

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FRANCISCO ENRIQUE CORTEZ MARTINEZ

Petitioner 1

BRYAN FRANCISCO CORTEZ MARTINEZ

Petitioner 2

JOSE JHONATAN RIVAS REYES

Petitioner 3

RAFAEL ANTONIO MELGAR

Petitioner 4

Petitioners

v.

VERNON LIGGINS, Acting Field Office Director,
Baltimore Field Office, Immigration and Customs
Enforcement, in his official capacity,

TODD M. LYONS, Acting Director of U.S. Immigration
and Customs Enforcement, in his official capacity,

MARKWAYNE MULLIN, Secretary, U.S. Department
of Homeland Security, in his official capacity,

TODD BLANCHE, U.S. Acting Attorney General, in his
official capacity

Respondents

Case No. 1:26-cv-1410

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner #1:

1. ("Petitioner") **Francisco Enrique Cortez Martinez** (A# ) is a 32-year-old Salvadoran citizen with no criminal record. *See tab A.*
2. Petitioner has resided in the United States for the last eight years since he last entered the United States on or about 2018. The Petitioner was not apprehended by Custom and Border Patrol (CBP) or Immigration and Custom Enforcement (ICE) upon his last arrival.
3. The Petitioner is eligible for relief of Asylum, Withholding of Removal, and the Convention Against Torture before the Immigration Court. *See Tab A.*
4. Petitioner has 2 USC children awaiting for his return home. *See Tab A.*

Petitioner #2:

5. ("Petitioner") **Bryan Francisco Cortez Martinez** (A# ) is a 27-year-old Salvadoran citizen with no criminal record. *See Tab B.*
6. Petitioner has resided in the United States for the last four years since he last entered the United States on or about 2022. The petitioner was not apprehended by Custom and Border Patrol (CBP) or Immigration and Custom Enforcement (ICE) upon his last arrival.
7. The Petitioner is eligible for relief of Asylum, Withholding of Removal, and the Convention Against Torture before the Immigration Court.
8. Petitioner has a mother, father, and family members that are awaiting for his return home.

Petitioner #3:

9. ("Petitioner") **Jose Jhonatan Rivas Reyes** (A# ) is a 28-year-old Salvadorian citizen with no criminal record. *See Tab C.*

10. Petitioner has resided in the United States for the last five years since he last entered the United States on or about 2021. The petitioner was not apprehended by Custom and Border Patrol (CBP) or Immigration and Custom Enforcement (ICE) upon his last arrival.
11. The Petitioner has a pending Form I-589 of Asylum, Withholding of Removal, and the Convention Against Torture before the Immigration Court. Petitioner has a valid employment authorization document, social security card, and driver's license. *See Tab C.*
12. Petitioner has 1 USC children awaiting for his return home. *See Tab C.*

Petitioner #4:

13. ("Petitioner") **Rafael Antonio Melgar** (A ) is a 37-year-old Salvadorian citizen with no criminal conviction. *See Tab D.*
14. Petitioner has resided in the United States for the last nine years since he last entered the United States on or about 2017. The petitioner was not apprehended by Custom and Border Patrol (CBP) or Immigration and Custom Enforcement (ICE) upon his last arrival.
15. The Petitioner is eligible for relief of Asylum, Withholding of Removal, and the Convention Against Torture. Petitioner was on an order of supervision and is currently waiting for a credible fear interview. Petitioner has a valid Driver's license. *See Tab D.*
16. Petitioner has 1 USC children awaiting for his return home. *See Tab D.*

FACTS

17. On information and belief, Petitioners were unlawfully detained by Federal Immigration Agents on Thursday, April 09, 2026.
18. The Petitioners were working at a construction worksite when several ICE Federal Agents approached them on foot and arrested them immediately.

19. Petitioners were taken to the nearest ICE/ERO Field Office and are currently being held in Baltimore Hold Room located at 31 Hopkins Plaza 6th Floor, Baltimore, MD 21201.
20. Accordingly, to vindicate Petitioners' constitutional rights, this Court should grant the instant petition for a Writ of Habeas Corpus.
21. In order to vindicate Petitioners' constitutional, statutory and regulatory rights, this Honorable Court should grant this instant petition for a writ of habeas corpus to ensure their continued freedom.
22. Petitioners kindly request that this court find their detention to be unlawful and order ICE to release them.

JURISDICTION

23. This Honorable Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).
24. Venue is proper because Petitioners are currently detained at Baltimore Hold Room located at 31 Hopkins Plaza, 6th Floor, Baltimore, MD 21201. Therefore, the Petitioners remain detained within the District of Maryland.

PARTIES & FACTS ALLEGED

25. The Petitioners' **Francisco Enrique Cortez Martinez, Bryan Francisco Cortez Martinez, Jose Jhonatan Rivas Reyes and Rafael Antonio Melgar** are a natives and citizens of El Salvador.
26. Respondent Vernon Liggins is the Acting Field Office Director for the Baltimore Field Office, Immigration and Customs Enforcement.
27. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement.
28. Respondent Markwayne Mullin is the U.S. Secretary of Homeland Security.
29. Respondent Todd Blanche is the U.S. Acting Attorney General.

30. All Respondents are named in their official capacities.
31. On information and belief, Petitioners were unlawfully detained by Federal Immigration Agents on Thursday, April 09, 2026.
32. The Petitioners were working at a construction worksite when several ICE Federal Agents approached them on foot and arrested them immediately and took the Petitioners to Baltimore Hold Room.
33. On information and belief, Petitioners are currently in custody in the District of Maryland, and one or more of the Respondents are their immediate custodian.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

34. The Fifth Amendment provides that “no person shall be deprived of life, liberty, or property without due process of law”.
35. The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, temporary or permanent” *Zadvydas v. Davis*, 553 U.S. 693 (2001).
36. Respondent’s mandatory detention without consideration for release on bond or access to a bond hearing violates his due process rights.
37. On information and belief, Petitioners are currently being detained at the Baltimore Hold Room located in Baltimore, Maryland without cause and in violation of their constitutional rights to due process of law.

COUNT TWO

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

38. Mandatory detention as set forth on 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States whom are subject to the ground of inadmissibility, most relevant, it does not

apply to those who previously entered the country and have been residing in the United States prior to being detained, historically, such noncitizens would be detained under § 1226(a), and therefore, eligible for release on bond.

39. Nonetheless, the Board of Immigration Appeal, under the Department of Justice, issued a decision on September 5th, 2025, binding on all Immigration Judges, thus rendering the Petitioner ineligible for release on Bond. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
40. Moreover, Petitioners' falls under the class membership of the Class Action suit, *Guerrero-Orellana v. Hyde et al.* and he additionally asserts that he should be released upon this consideration as well. (See *Guerrero-Orellana v. Hyde et al. opinion* – Case 1:25-cv-12664-PBS Doc 112 12/19/25).

COUNT THREE

Violation of the Bond Regulations, 8 C.F.R. § 236.1, 1236.1 and 1003.19 Unlawful Denial of Release on Bond

41. In 1997, following enactment of IIRIRA, EOIR and the Immigration and Naturalization Service issued an interim rule interpreting its detention provisions. Under the heading “Apprehension, Custody, and Detention of [Noncitizens],” the agencies clarified that “despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled will be eligible for bond and bond redetermination.” 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Thus, individuals who entered without inspection are eligible for custody redetermination hearings under 8 U.S.C. § 1226 and its implementing regulations.
42. Application of 8 U.S.C. § 1225(b)(2) to Petitioners, who is bond-eligible, unlawfully mandates his continued detention in contravention of 8 C.F.R. § 236.1, 1236.1, and 1003.19.

COUNT FOUR

Violation of the Maldonado Bautista v. Noem (5:25-cv-01873-SSS-BFM) Final Judgement

43. The Petitioners qualify as members of the Certified Bond Eligible Class, as defined in the Judgement, the Bond Eligible Class is defined as "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination."
44. The U.S. District Court declared that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2).
45. The Respondents have consistently denied the Petitioner the access to a Bond Hearing, as stipulated by the final judgement, as they continue to misclassify the Petitioner as detained pursuant to U.S.C. § 1225(b)(2).
46. Although Maldonado Bautista v. Noem is currently under appeal at the 9th Circuit, no Stay has been in place, and therefore the issued Final Judgement constitutes the law of the land.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Order that Petitioners shall NOT be transferred outside the District of Maryland;
- 3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- 4) Declare that Petitioners' detention violates the Due Process Clause of the Fifth Amendment.

- 5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioners immediately or in the alternative issue an order directing the Immigration Court to provide Petitioners with a bond hearing before the Immigration Court within a specified and prompt period of time (date and time of such bond hearing), at which:
- a. The Government bears the burden of proving by clear and convincing evidence that Petitioners pose a danger to the community or a risk of flight;
 - b. The Immigration Judge considers Petitioners ability to pay and alternatives to detention; and
 - c. The hearing comports with due process of law;
- 6) Order the Petitioner's counsel be notified by phone **617-418-5442** and by email **lazomargie.law@gmail.com** of the exact location and exact time of Petitioner's release if ordered Immediate release.
- 7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Francisco Enrique Cortez Martinez, Petitioner 1
Bryan Francisco Cortez Martinez, Petitioner 2
Jose Jhonatan Rivas Reyes, Petitioner 3
Rafael Antonio Melgar, Petitioner 4
Petitioners

By and through Undersigned Counsels,

/s/ Benjamin G. Messer
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Motion for admission pro hac vice contemporaneously filed

Certification Pursuant to Local Standing Order 2025-01

I, the undersigned, hereby certify pursuant to Fed. R. Civ. P. 11, as follows:

- (1) I understand the Petitioners to be presently detained in Maryland, based on a review of the ICE Detainee Locator website showing “call ICE for details”, the fact that the Petitioners were arrested by ICE in Maryland yesterday, and the fact that the Petitioners called a family member from the ICE Baltimore Field Office yesterday;
- (2) emergency relief is necessary, because the Petitioners are at risk of unlawful removal from the United States; and
- (3) this Court has subject-matter jurisdiction over the Petitioners pursuant to 28 U.S.C. § 2241, and no jurisdiction-stripping statute applies to prevent habeas corpus review of detention and unlawful removal.

Respectfully submitted,

/s/ Benjamin G. Messer

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

I, Margie S. Lazo, represent **Francisco Enrique Cortez Martinez** (Petitioner #1), **Bryan Francisco Cortez Martinez** (Petitioner #2), **Jose Jhonatan Rivas Reyes** (Petitioner #3) and **Rafael Antonio Melgar** (Petitioner #4), 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: April 10, 2026

/s/ Margie S. Lazo

Margie S. Lazo, Esq.

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Motion for admission pro hac vice contemporaneously filed