

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Southern District of Georgia



FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

2026 FEB 23 A 10:54

Rolando Elisio Velasquez-Fuentes

Petitioner

v.

Case No.

(Supplied by Clerk of Court)

Warden, D. Ray James ICE Processing Center

Respondent

(name of warden or authorized person having custody of petitioner)

5:26 cv 249

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Rolando Elisio Velasquez-Fuentes
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: D. Ray James ICE Processing Center
(b) Address: 3424 Hwy 252 E P.O. Box 248 Folkston, GA, 31537
(c) Your identification number: _____
3. Are you currently being held on orders by:
☐ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☒ Being held on an immigration charge
☐ Other (explain): _____

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Decision or Action You Are Challenging

5. What are you challenging in this petition:

- ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☒ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (*explain*): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: ATLANTA IMMIGRATION COURT

180 TED TURNER DR SW, STE 241 ATLANTA, GA 30303

(b) Docket number, case number, or opinion number: 

(c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal:

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: I did not file a motion under 28 U.S.C. § 2255 because I am not being held under a federal criminal which is civil, not criminal. A § 2255 motion does not apply to my case and cannot be used to challenge my immigration detention. Therefore, habeas corpus under 28 U.S.C. § 2241 is the only adequate way to challenge the legality of my custody.

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes ☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
(b) Date of the removal or reinstatement order: _____
(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Date of filing: _____
(2) Case number: _____
(3) Result: _____
(4) Date of result: _____
(5) Issues raised: _____

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: _____
(2) Date of filing: _____
(3) Case number: _____

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(4) Result: _____
 (5) Date of result: _____
 (6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Long-Term Residence and Life Established in the United States

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

I was born on [REDACTED] in Guatemala. I first entered the United States around August 2003, when I was 7 years old, and I have lived in this country for more than twenty-three years. During this time, I grew up, became an adult, and built my entire life in the United States. I am married to Elda M. Fuentes Bravo, and I am the father of two United States citizen children. My daughter, Linda J. Matias-Fuentes, is currently serving her country in the United States Marine Corps, and my son, M [REDACTED], is still a minor. My children were raised here and only know life in the United States. I am the sole financial provider for my family, and they depend on me every day for stability, support, and care.

(b) Did you present Ground One in all appeals that were available to you?☒ Yes☐ No**GROUND TWO:** Active Compliance With Immigration Authorities and Pending Relief**(a) Supporting facts** *(Be brief. Do not cite cases or law.):*

I am actively pursuing immigration relief through lawful channels. I currently have a pending I-914A Application for T Non-Immigrant Status and a pending I-192 Application. On August 25, 2024, USCIS granted me Deferred Action, recognizing my case as a lower priority for removal. USCIS granted me Deferred Action, which remains valid for 15 months, and does not anticipate taking action to remove me at this time.

I have a pending asylum application. I first came to the United States around August 2003. In April 2017, I was granted voluntary departure. I returned to the United States around July 2017, and I have remained here ever since.

(b) Did you present Ground Two in all appeals that were available to you?☒ Yes☐ No**GROUND THREE:** Good Moral Character and Lack of Criminal History**(a) Supporting facts** *(Be brief. Do not cite cases or law.):*

On or about October 13, 2025, immigration proceedings were initiated after I was detained during a traffic infraction involving my work trailer. I was not hiding or attempting infraction involving my work trailer. I was not hiding or attempting to evade immigration authorities; My detention did not take into account my long residence, my family responsibilities, or my pending immigration relief. I am not a danger to the community and I am not a flight risk. I have lived in the United States for more than 23 years, and my family, community, and future are all here. I have no criminal convictions and I am the sole financial provider for my household and I have every reason to comply with all immigration and court requirements.

(b) Did you present Ground Three in all appeals that were available to you?☒ Yes☐ No

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

GROUND FOUR: Fear of Return to Guatemala Due to Unsafe Conditions

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

I fear returning to Guatemala because criminal groups have assaulted me, threatened me with guns and knives, and tried to extort me.

They have warned that they would kill me if they see me again. My family has also been targeted: XXXXXXXXXX

I fear for my life and the lives of my family.

Either outcome would cause severe emotional harm to my family and to me.

(b) Did you present Ground Four in all appeals that were available to you?

☒ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Petitioner respectfully requests that this Court exercise jurisdiction over this matter; order Respondents to justify the legality of Petitioner's detention; declare that Petitioner's continued detention is unlawful and unconstitutional; grant habeas relief by ordering Petitioner's immediate release or, in the alternative, an individualized bond hearing before a neutral decisionmaker; prohibit Petitioner's transfer outside this judicial district without prior approval of the Court; and grant such other and further relief as the Court deems just and proper.

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 02/18/2026



Signature of Petitioner

Signature of Attorney or other authorized person, if any

Rolando Elisio Velasquez-Fuentes

A Number: 

PRO SE

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA**

IN THE MATTER OF:

VELASQUEZ FUENTES, Rolando
Elisio

Petitioner,

v.

GEORGE STERLING, Field Office
Director,
Atlanta Field Office, Immigration and
Customs Enforcement,
Enforcement and Removal Operations
("ICE/ERO"); WARDEN, D. Ray
James ICE Processing Center; TODD
LYONS, Acting Director of
Immigration and Customs Enforcement
("ICE"); U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; KRISTI
NOEM, Secretary of the Department of
Homeland Security ("DHS"); U.S.
DEPARTMENT OF HOMELAND
SECURITY; and PAMELA BONDI,
Attorney General of the United States

Respondents,

Case No.: A 

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

1. Petitioner Rolando Elisio Velasquez Fuentes brings this petition for a writ of habeas corpus to seek enforcement of 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.). Petitioner is in the physical custody of Respondents at the D. Ray James ICE Processing Center in Folkston, Georgia.. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to comply with the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

2. On November 20, 2025, the district court granted partial summary judgment in favor of the individual plaintiffs. On November 25, 2025, the court certified a nationwide Bond Eligible Class and extended the declaratory judgment to all class members. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 20 & Nov. 25, 2025).

3. On December 18, 2025, the U.S. District Court for the Central District of California issued a final judgment in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, holding that detention of certain noncitizens is governed by 8 U.S.C. § 1226(a), not mandatory detention. The Court ruled that DHS's challenged policy was unlawful, vacated it classwide under the Administrative Procedure Act, and confirmed that affected individuals are entitled to bond hearings before an Immigration Judge.

4. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

5. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

6. Petitioner Rolando Elisio Velasquez Fuentes is a member of the Bond Eligible Class, as he:

a. He does not have lawful status in the United States and is currently detained at the D. Ray James ICE Processing Center in Folkston, Georgia. He was apprehended by immigration authorities on or about October 13, 2025.

b. entered the United States without inspection over twenty-three (23) years ago, around 2003, and was not apprehended upon arrival, *cf. id.*; and

c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231

7. After apprehending Petitioner on or about October 29, 2025, DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS charged Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), alleging that he is an alien present in the United States without being admitted or paroled.

8. The Court should expeditiously grant this petition.

9. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject

Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

10. Immigration judges have informed class members in bond hearings that they have been instructed by “leadership” that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency’s prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

11. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day, Respondent DHS must release Petitioner.

12. Alternatively, the Court should order Petitioner’s release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

13. Petitioner, Rolando Elisio Velasquez Fuentes, is detained in the custody of Respondents at the D. Ray James ICE Processing Center in Folkston, Georgia. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

14. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

15. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), Venue lies in the United States District Court for the Southern District of Georgia, the judicial district in which Petitioner is currently detained.

17. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Central District of California.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

18. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

19. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

20. Petitioner is “in custody” for the purpose of § 2241 because he is arrested and detained by Respondents.

PARTIES

21. Mr. Velasquez Fuentes (“Petitioner”) is a 40-year-old citizen of Guatemala. He resides in Apopka, Florida. Petitioner is currently detained at the D. Ray James ICE Processing Center in Folkston, Georgia, within the Southern District of Georgia, at the time of the filing of this petition.²

² Petitioner seeks leave to proceed anonymously because his public identification creates a retaliatory physical harm risk because his status as an asylum seeker in the United States and the nature of his claim is sensitive and highly personal. *See Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000). The Ninth Circuit has identified several different situations in which parties have been permitted to proceed under a fictitious name, including “(1) when identification creates a risk of retaliatory physical or mental harm, . . . ; (2) when anonymity is necessary ‘to preserve privacy in a matter of sensitive and highly personal nature,’ . . . ; and (3) when the anonymous party is ‘compelled to admit [his or her] intention to engage in illegal conduct, thereby risking criminal prosecution.’” *Id.* (collecting cases; internal citations omitted). The Petitioner would provide his identity to the Respondents and the Court under seal.

22. Respondent George Sterling is the Field Office Director for the Atlanta Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”).

The Atlanta Field Office is responsible for local custody decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens within its area of responsibility. The Atlanta Field Office's area of responsibility includes the State of Georgia, where Petitioner is currently detained.

23. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of the Warden of the D. Ray James ICE Processing Center and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

24. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

25. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

26. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

27. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

28. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

29. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the “historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

30. The “motivation for the enactment of the Refugee Act” was the United Nations Protocol Relating to the Status of Refugees, “to which the United States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory meaning to our national commitment to human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

31. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

32. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are

unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

33. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).

34. Because of the life-or-death stakes, the statutory right to apply for asylum is robust. The right necessarily includes the right to counsel, at no expense to the government, *see* 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, *see* 8 U.S.C. § 1158(d)(4), and the right to access information in support of an application, *see* § 1158(b)(1)(B) (placing the burden on the applicant to present evidence to establish eligibility.).

35. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

36. Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative appellate review before the Board of Immigration Appeals of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) *et seq.*

37. In 1996, Congress created “expedited removal” as a truncated method for rapidly removing certain noncitizens from the United States with very few procedural protections. 8 U.S.C. § 1225(b)(1). Because there are few procedural protections, expedited

removal applies narrowly to only those noncitizens who are inadmissible to the United States because they engaged in fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or who are applicants for admission without required documentation, 8 U.S.C. § 1182(a)(7). No other person may be subjected to expedited removal. 8 C.F.R. § 235.3(b)(1), (b)(3).

38. Noncitizens subjected to expedited removal are ordered removed by an immigration officer “without further hearing or review.” 8 U.S.C. § 1225(b)(1)(A)(i). That officer must determine whether the individual has been continuously present in the United States for less than two years; is a noncitizen; and is inadmissible because he or she has engaged in certain kinds of fraud or lacks valid entry documents “at the time of . . . application for admission.” *See* 8 U.S.C. § 1225(b)(1)(A)(i), (iii) (citing 8 U.S.C. § 1182(a)(6)(C), (a)(7)).

39. Otherwise, if the officer concludes that the individual is inadmissible under an applicable ground, the officer “shall,” with simply the concurrence of a supervisor, 8 C.F.R. § 235.3(b)(7), order the individual removed “without further hearing or review unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution.” 8 U.S.C. § 1225(b)(1)(A)(i).

40. Thus, a low-level DHS officer can order the removal of an individual who has been living in the United States with virtually no administrative process—just completion of cursory paperwork—based only on the officer’s own conclusions that the individual has not been admitted or paroled, that the individual has not adequately shown the requisite continuous physical presence, and that the individual is inadmissible on one of the two specified grounds.

41. Once a determination on inadmissibility is made, removal can occur rapidly, within twenty-four hours.

42. Asylum is not an admission to the United States and an applicant for asylum, while they must be physically present in the United States to apply, need not apply for or seek admission to the United States. Matter of V-X-, 26 I&N Dec. 147 (BIA 2013).

43. For those who fear return to their countries of origin, the expedited removal statute provides a limited additional screening. But the additional screening, to the extent it occurs, does not remotely approach the type of process and the rights available to asylum seekers receive in regular Section 240 immigration proceedings.

44. An expedited removal order comes with significant consequences beyond removal itself. Noncitizens who are issued expedited removal orders are subject to a five-year bar on admission to the United States unless they qualify for a discretionary waiver. 8 U.S.C. § 1182(a)(9)(A)(i); 8 C.F.R. § 212.2. Similarly, noncitizens issued expedited removal orders after having been found inadmissible based on misrepresentation are subject to a lifetime bar on admission to the United States unless they are granted a discretionary exception or waiver. 8 U.S.C. § 1182(a)(6)(C).

45. Expedited removal only applies to noncitizens who are inadmissible on one of two specified grounds: 8 U.S.C. § 1182(a)(6)(C), which applies to those who seek to procure immigration status or citizenship via fraud or false representations, or § 1182(a)(7), which applies to noncitizens who, “at the time of application for admission,” fail to satisfy certain documentation requirements. 8 U.S.C. § 1225(b)(1)(A)(1). If DHS seeks to remove

noncitizens based on other grounds, they must afford the noncitizen a full hearing before an immigration judge. *See* 8 C.F.R. § 235.3(b)(1), (3).

46. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

FACTUAL BACKGROUND

47. The Petitioner is a citizen of Guatemala. He was born on [REDACTED] in Guatemala. Petitioner is married to Elda M. Fuentes Bravo. He is the father of U.S. citizen children, including a minor child M [REDACTED] who resides in the United States and depends on him for financial and emotional support. Additionally, Petitioner's U.S. citizen daughter, Linda J. Matias-Fuentes, is currently serving in the United States Marine Corps at [REDACTED] Petitioner's removal would cause significant hardship to his U.S. citizen children and family.

48. Petitioner entered the United States without inspection in or about August 2003, when he was 18 years old, and was issued a voluntary departure on or about April 2017. Mr. Velasquez Fuentes then re-entered the United States on or about August, 2017, and has remained in the United States since that time.

49. On or about October 13, 2025, Respondents initiated removal proceedings against Petitioner pursuant to Title 8, United States Code, Section 1229a, while he was in ICE custody.

50. Upon information and belief, Petitioner complied with and regularly appeared for his court dates.

51. Petitioner has pending and approved immigration relief before U.S. Citizenship and Immigration Services. Petitioner is the beneficiary of a pending Form I-914A, Application for T Nonimmigrant Status (derivative), and a related Form I-192, Application for Advance Permission to Enter as a Nonimmigrant, with a priority date of January 22, 2024, filed through his wife, Elda M. Fuentes Bravo. Petitioner also received approval of a Form I-360 petition, which remains valid while an extension is pending. Petitioner also has a pending application for asylum.

52. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including “Protecting the American People Against Invasion,” an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

53. On January 21, 2025, Acting Deputy Secretary of DHS Benjamin Huffman issued for public inspection and effective immediately a designation expanding the scope of expedited removal to apply nationwide and to certain noncitizens who are unable to prove they have been in the country continuously for two years. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of the Secretary, Dep’t of Homeland Security, *Designating Aliens for Expedited Removal*, 15 Fed.

Reg. 8139 (“January 2025 Designation”). The designation was “effective on” January 21, 2025.

54. The January 2025 Designation expands the pool of noncitizens who can be subjected to the summary removal process substantially to include noncitizens who are apprehended anywhere in the United States and who have not been in the United States continuously for more than two years. *Id.* at 8140.

55. The January 2025 Designation does not state that it applies to noncitizens who were in the United States before its effective date.

56. On information and belief, Respondents failed to provide Petitioner with an opportunity to be heard before depriving him of his liberty.

57. On information and belief, Respondents are using the immigration detention system, including extraterritorial removal and detention, as a means to punish individuals for exercising their rights under the Refugee Act.

58. On information and belief, Petitioner has no criminal record.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the INA:

Request for Relief Pursuant to *Maldonado Bautista*

59. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

60. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

61. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

62. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

63. Respondents are parties to *Maldonado Bautista* and bound by the Court’s declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

64. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner’s statutory rights under the INA and the Court’s judgment in *Maldonado Bautista*.

COUNT TWO

Violation of Fifth Amendment Right to Due Process Procedural Due Process

65. Petitioner restates and realleges all paragraphs as if fully set forth here

66. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property,

without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

67. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

68. While asylum is a discretionary benefit, the right to apply is not. 8 U.S.C. § 1158(a)(1). Any noncitizen who is “physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival . . .), irrespective of such [noncitizen’s] status, may apply for asylum.” *Id.*

69. Because the denial of the right to apply for asylum can result in serious harm or death, the statutory right to apply is robust and meaningful. It includes the right to legal representation, and notice of that right, *see id.* §§ 1229a(b)(4)(A), 1362, 1158(d)(4); the right to present evidence in support of asylum eligibility, *see id.* § 1158(b)(1)(B); the right to appeal an adverse decision to the Board of Immigration Appeals and to the federal circuit courts, *see id.* §§ 1229a(c)(5), 1252(b); and the right to request reopening or reconsideration of a decision determining removability, *see id.* § 1229a(c)(6)-(7).

70. Expedited removal, in contrast, severely limits the availability of such rights. Interviews occur on an exceedingly fast timeline; review of a negative interview decision by an immigration judge must occur within seven days of the decision. *See* 8 C.F.R. § 1003.42.

71. While there is a right to “consult” with an attorney or another person about the credible fear interview process, *see* 8 U.S.C. § 1225(b)(1)(B)(iv) and 8 C.F.R. §§ 208.30(d)(4), 235.3(b)(4)(i)(B), (ii), the consultation “shall not unreasonably delay the process.” The consultant may be “present” during the interview but may only make a

“statement” at the end of the interview if permitted by the asylum officer. 8 C.F.R. § 208.30(d)(4). The immigrant subject to expedited removal may present evidence “if available”, *id.*—often an impossibility given the fast timeline and the default of detention during the process. *see generally* Heidi Altman, et. al., *Seeking Safety from Darkness: Recommendations to the Biden Administration to Safeguard Asylum Rights in CBP Custody*, Nov. 21, 2024, https://www.nilc.org/wpcontent/uploads/2024/11/NILC_CBP-Black-Hole-Report_112124.pdf (describing the obstruction of access to counsel for people undergoing credible fear screenings in Customs and Border Protection custody).

72. Review of a negative credible fear decision by an immigration judge is limited. “A credible fear review is not as exhaustive or in-depth as an asylum hearing in removal proceedings,” and there is no right to submit evidence, as it may be admitted only at “the discretion of the immigration judge.” Immigration Court Practice Manual, Chpt. 7.4(d)(4)(E). After denial of a credible fear interview and affirmance by a judge, removal is a near certainty; the immigrant is ineligible for other forms of relief from removal.

73. In sum, applying for asylum in removal proceedings comes with a panoply of greater protections when compared with seeking asylum in expedited removal. *See Immigrant Defenders Law Center v. Mayorkas*, 2023 WL 3149243, at *29 (C.D. Cal. Mar. 15, 2023) (“Individuals in regular removal proceedings enjoy far more robust due process protections [than those in expedited removal] because Congress has conferred additional statutory rights on them.”).

74. Here, Mr. Velasquez Fuentes was not advised by DHS that it sought to terminate his proceedings or otherwise alter the posture of his case in a manner that would deprive him of the bundle of rights associated with his pending applications for

immigration relief. Because of his legal interest in those pending applications, this conduct violated due process. See generally *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

COUNT THREE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Unlawful Detention

75. Petitioner restates and realleges all paragraphs as if fully set forth here.

76. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

77. An action is an abuse of discretion 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)).

78. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

79. By categorically revoking Petitioner’s parole and transferring him away from the district without consideration of his individualized facts and circumstances, Respondents have violated the APA.

80. Respondents have made no finding that Petitioner is a danger to the community.

81. Respondents have made no finding that Petitioner is a flight.

82. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial determination to parole him into the United States that support detention.

83. Respondents have already considered Petitioner's facts and circumstances and determined that he was not a flight risk or danger to the community.

COUNT FOUR

Violation of Fifth Amendment Right to Due Process Illegal Retroactive Application of Expedited Removal Designation

84. Petitioner restates and realleges all paragraphs as if fully set forth here.

85. Administrative rules "will not be construed to have retroactive effect unless their language requires this result." *Landgraf v. USI Film Products*, 511 U.S. 244, 272 (1994). When a "new provision attaches new legal consequences to events completed before its enactment" the new provision is not retroactive unless it is unmistakably clear.

86. Applying the January 2025 expedited removal designation to Petitioner's February 2023 entry to the United States to seek asylum would attach new legal consequences including the loss of significant rights related to his right to seek asylum.

87. The January 2025 designation does not unmistakably apply to individuals who entered the United States prior to its effective date.

88. Accordingly, Respondents are unlawfully subjecting him to expedited removal.

COUNT FIVE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law and in Excess of Statutory Authority Violation of 8

C.F.R. § 239.2(c)

89. Petitioner restates and realleges all paragraphs as if fully set forth here.

90. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

91. Once a removal proceeding has been initiated, regulations allow for the proceedings to be dismissed for a reason set forth at 8 C.F.R. § 239.2(a).

92. The initiation of expedited removal proceedings is not an enumerated ground upon which a removal proceeding may be dismissed.

93. It is a well-established administrative principle that “agency action taken without lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).

94. On information and belief, Respondents have dismissed Petitioner's removal proceedings because of their intent to eliminate the due process rights available to Petitioner in removal proceedings under section 240 of the Immigration and Nationality Act.

95. Because Petitioner's dismissal of section 240 proceedings was not made in furtherance of an enumerated reason set forth in the regulations, Respondents' use of the January 2025 expedited removal designation is unlawful.

COUNT SIX

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law and in Excess of Statutory Authority Violation of 8

U.S.C. § 1225(b)

96. Petitioner restates and realleges all paragraphs as if fully set forth here.

97. Under the APA, a court "shall . . . hold unlawful . . . agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

98. Congress has made it clear that the expedited removal statute does not apply and may not be applied to individuals who were "paroled" into the United States. 8 U.S.C. § 1225(b).

99. Mr. Velasquez Fuentes is not amenable to nor may he be subjected to expedited removal because he is not “arriving in the United States” and has been physically present for over 2 years.

100. Mr. Velasquez Fuentes is not amenable to nor may he be subjected to expedited removal under the January 2025 designation because he was paroled. 8 U.S.C. § 1225(b)(1)(A)(iii)(II) (limiting expedited removal designations only to individuals who “has not been admitted or paroled into the United States”).

101. Because Petitioner is not subject to the designation, Respondents’ use of the January 2025 designation to detain and transfer him is unlawful.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner’s re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Declare that Respondents’ application of the January 2025 Designation to Petitioner is illegal;

- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (8) Grant any further relief this Court deems just and proper.

Dated: February 18, 2026.

Detained in ICE Custody at:

D. Ray James ICE Processing Center, 3424 Hwy 252 E, PO Box 248 Folkston, Georgia 31537

A handwritten signature in black ink, appearing to read 'Rolando Velasquez-Fuentes', with a stylized flourish at the end.

Rolando Elisio Velasquez-Fuentes

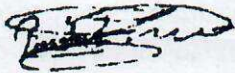
PROOF OF SERVICE

Velasquez Fuentes, Rolando Elisio

A 

I certify that on February 18, 2026, I served a copy of the Petitioner's petition for Writ of Habeas Corpus to Show Cause, on the Clerk's Office of the United States District Court:

Clerk of Court
U.S. District Court – Southern District of Georgia
PO Box 1636
Brunswick, GA 31521



Rolando Elisio Velasquez-Fuentes