

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

Augusto Leonel Marroquin Velasquez

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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;  
**VERNON LIGGINS**, in his official capacity  
as Acting Field Office Director in charge of  
ICE Baltimore Field Office.

Respondents.

Case No.:

**PETITION FOR WRIT OF HABEAS  
CORPUS**

**INTRODUCTION**

1. Petitioner Augusto Leonel Marroquin Velasquez (“Mr. Marroquin Velasquez”), a native and citizen of Guatemala, challenges his continued custodial detention by the Department of Homeland Security Immigration and Customs Enforcement (“ICE”) since February 13, 2026, as an unconstitutional and unjustified restraint and deprivation of his physical liberty, and seeks immediate relief from this Court.
2. Mr. Marroquin Velasquez 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. Marroquin Velasquez’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”), the Immigration

and Nationality Act (the “INA”) and the Administrative Procedures Act, 5 U.S.C. § 702 (the “APA”).

4. Mr. Marroquin Velasquez petitions for a writ of habeas corpus to remedy his unlawful detention, and prays this Court will issue an order 1) declaring that the continued immigration detention of Mr. Marroquin Velasquez violates the Due Process Clause of the Fifth Amendment, the INA and the APA; 2) granting Mr. Marroquin Velasquez his immediate release from the custody of Respondents or, in the alternative, a bond hearing before an immigration judge under section 1226(a) of the INA where the burden is on Respondents to establish flight risk and/or danger to the community; and 3) preventing Respondents from once again taking Mr. Marroquin Velasquez into custody unless he is determined to be a flight risk and/or a danger to the community.

#### JURISDICTION AND VENUE


5. Mr. Marroquin Velasquez is currently detained by ICE at 31 Hopkins Plaza, Baltimore, Maryland 21201 (the “Baltimore ICE Facility”), which is within the jurisdiction of the United States District Court for the District of Maryland.
6. This action arises under the Due Process Clause of the Fifth Amendment, the INA and the APA.
7. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 (“Habeas Corpus”), the Suspension Clause of the United States Constitution, 28 U.S.C. § 1346 (civil actions against the United States), 28 U.S.C. § 1651 (“All Writs Act”), and 28 U.S.C. §§ 2201-02 (“Declaratory Relief”), as Mr. Marroquin Velasquez 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. Venue is proper because Mr. Marroquin Velasquez is currently detained within the State of Maryland. On February 13, 2026, Mr. Marroquin Velasquez’s wife, Mirian Maricela Lopez Tomas, personally confirmed to undersigned counsel that Mr. Marroquin Velasquez is in Baltimore, Maryland and has been verified to be in ICE Custody as of 1:02 p.m. Eastern Daylight Savings Time. *See* Exs. 1, 2 hereto.

#### **PARTIES**

11. Petitioner, Augusto Leonel Marroquin Velasquez, is a citizen and national of Guatemala. Mr. Marroquin Velasquez is currently detained by the Respondents at the Baltimore ICE Facility, which is within the jurisdiction of the District of Maryland, since February 13, 2026.
12. 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.
13. 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.
14. 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.
15. Respondent Vernon Liggins is the Acting Field Office Director of the ICE Baltimore Field Office, and is responsible for ICE’s operations in the State of Maryland. Upon information and belief, he is the immediate custodian of Mr. Marroquin Velasquez. He is sued in his official capacity.

#### **STATEMENT OF FACTS**

16. Mr. Marroquin Velasquez, born in Guatemala on  last entered the United States in approximately 2004. Mr. Marroquin Velasquez was not stopped by ICE Officials at the time of his 2004 entry and entered the United States without inspection. On February 13, 2026, Mr. Marroquin Velasquez was apprehended by

Respondents on a warrant under section 1226(a) in Glen Burnie, Maryland. Mr. Marroquin Velasquez was then placed in section 1229(a) removal proceedings which are currently pending.

17. Mr. Marroquin Velasquez was never placed in expedited removal proceedings under section 1225 of the INA, nor was he afforded a credible fear interview.
18. Mr. Marroquin Velasquez has never been convicted of any crimes either in his home country or in the United States. Mr. Marroquin Velasquez lives in the State of Maryland with his wife and three U.S. Citizen daughters. Mr. Marroquin Velasquez is also gainfully employed.
19. Mr. Marroquin Velasquez was detained by ICE on February 13, 2026, in Glen Burnie, Maryland. Mr. Marroquin Velasquez was told that he would be detained without bond. He is still detained at the Baltimore ICE Facility as of 1:20 p.m. Eastern Daylight Savings Time on February 13, 2026. Mr. Marroquin Velasquez is being subjected to detention under either section 1225(b)(1) or section 1225(b)(2).
20. Respondents are presumably detaining Mr. Marroquin Velasquez under section 1225(b)(2) as a result of the BIA's decision in *Matter of Yajure-Hurtado*, 29 I. & N. 216 (BIA 2025). The BIA's interpretation of section 1225(b)(2) in *Matter of Yajure-Hurtado* has been found by dozens of Federal courts across the country as an unlawful interpretation of the INA. Mr. Marroquin Velasquez is 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

21. The decision to detain Mr. Marroquin Velasquez is subject to challenge through a petition for a writ of habeas corpus, and Mr. Marroquin Velasquez 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.").

22. Moreover, further exhaustion would be futile because Mr. Marroquin Velasquez 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. Marroquin Velasquez is no longer considered eligible for the bond and Respondents have exercised their authority to prevent any immigration judge from granting bond.
23. The detention of Mr. Marroquin Velasquez by ICE 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. Marroquin Velasquez's Detention Violates His Right to Substantive Due Process Under the Fifth Amendment**

24. Petitioner re-alleges and incorporates by reference the paragraphs above.
25. As a "person" within the meaning of the Fifth Amendment, Mr. Marroquin Velasquez 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.").
26. 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. Diaz*, 426 U.S. 67, 77 (1976).

27. 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").
28. 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.
29. Mr. Marroquin Velasquez is being denied substantive due process as the Respondents continue to exercise their authority contrary to law by refusing his release under section 1226(a) of the INA without due process and preventing Mr. Marroquin Velasquez from seeking release under the INA under section 1226(a) of the INA. The EOIR, through the BIA, took the position in *Matter of Yajure-Hurtado* that an individual such as Mr. Marroquin Velasquez, over twenty years after his last entry to the United States, is subject to the mandatory detention provisions of Section 1225 of the INA.
30. Under Section 1226(a) of the INA, an immigration judge would be able to consider any relevant evidence submitted by Mr. Marroquin Velasquez demonstrating that she 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. Marroquin

Velasquez was in fact a flight risk or a danger to the community. The Respondents have made applications for bond by Mr. Marroquin Velasquez under Section 1226(a) of the INA futile by applying *Matter of Yajure-Hurtado* to cases with the same facts and circumstances as Mr. Marroquin Velasquez.

31. But for *Matter of Yajure-Hurtado*, Mr. Marroquin Velasquez 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. Marroquin Velasquez of his ability to present evidence to secure his liberty.

## COUNT TWO

### **Mr. Marroquin Velasquez's Detention Violates His Right to Procedural Due Process Under the Fifth Amendment**

32. Petitioner re-alleges and incorporates by reference the paragraphs above.
33. "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.
34. 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).
35. 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.
36. 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.

37. Mr. Marroquin Velasquez has a substantial liberty interest in his bodily freedom. Mr. Marroquin Velasquez is the primary economic provider for his family. The unlawful detention by Respondents is preventing Mr. Marroquin Velasquez his right to bodily freedom, a core liberty interest.
38. Mr. Marroquin Velasquez 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. Marroquin Velasquez 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. Specifically, Respondents did not follow section 1226(b).

### COUNT THREE

#### **Mr. Marroquin Velasquez's Detention by ICE is in Violation of the INA**

39. 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[.]" 8 U.S.C. § 1225(b)(1)(A)(iii)(II).
40. As noted above, Mr. Marroquin Velasquez has lived in the United States for over twenty years prior to being detained. Mr. Marroquin Velasquez was never processed as an arriving alien or placed in expedited removal proceedings under section 1225 of the INA. Applying section 1225 of the INA to Mr. Marroquin Velasquez over twenty years after his entry is contrary to the INA.
41. Respondents claim that Mr. Marroquin Velasquez is subject to mandatory detention under section 1225 and is not eligible for bond under section 1226(a) despite his presence in the United States for over twenty years. Dozens of Federal courts have found this legal interpretation by DHS in cases similar to Petitioner's case erroneous.

**COUNT FOUR**

**Mr. Marroquin Velasquez's Detention by ICE is in Violation of the APA 5  
U.S.C. § 702 (Unconstitutional, unlawful, arbitrary, and capricious actions)**

42. Petitioner re-alleges and incorporates by reference the paragraphs above.
43. The decision to deny Mr. Marroquin Velasquez's release under section 1226(a) and detain him without any opportunity to challenge his custody is arbitrary, capricious, and not in accordance with the INA, and contrary to Mr. Marroquin Velasquez's right to due process under the Fifth Amendment.
44. This Court may set aside agency action which is arbitrary, capricious, unlawful, or contrary to constitutional right, power, privilege, or immunity. *See* 5 U.S.C. §§ 706(2)(A), (B).
45. Mr. Marroquin Velasquez has lived over twenty years in the United States, after which he was arrested without any cause and has since been detained in immigration custody without further justification.
46. Additionally, the determination by ICE and EOIR that Mr. Marroquin Velasquez is subject to mandatory detention under Section 1225 of the INA is without any basis in law.
47. Such actions are arbitrary and capricious, and should be held unlawful and set aside.
48. As a result of the arbitrary, capricious, unlawful, and unconstitutional actions by Respondents, Mr. Marroquin Velasquez has suffered prejudice, actual and substantial hardship, and irreparable injury in fact.
49. Mr. Marroquin Velasquez has no other adequate remedy at law.

**PRAYER FOR RELIEF**

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

- a. Assume jurisdiction over the matter;
- b. Declare that the continued immigration detention of Mr. Marroquin Velasquez violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution, the INA and the APA;

- c. Issue a writ of habeas corpus ordering Respondents to immediately release Mr. Marroquin Velasquez from the custody of Respondents, or in the alternative, ordering a bond hearing before an immigration judge under section 1226(a) of the INA where the burden is on Respondents to establish flight risk and/or danger to the community;
- d. Issue an order preventing Respondents from once again taking Mr. Marroquin Velasquez 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;
- e. Award Mr. Marroquin Velasquez all costs incurred in maintaining this action; and
- f. Grant any other and further relief this Court deems just and proper

Respectfully Submitted,

February 13, 2026

/s/ Luis Carlos Diaz

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

I represent Petitioner, Augusto Leonel Marroquin Velasquez, 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 13th day of February, 2026.

/s/Luis Carlos Diaz

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