELIEF**

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

42. Petitioner re-alleges and incorporates by reference the paragraphs above.
43. Petitioner's detention despite having many years of presence in the United States, three U.S. children, two of whom are minors, employment, family, no criminal record, and community ties, is an abuse of discretion and unlawful.
44. 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 cancellation of removal, and strong family and community ties within the United States.

### **FOURTH CLAIM FOR RELIEF**

#### **VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT**

45. Petitioner re-alleges and incorporates by reference the paragraphs above.
46. 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)).

47. Here, ICE's decision to detain Petitioner, who was simply driving to work, has three U.S. citizen children, is eligible for cancellation of removal, 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.

48. 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. Petitioner's minor U.S. citizen children and wife depend on him for their well-being and care.

#### **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 that a bond hearing before an immigration judge be conducted 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 of the U.S. Constitution, INA, and the APA.

5) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Ana S. Soler

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