

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
JAN 28 2026
BY ANTHONY JOHNSON
DEPUTY

EDVIN MISAEL ALVAREZ JUAREZ,

A# 

Petitioner/Plaintiff,

v.

RAFAEL VERGARA, Warden,
Adams County Correctional Center,
TODD LYONS, Acting Director, Immigration
and Customs Enforcement, **KRISTI NOEM**,
Secretary of United States Department of
Homeland Security, **MELLISSA HARPER**,
Immigration and Customs Enforcement,
New Orleans Field Office Director,
PAMELA BONDI, United States Attorney General,

Respondents/Defendants

Civil Action No. 5:26-cv-30-DCB-BWR

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241 AND COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

BACKGROUND

Petitioner, Edvin Misael Alvarez Juarez (herein after “Petitioner”), through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and moves on an emergency basis for an expedited hearing and immediate release from unlawful civil immigration detention. Petitioner has been detained since December 31, 2025, without a constitutionally adequate individualized custody determination and has been transferred across multiple facilities after he requested a bond redetermination, including an overnight transfer out of Massachusetts, impairing access to counsel and the ability to seek prompt relief.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody within this District at the Adams County Detention Center in Natchez, Mississippi, and challenges the legality of that detention.
2. Venue is proper in the Southern District of Mississippi because Petitioner is confined in this District and the immediate custodian is located here.

II. PARTIES

3. Petitioner is a 50-year-old native and citizen of Guatemala.
4. To counsel's best knowledge, Petitioner is currently detained at Adams County Detention Center ("ACDC") in Natchez, Mississippi.
5. Respondent Rafael Vergara is the Warden (or facility administrator) of ACDC and is the immediate custodian for habeas purposes.
6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE").
7. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security ("DHS").
8. Respondent Pamela Bondi is the Attorney General of the United States.
9. All Respondents are sued in their official capacities.

III. FACTS

10. Petitioner entered the United States on or about March 1, 1993, at or near Los Angeles, California, without inspection or admission.
11. Petitioner is the parent of three U.S.-citizen children. He has a weekly child support obligation of \$554.
12. Petitioner has long-standing equities in the United States, including work authorization and stable community ties. *See* Doc. No. 1-1, Valid Work Authorization.

13. Petitioner has a pending T visa application filed on September 16, 2024. *See* Doc. No. 1-2, T Visa Receipts, Report of Trafficking to Enforcement Agency.
14. Petitioner affirmatively filed an asylum application on December 15, 2016, and—more than nine years later—has not received an interview. *See* Doc. No. 1-3, Asylum Receipt.
15. On December 31, 2025, Petitioner was detained by ICE in Waltham, Massachusetts, while repairing his car.
16. Following his arrest, Petitioner was held at Plymouth County Detention Facility in Plymouth, Massachusetts.
17. While detained at Plymouth, Petitioner requested a bond hearing pursuant to the *Guerrero Orellana v. Moniz* class action. 25-cv-12664-PBS (D. Mass. December 19, 2025). *See* Doc. No. 1-4, Petitioner’s Request for Bond Redetermination.
 - a. On January 8, 2026, Petitioner filed a request for a bond hearing, and the Immigration Court set the bond hearing for January 20, 2026. *See* Doc. No. 1-5, Notice of Custody Redetermination Hearing.
 - b. Just prior to the scheduled bond hearing, DHS filed a Change of Custody Location form (Form I-830), and the Immigration Court immediately vacated the already-set January 20, 2026, bond hearing based on the change in custody location. *See* Doc. No. 1-6, I-830; Doc. No. 1-7, Screenshot of the Electronic Case and Appeals System (ECAS) of the Bond Proceedings, showing “the alien withdrew the bond request,” which the Petitioner did not do; the judge vacated the hearing prior to any arguments on jurisdiction.

- c. As a result, Petitioner was stripped of an individualized custody hearing that had been requested and scheduled, and he has remained detained without any bond hearing or constitutionally adequate custody determination.
- d. However, even if the Petitioner would have had a bond redetermination hearing on January 20, 2026, as scheduled, his bond request likely would have been denied based on recent guidance given to Immigration Judges by the Chief Immigration Judge Riley, despite binding district court rulings ordering the Immigration Court to give individuals like the Petitioner an individualized bond hearing under INA Sec. 236(a). *See* Doc. No. 1-8, Riley Guidance. *See e.g., Guerrero Orellana v. Moniz et al.*, 25-cv-12664-PBS (D. Mass. December 19, 2025); *Maldonado Bautista v. Santacruz Jr. et al.*, 5:25-cv-01873-SSS-BFM (D.C.C.A. December 12, 2025).

18. In the middle of the night on January 16, 2026, ICE transferred Petitioner out of Massachusetts to the Alexandria Staging Facility in Virginia, where he remained for an unknown period of time.

19. Petitioner was then transferred to ACDC in Natchez, Mississippi, where he remains detained.

20. Petitioner has only one criminal conviction for immigration purposes anywhere in the world: a single Massachusetts OUI offense under Mass. Gen. Laws c. 90, § 24(1)(a)(1), resolved by a Continuance Without a Finding (“CWOFF”) after an admission to sufficient facts.

21. Petitioner accepted the CWOFF on January 19, 2017, the same day he was arraigned on the charge, successfully completed all conditions, and the case was dismissed on January 17, 2018.
22. Petitioner has no other criminal history, no subsequent arrests, and no additional convictions in his thirty-three (33) years of residence in the United States.
23. Despite these facts and his strong family ties and pending humanitarian/protection-based applications, Petitioner remains in prolonged civil detention without a constitutionally adequate individualized custody determination.
24. Upon or in connection with Petitioner's arrest and detention, ICE and/or its agents took possession of Petitioner's personal identity and work documents, including his driver's license and evidence of employment authorization.
25. Based on counsel's experience and ICE's practice, these documents are frequently retained even after release unless specifically ordered returned, impairing the ability to work, drive lawfully, obtain services, and comply with supervision conditions.
26. The continued retention of these essential documents is not necessary to effectuate civil immigration custody, is not reasonably related to any legitimate governmental purpose, and causes immediate and ongoing irreparable harm.

IV. CLAIMS FOR RELIEF
COUNT I — UNLAWFUL CIVIL DETENTION IN VIOLATION OF THE DUE
PROCESS CLAUSE

27. Petitioner realleges the foregoing paragraphs.
28. Civil immigration detention is subject to the Due Process Clause. When detention becomes prolonged or is alleged to be unlawful, due process requires a prompt and meaningful individualized custody hearing before a neutral adjudicator.

29. Petitioner's detention since December 31, 2025, is unlawful under the statute and controlling district court orders. He has not received a constitutionally adequate individualized custody determination with the proper burden of proof and consideration of alternatives to detention.

30. Continued detention without such safeguards violates due process and is unlawful under 28 U.S.C. § 2241.

COUNT II — UNLAWFUL TRANSFERS AND INTERFERENCE WITH ACCESS TO COUNSEL AND THE COURTS

31. Petitioner realleges the foregoing paragraphs.

32. ICE transferred Petitioner overnight from Massachusetts to Virginia and then to Mississippi while he was pursuing custody review, disrupting access to counsel, family support, and the ability to litigate promptly.

a. ICE/DHS's decision to transfer the Petitioner to another facility outside of the Chelmsford Immigration Court's jurisdiction came over a week after the Petitioner filed his request for bond and four (4) days before his scheduled bond redetermination hearing with the Chelmsford court.

b. DHS's filing of the Form I-830 change of custody location immediately before the scheduled January 20, 2026, bond hearing caused the Immigration Court to vacate that hearing without entertaining Petitioner's anticipated arguments for retained jurisdiction, effectively mooting Petitioner's request for custody review through midnight transfer and paperwork rather than any merits determination.

33. These transfers, combined with continued detention, have impaired Petitioner's ability to seek timely relief and further underscore the need for emergency intervention.

COUNT III — UNLAWFUL RETENTION OF PETITIONER’S PERSONAL PROPERTY (DRIVER’S LICENSE AND EVIDENCE OF WORK AUTHORIZATION) IN VIOLATION OF DUE PROCESS

34. Petitioner realleges the foregoing paragraphs.
35. Petitioner has a constitutionally protected property interest in his personal identity documents, including his driver’s license and evidence of employment authorization.
36. ICE’s policy and/or practice of retaining such documents from individuals in civil immigration custody—particularly where the documents are retained without meaningful process, even after release—deprives Petitioner of property without due process of law.
37. Continued retention of Petitioner’s driver’s license and work-authorization documents is not reasonably related to a legitimate governmental objective, is excessive in relation to any such objective, and causes immediate harm by preventing lawful driving, employment, and access to services and benefits.
38. Unless enjoined, Respondents’ continued retention of Petitioner’s documents will cause irreparable harm during custody and, critically, will impede Petitioner’s ability to support his U.S.-citizen children and comply with any conditions of release.
39. Petitioner is entitled to injunctive and declaratory relief ordering the prompt return of his property

COUNT IV — UNLAWFUL EXECUTIVE INTERFERENCE WITH PETITIONER’S ACCESS TO A BOND HEARING AND VIOLATION OF THE RULE OF LAW (DUE PROCESS/ULTRA VIRES ACTION)

40. Petitioner realleges the foregoing paragraphs.
41. Federal courts have held—and DHS itself has historically recognized—that many noncitizens apprehended in the interior are governed by 8 U.S.C. § 1226(a) and therefore may seek custody redetermination (bond) before an Immigration Judge under applicable

regulations. *See, e.g.*, the declaratory judgment entered in *Guerrero Orellana v. Moniz* that class members are not subject to § 1225(b)(2) and instead are subject to § 1226(a), “including access to consideration for release on bond and/or conditions before immigration officers and Immigration Judges,” and that this remains true “notwithstanding any subsequent change in their location [or] facility of detention.”

42. Petitioner sought a bond hearing consistent with this authority, but his already-set bond process was stripped through DHS’s custody-location maneuver (Form I-830) and transfer, and he remains detained without a meaningful individualized custody determination.
43. In addition, the Department of Justice’s immigration adjudication apparatus has issued guidance to Immigration Judges that (a) characterizes federal declaratory relief as non-compelling and (b) instructs adjudicators to continue treating *Matter of Yajure Hurtado* as binding notwithstanding federal district-court rulings rejecting DHS’s § 1225(b)(2) theory (including in the context of certified classes and declaratory judgments). *See* Doc. No. 1-8, Riley Guidance. This guidance has led IJs to deny bond jurisdiction and refuse to honor federal court determinations, thereby foreclosing bond hearings for individuals like Petitioner based on a categorical view of detention authority rather than an individualized custody assessment, unless they have individually sought and been successful in a 28 U.S.C. § 2241 writ of habeas corpus.
44. As applied to Petitioner, this executive-branch practice (DHS transfers/I-830 plus EOIR/DOJ adjudicatory guidance) operates to nullify access to the bond process and prolong civil detention without the procedural protections due process requires, including a prompt, meaningful custody hearing before a neutral decisionmaker.

45. Respondents' conduct is *ultra vires* and violates the Due Process Clause because it intentionally frustrates and obstructs Petitioner's access to the custody-review mechanism contemplated by § 1226(a) and implementing regulations, and because it substitutes categorical, policy-driven outcomes for individualized adjudication.

V. REQUEST FOR EMERGENCY RELIEF

46. Petitioner seeks immediate release or, at a minimum, an order directing Respondents to show cause and an expedited hearing on the legality of detention.

47. Petitioner's family—including three U.S.-citizen children—depends on him, and he has an ongoing court-ordered support obligation.

48. Petitioner poses no danger to the community and no flight risk that cannot be mitigated by conditions of release, including reporting requirements and electronic monitoring if necessary.

49. No set of facts justifies continued civil confinement without a constitutionally adequate process.

VI. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

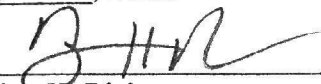
- a) Issue a writ of habeas corpus and order Petitioner's immediate release from custody;
- b) In the alternative, issue an order to show cause and schedule an expedited hearing at the Court's earliest availability;
- c) Order Respondents to provide Petitioner a constitutionally adequate individualized custody hearing forthwith, with the Government bearing the burden to justify continued detention by clear and convincing evidence, and with consideration of alternatives to detention;

- d) Enjoin Respondents from transferring Petitioner out of this District during the pendency of these proceedings, absent prior notice to counsel and leave of Court, except in the event of a medical emergency;
- e) Grant such other and further relief as the Court deems just and proper.
- f) Order Respondents to promptly return all personal property taken from Petitioner in connection with his arrest and detention, including but not limited to his driver's license and evidence of work authorization, within 24 hours of any release order (or within a Court-ordered timeframe), and to provide a written inventory and chain-of-custody confirmation for any items not immediately returned;
- g) Enjoin Respondents and any facility acting on their behalf from conditioning release on surrender of original identity/work documents and from retaining such documents absent a lawful basis and meaningful process; and
- h) Issue injunctive and declaratory relief declaring that Petitioner is a class member of *Guerrero Orellana v. Moniz* (D. Mass.) and is therefore entitled to a bond redetermination/individualized bond hearing consistent with the relief ordered in that action;
- i) Order Respondents and their agents to facilitate and not impede such bond redetermination, including by providing timely notice to the appropriate Immigration Court and refraining from further transfers or administrative actions (including custody-location changes) that would vacate, delay, or nullify the scheduled hearing; and
- j) Enjoin Respondents from urging, directing, or relying upon any DOJ/EOIR guidance that treats federal court declaratory relief as a basis to deny Petitioner a bond hearing, and

require Respondents to notify the Immigration Court and DHS custody officials that
Petitioner is to be treated as bond-eligible under § 1226(a) pursuant to this Court's order.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this the 26th day of January, 2026.



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