UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

OCTAVIO APARICIO SANTIAGO,

Petitioner(s),

v.

RAUL MALDONADO, Warden, Metropolitan Detention Center; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; and PAMELA BONDI, U.S. Attorney General;

Respondents(s).

Case No. 1:26-cv-1379

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

1. The 5th Amendment states: "No person shall be...deprived of life, liberty, or property without due process of law." U.S. Const. Amend. V.
2. The 4th Amendment protects: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. Amend. IV.
3. Without a warrant, an officer of the Department of Homeland Security has the power to arrest a noncitizen in the United States if he a) has reason to believe the noncitizen is in the United States in violation of the law *and* b) is likely to escape before a warrant can be obtained for his arrest. *See* 8 U.S.C. § 1357(a)(2).

4. In March 2025, the Nassau County Police Department signed an agreement[1] with Immigration Customs Enforcement ("ICE") authorizing the Nassau County Police Department the power under § 1357(a)(2) to arrest noncitizens without a warrant. *See* 8 U.S.C. 1357(g)(1) (authorizing ICE to enter into written agreements with state agencies to investigate, apprehend, and detain noncitizens).

5. Nassau County Police Department has a "task force" agreement with ICE. This model had previously been discontinued under President Barack Obama following a number of documented civil rights abuses, including racial profiling, associated with the "task force" model. *See* Simon McCormack, "What are 287(g) Agreements and How Do They Fuel Trump's Mass Deportations?"[2] NYCLU (February 4, 2026).

6. In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception. *U.S. v. Salerno*, 481 U.S. 739, 755 (1987).

7. For over a century, noncitizens whose presence in this country is unlawful have been recognized as "persons" guaranteed Due Process by the 5th Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001), *Plyer v. Doe*, 457 U.S. 202, 209 (1982), *Matthews v. Diaz*, 426 U.S. 67, 77 (1956), *and Yick Wo v. Hopkins*, 118 U.S. 356, 368 (1886).

8. In the United States Code, Title 8, four distinct clauses authorize detention of noncitizens during removal proceedings. *See generally* 8 U.S.C. §§ 1225, 1226.

---

[1] *See* Rebecca C. Lewis, "Nassau enters controversial 'task force' agreement with ICE," City and State (March 17, 2025), https://www.cityandstateny.com/policy/2025/03/nassau-enters-controversial-task-force-agreement-ice/403817/.

[2] https://www.nyclu.org/commentary/what-are-287g-agreements-and-how-do-they-fuel-trumps-mass-deportations#:~:text=The%20287%20%28g%29%20task%20force%20model%20was%20discontinued,notoriously%20by%20Maricopa%20County%2C%20Ariz.%20Sheriff%20Joe%20Arpaio.

9. Three of these clauses incorporate the verb "shall" *mandating* detention of the categories of the noncitizens described. *See* 8 U.S.C. §§ 1225(b)(1)(B)(IV), 1225(b)(2)(A), 1226(c)(1).

10. On the contrary, one clause incorporates "may" indicating judicial discretion, availability of bond hearings, and release on bond or parole. *See* 8 U.S.C. § 1226(a). ("[P]ending [a decision whether or not to remove a noncitizen from the United States], the Attorney general *may* continue to detain the arrested [noncitizen]; and *may* release the [noncitizen] on bond...or conditional parole") (emphasis added).

11. For the past three decades, 8 U.S.C. § 1226(a) has applied to noncriminal noncitizens that have been present in the United States for over two years without admission or parole. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260-1 (W.D. Wash. 2025) (discussing legislative history and longstanding agency practice behind 8 U.S.C. § 1226(a)) *quoting* H.R. Rep. No. 104-469, pt. 1, at 229 *and* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997); *see also* 8 U.S.C. § 1225(b)(1)(B)(iii)(II) (noncitizens who have not been admitted or paroled and have not been physically present in the United States for two years are subject to mandatory detention).

12. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued a decision entitled *Matter of Yajure Hurtado.* In that decision, the BIA concluded any noncitizen present in the United States who has not been admitted or paroled, is subject to detention under 8 U.S.C. § 1225(b) and may not be released from ICE custody except through humanitarian parole. *See Yajure Hurtado*, 29 I&N Dec. 216, 219-220 (BIA 2025) *quoting* 8 U.S.C § 1225(b)(2)(A).

13. In 2025 alone, over 350 cases decided by more than 160 different District Court judges across the United States have concluded this position from *Yajure Hurtado* is incorrect. *See Barco Mercado v. Francis*, No. 25-CV-6582 (LAK, 2025 WL 3295903 (S.D.N.Y. Nov. 26, 2025).
14. The BIA's decision in *Yajure Hurtado* disregards basic tenets of statutory construction, legislative history, government practice, and Supreme Court precedent.
15. The BIA's decision in *Yajure Hurtado* violates constitutional law.
16. Petitioner's arrest constitutes a violation of the 4th Amendment prohibition against unlawful seizures.
17. Petitioner's detention constitutes a deprivation of his right to Due Process under the 5th Amendment.
18. Courts have broad discretion in conditioning a judgment for Habeas Corpus relief. *See* 28 U.S.C. § 2243 ("The court shall summarily hear and determine the facts, and dispose of [the application for a Writ of Habeas Corpus] as law and justice require").
19. Therefore, as law and justice require, the Court should order Petitioner's release pursuant to the Court's broad discretionary under 28 U.S.C. § 2243.

STATEMENT OF FACTS

20. Petitioner Octavio Aparicio Santiago ([redacted]) is male, native and citizen of Mexico.
21. On or about 2007, Petitioner entered the United States. Petitioner entered without inspection across the Mexico-United States border. Petitioner has resided in the United States ever since.

22. On February 26, 2026, Petitioner was pulled over by the Nassau County Police Department and subsequently arrested as a noncitizen present in the United States without status.

23. Upon information and belief, Petitioner was not breaking any New York State Penal Law when pulled over the Nassau County Police Department on February 26, 2026.

24. Nassau County Police Department contacted ICE to inform the agency that they had arrested a noncitizen.

25. Petitioner was subsequently detained by ICE and transferred to Metropolitan Detention Center in Brooklyn.

26. Petitioner was placed into removal proceedings. Upon information and belief, Petitioner's next hearing in his removal proceedings is on March 24, 2026 at 9:30 AM in front of immigration judge Dara Reid.

27. Petitioner is currently detained in the New York City Holding room in Metropolitan Detention Center at 80 29th St., Brooklyn, NY 11232.

28. Upon information and belief, Petitioner has no criminal record in the United States or any other country.

PARTIES

29. Petitioner Octavio Aparicio Santiago ([redacted]) is a noncitizen from Mexico who is currently detained by ICE. Upon information and belief, Petitioner is currently detained in Metropolitan Detention Center at 80 29th St., Brooklyn, NY 11232.

30. Defendant Raul Maldonado is the Warden of Metropolitan Detention Center of Immigration and Customs Enforcement. He is being sued in his official capacity. He is Petitioner's immediate custodian

31. Defendant Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. He is being sued in his official capacity. He is Petitioner's legal custodian.

32. Defendant Pamela J. Bondi is the United States Attorney General. She is being sued in her official capacity. She oversees Immigration Judges and the Board of Immigration Appeals. She is Petitioner's legal custodian.

JURISDICTION

33. Officials and agencies of the United States have been named as defendants. The Court has personal jurisdiction over the defendants under 28 U.S.C. § 1346(a)(2).

34. The Court has subject matter jurisdiction to hear Petitioner's request for relief under 28 U.S.C. § 2241 and Article I, § 9 cl. 2 of the United States Constitution.

35. 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.*, and the All Writs Act, 28 U.S.C § 1651.

VENUE

36. Venue is proper in the Eastern District of New York because, upon information and belief, Petitioner is confined in this district in Metropolitan Detention Center at 80 29th St., Brooklyn, NY 11232. 28 U.S.C. § 1391(b)(2); *see Rumsfield v. Padilla*, 542 U.S. 426, 442 (2004) (the Writ of Habeas Corpus is "issuable only in the district of confinement.")

REQUIREMENTS OF 28 U.S.C § 2243

37. The Writ of Habeas Corpus provides a "swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963)

38. The Court must grant this Petition for Writ of Habeas Corpus or issue and Order to Show Cause ("OSC") to the Respondents "forthwith," unless the Petitioner is not entitled to

relief. 28 U.S.C. § 2243. If an order to show cause 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.*

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fourth Amendment
(Unreasonable Seizure)

1. The allegations in paragraphs 1 through 38 are realleged and incorporated herein.
2. The Nassau County Police Department's "task force" agreement with ICE under 8 U.S.C. § 1357(g)(1) is unreasonable and excessive.
3. Petitioner was pulled over by the Nassau County Police Department on February 26, 2026 without reasonable suspicion that he was breaking any New York criminal law.
4. Petitioner's arrest by the Nassau County Police Department is a violation of the 4th Amendment.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
(Procedural Due Process)

1. The allegations in paragraphs 1 through 38 are realleged and incorporated herein.
2. Procedural Due Process guarantees fair process. *See U.S. v. Salerno*, 481 U.S. 739, 746 (1987); *see also Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) (articulating factors).
3. Petitioner is being deprived of his right to liberty, the risk of deprivation is high, and there would be great value in additional procedural safeguards.
4. The Government has little interest in Petitioner's continued detention.
5. Continued detention of Petitioner is a violation of Procedural Due Process.

COUNT THREE
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

1. The allegations in paragraph 1 through 39 are realleged and incorporated herein.
2. The Due Process Clause covers a substantive sphere "barring certain government actions regardless of the fairness of the procedures used to implement them." *See Matzell v. Annucci*, 64 F.4th 425, 436 (2d Cir. 2023)
3. ICE's decision to detain Petitioner is so arbitrary that it constitutes a gross abuse of government authority.
4. Even in the presence of procedural protections, the government's actions are without justification. *See Southerland v. City of New York*, 680 F.3d 127, 152 (2d Cir. 2012)
5. Continued detention of Petitioner is a violation of Substantive Due Process.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner shall not be transferred out of New York;

(3) Declare that Petitioner's detention is unlawful;

(4) Issue an Order to Show Cause ordering Defendants to show cause why this Petition should not be granted within three days;

(5) Order Petitioner's release pursuant to the Court's broad discretionary under 28 U.S.C. § 2243;

(6) In the alternative, hold a bail hearing and order Petitioner's release through the Court's inherent authority under *Mapp v. Reno*, pending adjudication of this Petition;

(7) Award attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law;

(8) Order any further relief this Court deems just and proper.

Respectfully submitted this 10th Day of March, 2026.

Respectfully submitted,
EDWARD J. CUCCIA, PC

/s/ Edward J. Cuccia

Edward J. Cuccia, Esq.
195 Centre Street, 2nd Floor
New York, NY 10013
212-966-7775
Edward@nycclawfirm.com

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

OCTAVIO APARICIO SANTIAGO, Petitioner(s) v. RAUL MALDONADO, Warden, Metropolitan Detention Center; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; and PAMELA BONDI, U.S. Attorney General; Respondents(s).	Case No. 1:26-cv-1379

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

I represent Petitioner and submit this verification on their 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 10th day of March, 2026.

/s/ Edward J. Cuccia
Edward J. Cuccia, Esq.
195 Centre Street, 2nd Floor
New York, NY 10013
212-966-7775
Edward@nycclawfirm.com