

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

JUNIOR JOSE PUERTA VASQUEZ,

Petitioner,

v.

WARDEN of Folkston Ice Processing
Center;

KRISTIN SULLIVAN, Acting Director,
Immigration and Customs Enforcement
and Removal Operations (“ICE/ERO”)
Field Office, Atlanta;

KRISTI NOEM, Secretary of the
Department of Homeland Security (“DHS”);
and PAMELA BONDI, Attorney General
of the United States, in their official
capacities,

Respondents.

Case No. CV 526-345

**VERIFIED PETITION FOR
WRIT OF HABEAS
CORPUS**

INTRODUCTION

1. Petitioner Junior Jose Puerta Vasquez, a citizen of Venezuela, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge the legality of his detention by Immigration and Customs Enforcement (“ICE”), a

component of the U.S. Department of Homeland Security (“DHS”). He is currently detained at the Folkston ICE Processing Center in Georgia, and has been detained in ICE custody since on or about February 5, 2026.

2. Petitioner’s continued detention is unlawful because it rests on a constitutionally deficient bond proceeding that was not full and fair, ignored critical evidence, and resulted in an arbitrary finding of flight risk unsupported by the record.

3. Specifically, the Immigration Judge (“IJ”) relied on unsupported and speculative findings to deny Petitioner bond based on alleged flight risk. *See Ex. 1, February 26, 2026 IJ Bond Denial*. The IJ also failed to consider alternatives to detention, applied the wrong legal burden, and ignored critical evidence. Thus, Petitioner’s bond hearing was so fundamentally unfair that it cannot serve as a lawful predicate for continued detention. Petitioner’s continued detention without a constitutionally sufficient bond hearing determination violates due process.

4. Further, the IJ’s bond order was so irrational and unsupported that it constitutes arbitrary detention in violation of Due Process as well as the Administrative Procedure Act (“APA”).

5. Any appeal to the Board of Immigration Appeals (“BIA”) is futile. Petitioner has appealed the IJ’s bond decision, which remains pending, but such appeal will be futile and take months of further unlawful detention. Any remedy

the BIA can provide months from now will not remedy the current harm of unlawful detention.

6. Petitioner seeks an order from this Court requiring immediate release, or in the alternative, a new and constitutionally sufficient bond hearing.

7. To the extent this Court orders a bond hearing rather than release, Petitioner seeks that this Court's order include the following safeguards:

(1) Make explicit that Respondents bear the burden to show flight risk or danger to society. *See, e.g., J.G. v. Warden, Irwin County Detention Center*, 501 F. Supp. 3d 1331, 1335 (M.D. Ga. 2020) (finding that the Government “must bear the burden of proof to justify a noncitizen's detention pending removal proceedings”); and

(2) Order Respondents to give a status report to this Court within three (3) days of any ordered bond hearing, stating whether Petitioner has been granted bond, and, if his request for bond was denied, the reasons for that denial, to certify compliance with this Opinion.

JURISDICTION AND VENUE

8. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq.*

9. 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).

10. 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.

11. “A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may, . . . be brought in any judicial district in which a defendant in the action resides . . . *See* 28 U.S.C. § 1391(e).

12. The Supreme Court articulated in *Rumsfeld v. Padilla* the standard for determining if a court has jurisdiction to consider a habeas corpus petition, which breaks down into two subquestions— (1) who is the proper respondent to the petition, and (2) does the Court have jurisdiction over that respondent. *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004).

13. Under *Padilla*, the “immediate custodian” of the detained petitioner is the proper respondent in such habeas actions, which is typically the warden of the facility in which the petitioner is being housed. *See id.* at 443 (“The plain language of the habeas statute thus confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.”)

14. Here, under *Padilla*, the immediate custodian of the Petitioner, and thus the proper Respondent, is the Warden of the ICE Processing Center in Folkston, Georgia. *See id.* Because this Court has jurisdiction over actions arising in Folkston, Georgia, the venue is proper in this case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. Petitioner has exhausted his administrative remedies to the extent required by law. There is no statutory exhaustion requirement in 28 U.S.C. § 2241. However, “that does not mean that courts may disregard a failure to exhaust and grant relief on the merits if the respondent properly asserts the defense.” *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). “To properly exhaust administrative remedies, a petitioner must comply with an agency’s deadlines and procedural rules.” *Straughter v. Warden, FCC Coleman - Low*, 699 F. Supp. 3d 1304, 1306 (M.D. Fla. 2023) (citing *Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (discussing the Prison Litigation Reform Act’s (PLRA) exhaustion requirement)). It is the Respondent’s burden to prove that the Petitioner has “failed to exhaust all available administrative remedies.” *Id.* at 1307.

16. However, in detention cases such as the Petitioner’s, appeals to the Board of Immigration Appeals (“BIA”) take several months or years. Thus, here, requiring the Petitioner to wait for the outcome of his appeal to the BIA to

prudentially exhaust is not efficient, would cause irreparable harm by continuing to deprive him of his liberty, and would be futile. *See McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992) *superseded by statute on other grounds as stated in Booth v. Churner*, 532 U.S. 731 (2001) (noting that traditional exceptions include where exhaustion would cause “undue prejudice to subsequent assertion of a court action” or “irreparable harm” to the petitioner, where there is “some doubt as to whether the agency was empowered to grant effective relief,” or where it would be futile because “the administrative body is shown to be biased or has otherwise predetermined the issue before it”) (internal quotation marks omitted).

17. Additionally, the BIA is the improper venue to adjudicate constitutional issues, as it lacks the authority to rule that Respondents’ actions violate the Constitution. Instead, constitutional claims are a matter for federal courts.

REQUIREMENTS OF 28 U.S.C. § 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 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.* (emphasis added).

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) (emphasis added).

PARTIES

20. Petitioner is a noncitizen who is currently detained at the Folkston ICE Processing Center. He is in the custody, and under the direct control, of Respondents and their agents.

21. Respondent Warden of the Folkston ICE Processing Center is sued in their official capacity. Respondent Warden is the immediate custodian of the Petitioner.

22. Respondent Kristin Sullivan is sued in her official capacity as the Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Atlanta Field Office. Respondent Sullivan is a legal custodian of Petitioner and has authority to release him.

23. Respondent Kristi Noem is sued in her official capacity as the Secretary of the DHS. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and

oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

24. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the EOIR, which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

25. Petitioner entered the U.S. on or about December 12, 2020 as a B-2 visa holder with authorization to remain in the U.S. until June 21, 2021. Ex. 2, Notice to Appear ("NTA").

26. Petitioner overstayed his visa and lived and worked in the U.S. without incident until ICE took him into custody on or about February 2026, and DHS shortly thereafter issued him a Notice to Appear. *See id.* The NTA charged Petitioner as removable under § 237 (a)(1)(B) of the INA, because he "remained in the United States for a time longer than permitted." *Id.*

27. The Petitioner sought a bond redetermination before an Immigration Judge ("IJ") on this basis. *See Ex. 3, Petitioner's Bond Request.*

28. The bond evidence submitted by Petitioner showing he was not a flight risk included: (1) a bond sponsor letter, (2) his U.S. citizen minor child's birth certificate, (3) a psychological report showing that his U.S. citizen minor child has autism and is nonverbal, (3) his marriage certificate, (4) proof of his long-time residence in Florida, (5) his tax returns, and (6) medical documentation showing his medication list and various diagnoses. Ex. 4, Bond Evidence I. Later evidence filed included Petitioner's receipt notice for his pending Form I-589 with the United States Citizenship and Immigration Services ("USCIS"). *See* Ex. 5, Bond Evidence II.

29. On February 26, 2026, the IJ held a bond hearing. *See* Ex. 1, February 26, 2026 IJ Bond Denial. The IJ found that the evidence did not demonstrate that Respondent was a danger to society, but found that the Respondent was a flight risk. *See id.* Specifically, the IJ found that "Respondent's presence in the United States has been relatively brief, only since December 2020; Respondent's family ties are limited, including a spouse who does not have status and is also in removal proceedings and a United States citizen child." *Id.* The IJ also noted that the Petitioner's sponsor was a "United States citizen friend" and that he had "not filed an independent application for relief at this time and is only a derivative applicant on his wife's I-589." *Id.* The IJ further found that the Petitioner had "significant incentive to abscond to avoid apprehension, detention, and removal based on the

possibility that he will become subject to an administratively final order of removal.” *Id.*

30. Petitioner appealed this bond denial to the BIA. *See* Ex. 6, Pending BIA Appeal.

31. However, Petitioner remains detained unlawfully at the Folkston ICE Processing Center in Georgia with significant medical issues.

LEGAL FRAMEWORK

32. U.S.C. § 2241(c)(3) authorizes federal courts to grant habeas relief to prisoners or detainees who are “in custody in violation of the Constitution or laws or treaties of the United States.” Federal courts retain jurisdiction under § 2241 to review purely legal statutory and constitutional claims regarding the government's detention authority, but jurisdiction does not extend to “discretionary judgment,” “action,” or “decision” by the Attorney General with respect to either detention or removal. *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (citing, *inter alia*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003)).

33. Petitioner asserts that (1) his Fifth Amendment right to due process of law was violated because his detention rests on a constitutionally deficient bond proceeding that was not full and fair, ignored critical evidence, applied the wrong legal burden, and resulted in an arbitrary finding of flight risk unsupported by the

record; and (2) the IJ's bond order was so irrational and unsupported that it constitutes arbitrary detention in violation of Due Process as well as the Administrative Procedure Act ("APA").

A. Due Process

34. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

35. To guarantee against arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

36. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. 510, 522, 528 (2003).

37. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

38. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

39. First, incarceration deprives noncitizens of a “profound” liberty interest—one that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091- 92; *see also Foucha*, 504 U.S. at 80 (“It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” (citation omitted)).

40. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination proceedings because “numerous factors combine to magnify the risk of erroneous factfinding” including that “parents subject to termination proceedings are often poor, uneducated, or members of minority groups” and “[t]he State’s attorney usually will be expert on the issues contested”). Moreover, Respondents detain noncitizens

in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.

41. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention.

42. In light of these considerations, “[t]he overwhelming majority of courts to consider the question . . . have concluded that imposing a clear and convincing standard would be most consistent with due process.” *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).

43. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a

99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). It follows that alternatives to detention must be considered in determining whether further incarceration is warranted.

44. Immigration detainees face severe hardships while incarcerated.

Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: “the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); accord *Chavez-Alvarez v. U.S. Att’y Gen.*, 783 F.3d 478 (3d Cir. 2015); *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1218, 1221 (11th Cir. 2016). “And in some cases[,] the conditions of their confinement are inappropriately poor.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

45. These conditions and obstacles only further underscore the serious due process concerns that immigration detention poses for noncitizens like the

Petitioner and reflect the need for a decision before a neutral decisionmaker regarding further detention.

B. APA

46. 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).

47. 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)).

CLAIMS FOR RELIEF

COUNT ONE

Respondents Violated Petitioner’s Fifth Amendment Right to Due Process
Procedural and Substantive Due Process

48. The allegations in the above paragraphs are realleged and incorporated herein.

49. 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.

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

51. Where detention has been found unlawful, habeas relief must be effective, not merely formal. A bare order for a bond hearing does not necessarily cure a constitutional violation where the adjudicator retains unbounded authority to deny release without meaningful engagement with individualized flight risk or danger.

52. In such circumstances, District Courts have the authority to order release or in the alternative, a bond hearing with appropriate safeguards in place. *See, e.g., Ex. 7, Soto-Medina v. Lynch et al.*, No. 1:25-cv-01704-JMB-MV, ECF No. 8 at 22 (W.D. Mich. Jan. 21, 2026) (ordering respondents “to provide Petitioner with an individualized bond hearing before an immigration judge, at which time the government will have the burden to demonstrate dangerousness or flight risk by clear and convincing evidence, or, in the alternative, immediately

release Petitioner from custody” as well as “to file a status report within six business days of the date of this Court’s Opinion and Judgment to certify compliance with this Opinion and the corresponding Judgment.”).

53. Here, Petitioner is entitled to due process protections under the Fifth Amendment of the U.S. Constitution. First, in his bond hearing, the IJ relied on unsupported and speculative findings and ignored relevant evidence in denying Petitioner bond based on alleged flight risk. *See Ex. 1, February 26, 2026 IJ Bond Denial*. The fact that Petitioner is a derivative on his wife’s Form I-589 has no bearing on whether he is a flight risk. Petitioner’s wife’s I-589 has a strong likelihood of being granted, in which case he would be granted asylee status just the same as his wife. *See Ex. 5, Bond Evidence II*. The IJ also completely failed to consider Petitioner’s serious medical conditions, including a brain disorder that causes numbness to the body. *See Ex. CITE*. The IJ also apparently failed to give any weight to Petitioner’s U.S. citizen child’s psychological evaluation. *See id.* The finding that Petitioner had “significant incentive to abscond” is absolutely unsupported by the record and rises to the level of arbitrary. *See id.*

54. Second, the IJ failed to consider alternatives to detention. Such consideration is mandatory, and the IJ gave no explanation as to why less restrictive means could not ensure Petitioner’s appearance in court. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

55. Finally, the IJ applied the wrong legal standard in placing the burden of proof on Petitioner to show why he is not a flight risk instead of placing such burden on the government. *See Singh*, 638 F.3d at 1203; *Mathews*, 424 U.S. at 335.

56. Thus, Petitioner's bond hearing was so fundamentally unfair that it cannot serve as a lawful predicate for continued detention. Petitioner's continued detention without a constitutionally sufficient bond hearing determination violates due process.

57. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. His interest in liberty and family unity is paramount, and the Government's interest in ensuring appearance can be served by far less restrictive means.

58. The Respondents have shown neither that the continued detention of petitioner following his initial detention is reasonably related to the original purpose nor that the *Mathews* tests are satisfied.

59. Accordingly, due process requires he be released immediately or, at minimum, afforded a new and constitutionally sufficient bond hearing.

COUNT TWO

**Respondents Violated 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*

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

61. 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).

62. Here, by denying Petitioner bond based on flight risk without considering evidence in his favor and improperly placing the burden on him to show lack of flight risk, Respondents have violated the APA.

63. The IJ’s bond findings were so irrational and unsupported that they were arbitrary, and thus, Petitioner’s continued detention violates the APA.

64. Thus, the Petitioner is entitled to immediate release or, at minimum, a new, constitutionally sufficient bond hearing.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
3. Declare that the Petitioner's detention violates the APA;
4. Issue a Writ of Habeas Corpus ordering Petitioner immediately released, or in the alternative, ordering Respondents to conduct a constitutionally sufficient bond hearing within seven (7) days, with the following safeguards in place:
 - a. Declare that Respondents bear the burden to show flight risk or danger to society; and
 - b. Order Respondents to give a status report to this Court within three (3) days showing compliance with this Court's Opinion.
5. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
6. Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Brittany S. Pierce

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Dated: March 19, 2026

PETITIONER'S EXHIBITS

- Ex. 1 -** February 26, 2026 IJ Bond Denial
- Ex. 2 -** Notice to Appear (“NTA”)
- Ex. 3 -** Petitioner’s Bond Request
- Ex. 4 -** Bond Evidence I
- Ex. 5 -** Bond Evidence II
- Ex. 6 -** Pending BIA Appeal
- Ex. 7 -** *Soto-Medina v. Lynch et al.*, No. 1:25-cv-01704-JMB-MV, ECF No. 8 at 22 (W.D. Mich. Jan. 21, 2026)

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

I represent Junior Jose Puerto Vasquez, 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 19th day of March, 2026.

/s/Brittany S. Pierce

Brittany S. Pierce