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March 31, 2026

Via ECF: Hon. Ann M. Donnelly
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Brayan Orlando Banegas Villatoro – Petition for Writ of Habeas Corpus

Case No. 1:26-cv-01210-AMD

Dear Judge Donnelly:

Petitioner Brayan Banegas Villatoro, through counsel, respectfully submits this letter in further support of his petition for a writ of habeas corpus. This case presents a straightforward but significant constitutional question: whether the government may detain an individual where that detention stems directly from an unlawful vehicle stop and arrest conducted in violation of the Fourth Amendment. For the reasons set forth below, the answer is no, and the petition should be granted.

At the outset, Respondents' jurisdictional argument mischaracterizes the nature of Petitioner's claim. Petitioner does not seek to challenge, reopen, or otherwise invalidate any removal order. Instead, he challenges the legality of the arrest that gave rise to his current detention. The Supreme Court has long recognized that habeas corpus remains available to test the constitutionality of executive detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). The Second Circuit similarly instructs courts to examine the substance of the relief sought, rather than the government's characterization of the claim. See *Delgado v. Quarantillo*, 643 F.3d 52, 55 (2d Cir. 2011). Here, the relief sought is release from unconstitutional custody, and that relief can be granted without disturbing any removal order. Accordingly, this Court retains jurisdiction.

Recent decisions within this District confirm that federal courts retain both the

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authority and the obligation to scrutinize the constitutionality of ICE arrest practices. In *Gopie v. Garland et al.*, No. 25-cv-05229 (E.D.N.Y.), the Honorable Sanket J. Bulsara granted habeas relief and ordered the petitioner released where ICE's arrest practices failed to comport with constitutional requirements. In that case, the court emphasized that the government may not rely on post-arrest administrative mechanisms to justify a seizure that lacked a lawful basis at its inception. The court's reasoning reflects a broader and growing concern within the Eastern District of New York regarding ICE's reliance on insufficient suspicion, mistaken identity, and retroactive justification of arrests. Subsequent decisions in this District have echoed this concern, recognizing that such practices raise serious Fourth Amendment issues and cannot serve as a lawful foundation for continued detention.

Courts in this Circuit have also recently emphasized that constitutional scrutiny remains essential in the context of immigration enforcement. In *Diallo v. Noem*, No. 1:25-cv-09909 (S.D.N.Y. Dec. 23, 2025), the court underscored that civil immigration authority does not diminish Fourth Amendment protections and that detention premised on questionable or insufficiently supported enforcement actions raises serious constitutional concerns. The court recognized that where the government relies on thin or generalized suspicion to justify a seizure, and where the resulting detention lacks a firm constitutional foundation, habeas review remains an appropriate and necessary mechanism to safeguard individual liberty. That reasoning further supports Petitioner's claim that this Court must closely examine the legality of the underlying arrest rather than defer to the government's post hoc justifications.

The facts of this case fall squarely within the constitutional deficiencies identified in *Gopie*, *Diallo*, and similar cases. ICE officers conducted a vehicle stop based on a warrant issued for Petitioner's brother, not for Petitioner himself. The vehicle was registered to that brother, but the officers did not confirm the identity of the driver prior to initiating and escalating the stop. Petitioner was alone in the vehicle, and although the window was partially open, officers demanded further compliance and proceeded to break the window when Petitioner did not immediately comply. At that point, the officers had not established that Petitioner was the subject of the warrant, nor had they developed

independent probable cause or even reasonable suspicion particularized to him. Only after forcibly removing Petitioner from the vehicle did officers recover identification and confirm his identity. This sequence of events makes clear that the arrest preceded, rather than followed, any lawful basis for detention.

The Fourth Amendment requires that probable cause be particularized to the individual seized. As the Supreme Court held in *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979), a person's mere association with another individual suspected of wrongdoing does not give rise to probable cause. Likewise, the Second Circuit has made clear that individualized suspicion is essential to justify a seizure. See *United States v. Swindle*, 407 F.3d 562, 572 (2d Cir. 2005). Here, ICE relied on a warrant for a different person and a vehicle registration to justify stopping and ultimately arresting Petitioner, without confirming that he was the individual sought. That is precisely the type of generalized suspicion the Fourth Amendment prohibits.

The manner in which the stop escalated further underscores its unreasonableness. Under *Graham v. Connor*, 490 U.S. 386, 396 (1989), the use of force must be objectively reasonable in light of the totality of the circumstances. In this case, the suspected violation involved civil immigration enforcement, Petitioner was alone in the vehicle, there was no indication that he was armed or posed a threat, and his identity had not yet been confirmed. Despite these circumstances, officers escalated the encounter by breaking the vehicle window and forcibly removing him. Courts in this District and this Circuit have increasingly scrutinized such escalations, particularly where officers act without first establishing a lawful basis for arrest. The use of force here, prior to any confirmation of identity or probable cause, was constitutionally unreasonable.

As recognized in *Gopie*, the government may not cure an unlawful seizure through post hoc justification. The Fourth Amendment requires that probable cause exist at the moment of arrest; it cannot be supplied after the fact through administrative warrants or reinstated removal orders. In this case, ICE arrested Petitioner first, confirmed his identity second, and only then relied on a reinstated removal order to justify continued detention. That sequence is constitutionally impermissible. Allowing

the government to rely on such a sequence would effectively permit it to bootstrap unlawful arrests into lawful detention, a result the Constitution does not tolerate.

Petitioner also acknowledges the Court's anticipated concern that, in the criminal context, a Fourth Amendment violation typically results in suppression of evidence rather than release from custody. However, even under Second Circuit precedent addressing Fourth Amendment violations in criminal cases, the remedy of suppression is tied to the existence of a criminal proceeding in which evidence is to be used. See *United States v. Spencer*, 646 F. App'x 6 (2d Cir. 2016). This case arises in a fundamentally different posture. There is no criminal prosecution and no trial at which evidence may be suppressed. Instead, Petitioner challenges the legality of his detention itself through habeas corpus. Where, as here, detention is the direct product of an unconstitutional seizure, suppression is not an adequate remedy because it does not address the ongoing injury—continued unlawful custody. As recognized in *Gopie* and reinforced by *Diallo*, when the constitutional violation is significant and undermines the basis for detention, release is an appropriate remedy.

Petitioner further acknowledges that this case presents a unique set of circumstances given the existence of a prior removal order and his immigration history. However, as recognized in *Gopie*, even in cases involving noncitizens subject to removal, egregious constitutional violations cannot be overlooked and may warrant release. The reasoning reflected in both *Gopie* and *Diallo* makes clear that immigration enforcement does not operate outside constitutional boundaries, and where those boundaries are crossed in a significant way, habeas relief remains appropriate.

Respondents' reliance on Petitioner's immigration history does not alter this analysis. Petitioner does not dispute that he previously entered the United States multiple times and was removed. However, it is well established that constitutional protections apply regardless of immigration status. See *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1050–51 (1984). The relevant inquiry is not who Petitioner is, but how the government acted in seizing and detaining him in this instance. Past immigration violations cannot retroactively justify an unconstitutional arrest.

Because Petitioner's detention flows directly from an unlawful seizure, his continued confinement violates both the Fourth Amendment and the Due Process Clause of the Fifth Amendment. Moreover, given the government's position that his detention is mandatory, Petitioner is effectively denied any meaningful opportunity to challenge his custody despite the constitutional defect at its foundation. This is precisely the type of executive detention that habeas corpus is intended to remedy.

For all of these reasons, Petitioner respectfully requests that this Court grant the petition for a writ of habeas corpus and order his immediate release. In the alternative, Petitioner requests that the Court direct a constitutionally adequate custody determination before a neutral decision-maker.

This case presents the precise constitutional concern identified in *Gopie* and subsequent decisions in this District: the government arrested an individual under a warrant for someone else, failed to confirm identity before using force, and now seeks to justify detention after the fact. The Fourth Amendment does not permit such conduct. Accordingly, the petition should be granted.

Respectfully submitted,

Pallvi Babbar, Esq.