

4. Mr. Milian Morales petitions for a writ of habeas corpus to remedy his unlawful detention, and prays this Court will issue an order 1) declaring that the continued immigration detention of Mr. Milian Morales violates the Due Process Clause of the Fifth Amendment and the INA; 2) granting Mr. Milian Morales his immediate release from the custody of Respondents or, in the alternative, a bond hearing before an immigration judge under section 236(a) of the INA where the burden is on Respondents to establish flight risk and/or danger to the community; and 3) preventing Respondents from once again taking Mr. Milian Morales into custody unless he is determined to be a flight risk and/or a danger to the community.

JURISDICTION AND VENUE


5. Mr. Milian Morales is currently detained by ICE at 119 W Naylor Mill Road Suite 11, Salisbury, Maryland 21801 (the "Salisbury ICE Facility"), which is within the jurisdiction of the United States District Court for the District of Maryland.
6. This action arises under the Due Process Clause of the Fifth Amendment and the INA.
7. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 ("Habeas Corpus"), the Suspension Clause of the United States Constitution, 28 U.S.C. § 1346 (civil actions against the United States), 28 U.S.C. § 1651 ("All Writs Act"), and 28 U.S.C. §§ 2201-02 ("Declaratory Relief"), as Mr. Milian Morales is presently held in custody under or by color of the authority of the United States. His detention by Respondents is a "severe restraint" on his individual liberty "in violation of the...laws ... of the United States." *See Hensley v. Municipal Court, San Jose-Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973).
8. This Court has jurisdiction to hear Habeas Corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by U.S. immigration officials. *See, e.g., Jennings v. Rodriguez*, 138 S. Ct. 830,841 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687.
9. In addition to the habeas protections in the Constitution and INA, federal district courts have subject-matter jurisdiction under 28 U.S.C. § 1331 ("Federal Questions") to hear claims by individuals challenging the lawfulness of agency action.

10. Venue is proper because Mr. Milian Morales is currently detained within the State of Maryland. At 3:00 p.m. Eastern Daylight Time on March 20, 2026, undersigned counsel confirmed that Mr. Milian Morales is in the Salisbury ICE Facility and has been verified to be in ICE Custody. *See Ex. 1 hereto.*

PARTIES

11. Petitioner, Raymundo Milian Morales, is a citizen and national of Guatemala. He is currently detained by the Respondents at the Salisbury ICE Facility, which is within the jurisdiction of the District of Maryland, since March 20, 2026.
12. Respondent Pamela Bondi is the U.S. Attorney General, and in that capacity is responsible for the EOIR which includes the Board of Immigration Appeals and immigration courts. She is sued in her official capacity.
13. Respondent Kristi Noem is the Secretary of Homeland Security, and in that capacity is responsible for the Department of Homeland Security (“DHS”) and all sub-cabinet agencies of DHS, including ICE. She is sued in her official capacity.
14. Respondent Todd M. Lyons is the Acting Director of ICE, responsible for ICE’s detention and removal operations of non-citizens such as Petitioner, among all its other functions. He is sued in his official capacity.
15. Respondent Vernon Liggins is the Acting Field Office Director of the ICE Baltimore Field Office, and is responsible for ICE’s operations in the State of Maryland. Upon information and belief, he is the immediate custodian of Mr. Milian Morales. He is sued in his official capacity.

STATEMENT OF FACTS

16. Mr. Milian Morales, born in Guatemala on  last entered the United States on or about January 25, 2014. Mr. Milian Morales was detained by ICE Officials on March 8, 2020, on a warrant under section 236(a) of the INA in Salisbury, Maryland. *See Ex. 2 hereto.* Mr. Milian Morales was then placed in 8 U.S.C. section 1229(a) removal proceedings. *See Ex. 3 hereto.* Mr. Milian Morales was released from custody on a \$7,500 bond granted by an immigration judge on April 1, 2020. *See Ex. 4 hereto.* Mr. Milian Morales’ removal proceedings were dismissed on December 13, 2023, based on an exercise of prosecutorial discretion by DHS. *See Ex. 5 hereto.*

17. Mr. Milian Morales was never placed in expedited removal proceedings under section 235 of the INA, nor was he afforded a credible fear interview.
18. Mr. Milian Morales has continuously lived in the State of Maryland since 2014. Mr. Milian Morales is also gainfully employed. Mr. Milian Morales currently resides with his wife and their three children, one of whom is a United States Citizen.
19. Mr. Milian Morales was detained by ICE on March 20, 2026, in Salisbury, Maryland. Mr. Milian Morales was told that he would be detained without bond. He is still detained at the Salisbury ICE Facility as of 3:00 p.m. Eastern Daylight Time on March 20, 2026.
20. Mr. Milian Morales is being subjected to detention under either section 235(b)(1) or section 235(b)(2) of the INA. Respondents are presumably detaining Mr. Milian Morales under section 235(b)(2) of the INA as a result of the BIA's decision in *Matter of Yajure-Hurtado*, 29 I. & N. 216 (BIA 2025). *Matter of Yajure-Hurtado* deemed individuals such as Mr. Amaya Martinez as subject to mandatory detention under section 235 of the INA.
21. The BIA's interpretation of section 235(b)(2) of the INA in *Matter of Yajure-Hurtado* has been found by dozens of Federal courts across the country to be an unlawful interpretation of the INA. Mr. Milian Morales is unable to submit any evidence demonstrating that he is neither a flight risk nor a danger to the community to secure his release from custody by an immigration judge under the INA.

EXHAUSTION

22. The decision to detain Mr. Milian Morales is subject to challenge through a petition for a writ of habeas corpus, and Mr. Milian Morales need not exhaust additional administrative remedies which might be available to him before seeking this Court's review. *See e.g. McCarthy v. Madigan*, 503 U.S. 140, 147-48 (1992) ("[A]n administrative remedy may be inadequate [because] ... an agency, as a preliminary matter, may be unable to consider whether to grant relief because it lacks institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute" or "where the administrative body ... has otherwise pre-determined the issue before it."); *Janvier v. INS*, 174 F. Supp. 2d 430, 434 (E.D. Va. 2001) (noting that "§ 2241 is silent on exhaustion.").

23. Moreover, further exhaustion would be futile because Mr. Milian Morales will be pursuing a remedy to no avail. *See Janvier*, 174 F. Supp. 2d at 434 (recognizing that exhaustion is not necessary "where the pertinent administrative agency lacks the competence to reach a definitive resolution of the particular issue presented[.]" such as "where, as here, the administrative agency may consider constitutional claims, but lacks authority to rule dispositively on those claims, because "the final say on constitutional matters rests with the courts."). In particular, under new BIA precedent, Mr. Milian Morales is no longer considered eligible for the bond and Respondents have exercised their authority to prevent any immigration judge from granting bond.
24. The detention of Mr. Milian Morales by ICE without the ability to challenge his detention is unconstitutional, and administrative exhaustion is excused. *See Guitard v. U.S. Sec'y of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when ...a plaintiff has raised a substantial constitutional question.").

CLAIMS FOR RELIEF

COUNT ONE

Mr. Milian Morales's Detention Violates His Right to Substantive Due Process Under the Fifth Amendment

25. Petitioner re-alleges and incorporates by reference the paragraphs above.
26. As a "person" within the meaning of the Fifth Amendment, Mr. Milian Morales is entitled to due process of law while in the United States, and certainly while in immigration custody. U.S. CONST. amend. V; *see Reno v. Flores*, 507 U.S. 292, 306 (1993) ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.").
27. The Substantive Due Process Clause protects a person's freedom from arbitrary confinement. *See Zadvydas*, 533 U.S. at 693. The Supreme Court has recognized this protection applies regardless of a person's immigration status. *See id.*; *see also Mathews v. Diaz*, 426 U.S. 67, 77 (1976).
28. Civil detention, such as immigration detention, must be carefully limited to avoid due process concerns. *See e.g., Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("Freedom

from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action"); *Addington v. Texas*, 441 U.S. 418, 425 (1979) ("This Court repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection"); *see also United States v. Salerno*, 481 U.S. 739, 755 (1987) ("In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception").

29. The Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and prevent flight. *See Demore*, 538 U.S. at 528; *see also Matter of Patel*, 15 I. & N. Dec. 666 (BIA 1976) ("An alien generally is not and should not be detained or required to post bond except on a finding that he is a threat to the national security, or that he is a poor bail risk[.]" (internal citation omitted)). Additionally, a period of detention must "bear [a] reasonable relation to the purpose for which the individual was committed." *See Demore*, 538 U.S. at 516–17.
30. Mr. Milian Morales is being denied substantive due process as the Respondents continue to exercise their authority contrary to law in order to prevent Mr. Milian Morales from seeking release under the INA before an Immigration Judge. The EOIR, through the BIA, took the position in *Matter of Yajure-Hurtado* that an individual such as Mr. Milian Morales, over twelve years after his last entry to the United States, is subject to the mandatory detention provisions of section 235 of the INA.
31. Under section 236(a) of the INA, an immigration judge would be able to consider any relevant evidence submitted by Mr. Milian Morales demonstrating that he was not a flight risk or a danger to the community. The immigration judge would evaluate this evidence and determine, as a neutral fact-finder, whether Mr. Milian Morales was in fact a flight risk or a danger to the community. The Respondents have made applications for bond by Mr. Milian Morales under section 236(a) of the INA futile by applying *Matter of Yajure-Hurtado* to cases with the same facts and circumstances as Mr. Milian Morales.

32. But for *Matter of Yajure-Hurtado*, Mr. Milian Morales would have the ability to demonstrate to a neutral fact-finder that he is not a flight risk as he has ample ties to the community through his family and employment. He would also have been able to demonstrate that he was not a danger to the community. No justification exists to deprive Mr. Milian Morales of his ability to present evidence to secure his liberty.

COUNT TWO

Mr. Milian Morales's Detention Violates His Right to Procedural Due Process Under the Fifth Amendment

33. Petitioner re-alleges and incorporates by reference the paragraphs above.
34. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty" that the Fifth Amendment's Due Process Clause protects. *See Zadvydas*, 533 U.S. at 690.
35. To that end, due process demands "adequate procedural protections" to ensure that the Government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (internal quotation marks omitted).
36. Given the gravity of the liberty deprivation when the government preventively detains individuals, due process requires the jailers bear the burden of proof. *See e.g., Salerno*, 481 U.S. at 751 (affirming legality of pre-trial detention where burden of proof was on the government); *see also Foucha*, 504 U.S. at 81-82 (holding unconstitutional a state "statute that place[d] the burden on the detainee to prove that he is not dangerous"). The Court has held that it is improper to ask an "individual to share equally with society the risk of error when the possible injury to the individual-deprivation of liberty-is so significant." *See Addington*, 441 U.S. at 427.
37. In *Mathews v. Eldridge*, the Supreme Court set forth the factors to consider in determining if government action deprives an individual's Fifth Amendment right to procedural due process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976). The *Mathews* factors apply here to determine if Petitioner's procedural due process rights as a civil detainee have been violated by the Government's continued custodial detention.

38. Mr. Milian Morales has a substantial liberty interest in his bodily freedom to avail himself of the applicable laws of the United States.
39. Mr. Milian Morales was not provided any process at all in the course of his arrest, processing, and detention by ICE through notice and an opportunity to respond that would reduce the risk of an erroneous deprivation of his interests. ICE deprived Mr. Milian Morales of adequate procedural protection in his substantial interest with respect to his liberty by taking him into custody with no regard to its own long-established practices, procedures and applicable regulations.

COUNT THREE

Mr. Milian Morales' Detention by ICE is in Violation of the INA

40. Section 235 of the INA authorizes the mandatory detention of “arriving aliens” and those noncitizens who cannot demonstrate they have “been physically present in the United States continuously for the 2-year period immediately prior[.]” 8 U.S.C. § 235(b)(1)(A)(iii)(II).
41. As noted above, Mr. Milian Morales has lived in the United States for over twelve years. Mr. Milian Morales had lived in the United States for over six years prior to his first detention by ICE officials and has lived in the United States for an additional six years since. Mr. Milian Morales was never processed as an arriving alien or placed in expedited removal proceedings under section 235 of the INA. Applying section 235 of the INA to Mr. Milian Morales over twelve years after his entry is contrary to the INA.
42. Respondents claim that Mr. Milian Morales is subject to mandatory detention under section 235 of the INA and is not eligible for bond under section 236(a) of the INA despite his presence in the United States for over twelve years and his initial detention and release under section 236(a) of the INA. Dozens of Federal courts have found this legal interpretation by DHS in cases similar to Petitioner’s case erroneous.

PRAYER FOR RELIEF

Based on the foregoing, Mr. Milian Morales requests that this Court:

- a. Assume jurisdiction over the matter;
- b. Declare that the continued immigration detention of Mr. Milian Morales violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA;
- c. Issue a writ of habeas corpus ordering Respondents to immediately release Mr. Milian Morales from their custody, or in the alternative, the right to a bond hearing before an immigration judge under section 236(a) of the INA where the burden is on Respondents to establish flight risk and/or danger to the community;
- d. Issue an order preventing Respondents from once again taking Mr. Milian Morales into custody unless he is determined to be a flight risk and/or a danger to the community in accordance with the U.S. Constitution and applicable law;
- e. Award Mr. Milian Morales all costs incurred in maintaining this action; and
- f. Grant any other and further relief this Court deems just and proper.

Dated: March 20, 2026

Respectfully Submitted,

/s/ Luis Carlos Diaz

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

I represent Petitioner, Raymundo Milian Morales, 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: March 20, 2026

Respectfully Submitted,

/s/ Luis Carlos Diaz

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