

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

JACQUES LUMA,

Petitioner

Case No. 1:26-cv-01965

-against-

**PETITION FOR A WRIT OF
HABEAS CORPUS**

MARKWAYNE MULLIN, in his official capacity as
Secretary of the U.S. Department of Homeland Security;
(DHS), TODD LYONS in his official capacity as Acting
Director of US Immigration and Customs Enforcement;
KENNETH GENALO in his official capacity as Field
Office Director of New York Immigration and Customs
Enforcement and Removal Operations (ICE/ERO);
PAMELA BONDI, in her official capacity as
US Attorney General; RAUL MALDONADO JR.,
in his official capacity as Warden of the
Metropolitan Detention Center

Respondents.

INTRODUCTION

1. Petitioner, Jacques Luma, a Haitian national hereby seeks a writ of habeas corpus releasing him immediately from detention, or in the alternative, directing that he be provided with a bond hearing before an Immigration Judge forthwith.
2. Petitioner is a citizen of Haiti, who has been physically present in the U.S. since 2024, when he was paroled into the United States as a beneficiary of the Haitian Humanitarian Parole (HHP). Petitioner then applied for asylum, before the U.S. Immigration authorities on December 21st, 2025; wherein he received a notice for biometrics and fingerprints capture scheduled for February 4th, 2026.
3. Upon information and belief, the Petitioner was arrested on February 4th, 2026, at the USCIS Brooklyn Application Support Center and was detained by the Respondents without reason and has since remained in their custody. Petitioner was served with a

Notice to Appear in removal proceedings on February 4th, 2026, and was initially transferred to Delaney Hall Detention Center before he was transferred to Metropolitan Detention Center, Brooklyn where he remains till present.

4. Petitioner is a beneficiary of a pending Application for Temporary Protected Status but was detained by Respondents without making any finding that he is a flight risk or a danger to the community.
5. Petitioner has since retained legal counsel and filed an application for Asylum, Withholding of Removal and Convention against Torture before the EOIR Immigration Courts since February 26th, 2026.
6. The Notice to Appear dated February 4th, 2026, that Petitioner was served with stated that Petitioner has been admitted to the United States, and he therefore filed a request for a custody determination hearing on February 26th, 2026, since he will be eligible for Bond pursuant to Section 236 (a)(2)(A) of the Immigration and Nationality Act (INA)
7. Unfortunately, Respondents on March 5th, 2026, filed a Form I-261 Additional Charges of Inadmissibility/Deportability wherein the Petitioner's charges were changed to the fact that he is an arriving alien, thereby denying the Immigration Judge of jurisdiction on the basis that Petitioner is an arriving alien at the Bond Proceedings on March 6th, 2026.
8. Petitioner has therefore been subject to detention ever since his request for Bond was denied with no other available form of relief before the EOIR Immigration Court. The continued detention of Petitioner without bond has caused and will continue to cause extreme and irreparable hardship to him and his family, and it violates the INA, controlling federal court precedent and Petitioner's due process rights under the U.S. Constitution.
9. Petitioner now has no choice but to bring this Petition for a writ of habeas corpus, seeking

immediate release from custody or a bond hearing in the alternative. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law, and to immediately issue an order releasing him from custody or issuing a bond hearing before the Immigration Court.

JURIDICTION

10. This action arises under the U.S. Constitution and the Immigration and Nationality Act, at 8 U.S.C. §1101 et seq.
11. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), U.S.C. §703, 28 U.S.C., 28 U.S.C. § 1331 (federal question), and Article I, § 9, Clause 2 of the United States Constitution (Suspension Clause).
12. 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).
13. Petitioner is in custody under color of the authority of the U.S., in violation of the constitution and laws of the U.S.

VENUE

14. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391(e), because Petitioner is physically detained at MDC, Brooklyn in this District and Respondents' principal place of business is in this district. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).
15. For these same reasons, divisional venue is proper under Local Rule 3-2.

PARTIES

16. Petitioner, Jacques Luma is a citizen of Haiti, who has resided continually in the U.S. since 2024. He was arrested on February 4th, 2026, and is currently in the physical custody of Respondents, New York City ICE Field Office.
17. Respondent Markwayne Mullin is Secretary of the Department of Homeland Security of the United States, an agency of the US government, responsible for administration and enforcement of the nations' immigration laws, including the apprehension and detention of non-citizens, including Petitioner.
18. Respondent Todd Lyons is the acting director of US Immigration Customs Enforcement, the agency responsible for Petitioner's detention, and he has authority over the actions of respondent Kenneth Genalo and ICE in general. Respondent Lyons is a legal custodian of Petitioner.
19. Respondent Kenneth Genalo is the director of the New York City ICE Field Office. 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.
20. Respondent, Raul Maldonado Jr. is the warden of the Metropolitan Detention Center. He is Petitioner's immediate custodian.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

21. Mr. Luma has no other administrative remedies to exhaust. On February 19th, 2026, and February 26th, 2026, Respondent filed a bond request before New York Immigration Courts which were both denied on the basis that the Immigration Judge had no jurisdiction since Respondent is an arriving alien.

22. Further, although there are no exhaustion requirements with regard to the claim of unlawful detention, exhaustion is only required when specifically mandated by Congress.
23. Detention of non-citizens can only occur in two discrete situations: pending a decision on whether they are to be removed, U.S.C. §§ 1225 and 1226, and after a final order of removal has been issued, 8 U.S.C. § 1231.
24. 8 U.S.C. § 1225(a) provides that “An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival...) shall be deemed for purposes of this chapter an applicant for admission.” § 1225(b)(2) provides that an applicant for admission who is “seeking admission” and “who is not clearly and beyond a doubt entitled to be admitted shall be detained for a [removal] proceeding.” There is thus no provision for a re- determination of custody for a person detained under § 1225(b)(2).
25. 8 U.S.C. § 1225(a) provides that “On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States”, and that pending such decision they may be released on a bond or a conditional parole (*id.*, § 1226(a)(1) and (2)).
26. For non-citizens detained under § 1226(a), the arresting immigration officer has discretion to release them upon a showing that they are not a danger to others or a flight risk, 8 C.F.R. § 1236.1(c)(8). If the immigration officer does not order release, the non-citizen can seek review of that determination before an Immigration Judge, 8 C.F.R. § 1236.1(d)(1).
27. US immigration law (as well as Respondents) has long treated “seeking admission” as different from, and additional to, being an “applicant for admission” for purposes of § 1225(b)(2). “[B]eing an “applicant for admission” under section [1225(a)(1)] is distinguishable from “applying ... for admission to the United States”, *Matter of Y-N-P*, 26

I. & N. Dec. 10, 13 (BIA 2012). “Seeking admission” has generally referred to an application for admission made at a port of entry, rather than just the status of being in the US without having been inspected and admitted or paroled. In other words, while all non-citizens who are seeking admission are also applicants for admission, not all applicants for admission are seeking admission. For example, Petitioner herein has filed an application for asylum, which would allow him remain legally in the US, yet an application for asylum is not treated as an “application for admission”, see *Matter of V-X-*, 26 *I&N Dec. 147, 150 (BIA 2013)*, holding that although a grant of asylum conferred a lawful status, it did not entail an “admission.”.

28. U.S.C. § 1226(c), that “An alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States”, and that pending such decision they may be released on a bond or a conditional parole. Mandatory detention of applicants for admission is limited, under § 1225(b)(2), to those applicants for admission who are also “seeking admission”. It is also contrary to decisions of the US Supreme Court, decades of agency practice, including regulations and administrative decisions, and has been rejected by almost every district court judge – now over two hundred and eighty - to have considered the matter.

FACTS

29. Petitioner, Jacques Luma is a citizen of Haiti, who entered the U.S. since April 2024, when he was paroled into the United States as a beneficiary of the Haitian Humanitarian Parole (HHP). Petitioner was provided with Status to remain in the US and work legally until April 17th, 2026. Petitioner additionally applied for a Temporary Protected Status. Petitioner then applied for asylum, before the USCIS on December 21st, 2025; wherein he further received a notice for biometrics and fingerprints capture scheduled for February 4th, 2026.

30. Upon information and belief, the Petitioner was arrested on February 4th, 2026, at the USCIS Brooklyn Application Support Center and was detained by the Respondents without reason and has since remained in their custody without bond.
31. On February 4th, 2026, ICE issued a Notice to Appear charging Respondent with removability under 8 U.S.C. §1182(a)(7)(A)(i)(I), as an arriving alien. Petitioner requested that ICE release him on bond. ICE refused to set a bond and Petitioner filed a motion for bond determination with the U.S. Immigration Court in New York NY. The Immigration Judge (“IJ”) in New York NY refused to conduct a bond hearing, agreeing with ICE that the Immigration Judge had no jurisdiction to hear the bond proceedings for Petitioner due to his status as an arriving alien. Consequently, the IJ refused to conduct a bond hearing and Petitioner has since been unjustly detained with no available relief of bond before the Immigration Court.
32. Petitioner has never been arrested since he arrived in the US and his only contact with law enforcement since entering the US was the ICE detainment on February 4th 2026.
33. To the extent there is a statutory basis for Petitioner’s detention, it is 8 U.S.C. § 1225(b) (1) and (b) (2).
34. As a person detained under 8 U.S.C. § 1226(b), Petitioner was eligible to remain free from detention by showing the arresting immigration officer or Immigration and customs Enforcement that he is not a danger to others or a flight risk, 8 C.F.R. § 1236.1(c)(8). Petitioner was not given this opportunity. Petitioner was also further denied an opportunity to be heard for a custody redetermination hearing before an Immigration Judge on the basis that he was an arriving alien, after which he must be released unless the government can show that he is either a flight risk or a danger to the community.

CLAIMS FOR RELIEF

COUNT ONE

Substantive Due Process

35. The allegations contained in paragraphs 1 through 34 above are repeated and realleged as though fully set forth herein.
36. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. The Fifth Amendment's Due Process Clause protects all "persons" within the United States, regardless of immigration status. As the Supreme Court has made clear, "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent See *Zadvydas vs. Davis*, 533 U.S. 678, 693 (2001) at 693-94; *Velasco Lopez v. Decker* 978 F.3d 842 (2d Cir. 2020); *Lora v. Shanahan* 804 F.3d 601 (2d Cir. 2015) *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67 (1976); *Yamataya*, 189 U.S. 100-01; The Second Circuit has consistently reaffirmed that noncitizens are entitled to due process protections in the context of immigration detention. See *Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020).
37. The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be ... deprived of life, liberty or property, without due process of law." U.S. Const. amend. V. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary government action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. See *Zadvydas*, 533 U.S. at 690 ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem."); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10 (D.N.J. 1999) (holding that, in analyzing due

process in the immigration context, the first factor in the procedural due process analysis, “the petitioner’s private interest in his physical liberty, must be accorded the utmost weight”).

38. Petitioner’s continued detention without bond violates substantive due process by depriving him of his fundamental liberty interest in remaining free from detention. Government detention violates an individual’s fundamental liberty interest unless the detention is “narrowly tailored to serve a compelling government interest.” *Reno v. Flores*, 507 U.S. 292, 302 (1993); *Collins v. Harker Heights*, 503 U.S. 115, 125 (1992). Non-punitive detention must present a “special justification” that “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690. Petitioner’s continued detention by ICE, which is based on an erroneous interpretation of the INA, serves no compelling governmental interest.
39. Petitioner is not a flight risk or a danger to the community, and his appearance at any future court hearings can be ensured through imposition of a reasonable bond. The absence of any individualized determination of Petitioner’s eligibility to be released on bond is a violation of his substantive due process rights and the only remedy for this unconstitutional detention is release.
40. Under the Due Process Clause, a foreign national is entitled to be heard at a meaningful time and in a meaningful manner before a deprivation of liberty occurs. *Matthews v. Eldridge*, 424 U.S. 319, 334 (1976). The process that is due depends on the private interest affected by the official action, the risk of erroneous deprivation of that interest, the value of additional or substitute procedural safeguards, and the government’s interest, including fiscal and administrative burdens that additional or substitute procedural requirements would impose.

41. In Petitioner's case, procedural due process requires a custody hearing before an independent and impartial adjudicator. See *Morrissey v. Brewer*, 408 U.S. 471, 486-87 (1972); *Marcello v. Bonds*, 39 U.S. 302, 307 (1955);

COUNT TWO:

Respondents' classification of Petitioner as being subject to mandatory detention under 8 U.S.C. § 1225(b)(2) violates the Immigration and Nationality Act.

42. In *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025), the Court found that Petitioner has established that his detention violates his Fifth Amendment right to procedural due process. In the present case, Petitioner has lived in the United States for about two years (i.e., since April 2024) and is therefore entitled to an individualized, pre-detention bond hearing under the Immigration and Nationality Act, 8 U.S.C. § 1226(a). See *Hyppolite*, 2025 WL 2829511, at *12-16; see also, e.g., *Artiga v. Genalo*, No. 25 CV 5208 (OEM), 2025 WL 2829434, at *8 (E.D.N.Y. Oct. 5, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 498-99 (S.D.N.Y. Aug. 13, 2025); *Rodriguez v. Bostock*, No. 25 CV 05240 (TMC), 2025 WL 2782499, at *16-26 (W.D. Wash. Sep. 30, 2025); *Salcedo Aceros v. Kaiser*, No. 25 CV 06924 (EMC), 2025 WL 2637503, at *6-13 (N.D. Cal. Sep. 12, 2025); *Belsai D.S. v. Bondi*, No. 25 CV 3682, 2025 WL 2802947, at *5 (D. Minn. Oct. 1, 2025) (collecting cases).
43. Therefore, the mandatory detention provision of 8 U.S.C. § 1225(b)(2) relied upon by Respondents to justify the legality of Petitioner's detention is inapplicable here, because Petitioner is not "seeking admission" under Section 1225. He has been paroled into the US since April 2024 as a beneficiary of the Haitian Humanitarian Parole (HHP) program.
44. The private interest affected by the DHS's erroneous interpretation of the law is of the highest importance, namely, a fundamental liberty interest in being free from physical

restraint. Moreover, the risk of erroneous deprivation of liberty is great. Respondents' refusal to set a bond for Petitioner's release from detention or to provide a bond hearing before a neutral judge is arbitrary and capricious, is based on an erroneous interpretation of the law, and constitutes an abuse of discretion. In refusing to establish a bond amount and refusing to provide for a bond hearing before a neutral judge, Respondents have acted in violation of the INA and have violated Petitioner's procedural due process rights.

IRREPARABLE INJURY

45. Petitioner is suffering and will continue to suffer irreparable injury because of Respondents' actions. Every day that he is held in custody he suffers further injury, which is irreparable.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

46. Petitioner has exhausted his administrative remedies to the extent required by law, and the only remedy available to him is by way of this judicial action.

EQUAL ACCESS TO JUSTICE ACT

47. If he prevails, Petitioner will seek attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. §504 and 28 U.S.C. §2412.

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 outside the Eastern District of New York;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or, in the alternative, provide Petitioner with a bond hearing at which Respondents bear the

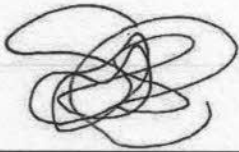
release on conditions the Court deems just and proper;

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

(6) Award Petitioner his reasonable litigation costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

(7) Grant any further relief this Court deems just and proper.

Respectfully submitted this 2nd day of April 2026



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