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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

RICARDO JOSE SANCHEZ RINCON

Petitioner-Plaintiff,

v.

MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security; TODD BLANCHE, in his official capacity as Attorney General of the United States; TODD LYON, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement; KRISTEN SULLIVAN in her official capacity as Field Office Director for U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; JASON STREEVAL, in his official capacity as Warden of Stewart State Detention Center,

Respondents-Defendants.

Case No.

**Verified Petition for Writ of Habeas
Corpus and Complaint for Declaratory
Injunctive Relief**

Oral Argument Requested

INTRODUCTION

1. This case challenges the unlawful re-detention of RICARDO JOSE SANCHEZ RINCON (“Petitioner” or “Mr. Rincon”), who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at the Stewart Detention Center located in Lumpkin, Georgia. Petitioner is

neither a flight risk nor a danger to the community, but on or about March 14, 2026, ICE detained him without notice or the opportunity to be heard, on the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules that provide for an opportunity for an orderly departure when the time came for Petitioner's removal from this country.

2. Prior to his detention on March 14, 2026, Petitioner was not in ICE custody and had been residing in the United States while complying with all immigration requirements. Petitioner has demonstrated that he is neither a flight risk nor a danger to the community, as evidenced by his compliance with immigration proceedings and continued presence in the community.

3. Prior to his detention, Petitioner had obtained legal representation and was actively pursuing lawful relief. Petitioner was lawfully paroled into the United States and currently has a pending Form I-589, Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture, before the Immigration Court. This pending application reflects Petitioner's good-faith effort to seek protection through proper legal channels and underscores that his removal is not imminent.

4. On March 14, 2026, Respondents-Defendants suddenly arrested Petitioner without prior notice or warning. ICE transferred Petitioner at the Stewart Detention Center in Lumpkin, Georgia despite Petitioner's pending I-589 Application and counsel of record's office of operation in Atlanta, Georgia. To date, Petitioner is unaware for any legal basis the revocation of his freedom.

5. Respondents-Defendants' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

6. Petitioner brings this action for injunctive, habeas, and declaratory relief ordering Respondents

to release him.

PARTIES

7. Petitioner, Mr. Rincon has lived in the United States for almost five (5) years. Prior to Petitioner's unlawful arrest and detention on March 21, 2026, he was resided with his partner and his United States Citizen daughter. Petitioner is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

8. Respondent-Defendant KRISTEN SULLIVAN is sued in in his/her official capacity as Acting Field Office Director, Atlanta Field Office, U.S. Immigration and Customs Enforcement, which includes the Stewart Detention Center. Upon information and belief, Respondent-Defendant JASON STREEVAL decided to revoke Petitioner's order of supervision.

9. Respondent-Defendant JASON TREEVAL is sued in his official capacity as Warden of the Stewart Detention Center, where Petitioner is currently detained.

10. Respondent-Defendant MARWAYNE MULLIN is sued in him official capacity as Secretary of the U.S. Department of Homeland Security and U.S. Immigration and Customs Enforcement.

11. Respondent-Defendant TODD LYONS is sued in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement.

12. Respondent-Defendant TODD BLANCHE is sued in his official capacity as Attorney General of the United States.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

14. This Court may also grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

15. Venue is proper in this district because: 1) Respondent-Defendant TONYA ANDREWS is Petitioner's immediate custodian and under 28 U.S.C. § 1391(e)(1), Respondents-Defendants are officers of United States agencies. Petitioner currently resides within this District; and 4) there is no real property involved in this action.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

16. Petitioner has no administrative remedies to exhaust.

17. Petitioner has no available administrative remedy, as DHS has refused to provide him access to a custody redetermination under INA § 236(a), despite his eligibility for such review and his lack of any criminal history. As a result, Petitioner remains detained without an avenue for bond proceedings before an Immigration Judge.

18. A *writ of habeas corpus* is the sole avenue through which Petitioner may vindicate his constitutional, statutory, and regulatory rights and seek restoration of his liberty.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

19. Petitioner is a 38-year-old national and citizen of Venezuela who presented himself at the United States border seeking asylum on or about September 9, 2021. See Exh. A, Record of Determination/Credible Fear Worksheet [*Excerpt*].

20. DHS detained Petitioner upon his entry into the United States and, on or about November 2, 2021, DHS initiated removal proceedings against Petitioner charging him with inadmissibility under INA §§ 212(A)(7)(a)(i)(I); 212(a)(6)(A)(i). See Exh. B, DHS Form I-862 Notice to Appear.

21. On or about November 15, 2021, DHS granted Petitioner humanitarian parole pursuant to INA § 212(d)(5) and conditioned upon Petitioner's compliance upon conditions set forth within his

parole authorization document. See Exh. C, Interim Notice Authorizing Parole.

22. Since his November 15, 2021 release on parole, Petitioner annually reported to ICE as a DHS condition required for his continued release. Respondent married and resided at [REDACTED] with his partner, Katherine Aguilar and one (1) year old United States Citizen ("USC") daughter, Z [REDACTED]. See Exh. D, Birth Certificate.

23. Since his November 15, 2021 release on parole, Petitioner retained immigration counsel and filed an application for asylum and withholding of removal. See Exh. E, I-589 Receipt Notice. The Petitioner's asylum application remains pending before the Immigration Court.

24. Since his November 15, 2021 release on parole, no circumstances have changed that make Petitioner a flight risk or danger to the community. Petitioner has consistently maintained his correct address with ICE and the EOIR, reported to ICE as instructed and retained the same immigration counsel to represent him before the Immigration Court.

25. Since his November 15, 2021 release on parole, Petitioner has established deep family and community ties within the United States. His family members depend on him for financial, emotional and familiar support. See Exh. F, Letter of Katherine Aguilar.

26. Petitioner has no criminal history, has not engaged in violent or dangerous behavior, has established family and community ties in the United States and, since his November 15, 2021 release on parole, has fully and consistently complied with all conditions of his parole, including all reporting requirements.

27. Despite Petitioner's record of compliance, on March 14, 2026, Petitioner was allegedly stopped for a traffic violation and was arrested and detained by DHS ICE Officers without a warrant. ICE officers arrested Petitioner without notice, warning or cause. To date, DHS has provided no justification or legal basis for Petitioner's arrest or continued detention.

CLAIMS FOR RELIEF

COUNT I

**Violation of the Immigration and Nationality Act
Detention Under the Wrong Statutory Provision**

1. Petitioner realleges all paragraphs above as if fully set forth here.
2. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to individuals who entered the United States, were apprehended at or near the border, subsequently released into the interior on their own recognizance, and continuously resided in the country prior to being re-detained. Such noncitizens are detained under § 1226(a), unless they are subject to § 1226(c) or § 1231.
3. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA. Petitioner was released into the interior of the United States, has continuously resided in Georgia for more than three years, serves as the primary financial provider for his household, has worked and paid taxes, and has developed deep community ties. He therefore cannot be analogized to a person detained at the port of entry or stopped within 25 yards of the border. See *Bethancourt Soto v. Soto*, No. 1:25-cv-16200 (D.N.J. 2025) (collecting cases); *Salto-Salto v. Soto*, No. 1:26-cv-00612 (D.N.J. Jan. 23, 2026); *Rodriguez-Acurio v. Almodovar*, No. 2:25-cv-06065 (E.D.N.Y. 2025).
4. Petitioner's detention pending removal under § 1226(a) is discretionary, and noncitizens detained under this statute are entitled to an initial custody determination and the opportunity for a bond hearing. See 8 C.F.R. § 1236.1(d)(1). Here, Petitioner was afforded neither of these procedural safeguards, in violation of § 1226(a). Petitioner has substantial equities including, but not limited to, strong family ties, and lack of flight risk—factors that should have been considered in any custody determination.

COUNT II

Violation of Due Process: Revocation of Release without Notice or Hearing

5. Petitioner realleges all paragraphs above as if fully set forth here.

6. The Fifth Amendment’s Due Process Clause prevents the Government from depriving any person of “life, liberty, or property without due process of law,” U.S. Const. amend. V., regardless of “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); see also *Reno v. Flores*, 507 U.S. 292, 306 (1993). Due process demands that unless a person is “given[] notice of the case against [her] and opportunity to meet it,” she may not be detained. *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976). Indeed, “[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*, 533 U.S. at 690.

7. The adequacy of the process provided in civil immigration confinement is determined through application of the *Mathews v. Eldridge* balancing test. *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (citing *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). This test evaluates “(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government’s interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail.” *Id.* (citing *Mathews*, 424 U.S. at 335); see also *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025).

8. As to factor one, in Petitioner’s case, “the private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment.” *Black v. Decker*, 103 F.4th 133, 151 (2d Cir. 2024). While the Government undoubtedly has authority to detain Petitioner under Section 1226, Petitioner is entitled to “adequate procedural protections” before being deprived of his liberty. *Zadvydas*, 533 U.S. at 690. Before the Government may exercise its discretion

to detain a noncitizen pursuant to Section 1226(a), the statute and its implementing regulations “require ICE officials to make an individualized custody determination.” *Lopez Benitez*, 2025 WL 2371588, at *10; see also *Tumba Huamani*, 2025 WL 3079014, at *7 (“But Due Process still requires that such discretion actually be exercised—t.e., that some determination actually be made.”). In making that determination, the relevant DHS official must consider two factors, whether the non-citizen poses a “danger to property or persons” and whether he or she is “likely to appear for any future proceeding.” *Lopez Benitez*, 2025 WL 2371588, at *10 (quoting 8 C.F.R. § 1236.1(c)(8)).

9. Petitioner’s arrest stemmed from a blanket “policy” to detain “everyone who crossed the border,” without regard to compliance history, criminal record, or individualized risk factors. Petitioner is neither a flight risk nor a danger to the community, and Respondents have not provided any evidence of changed circumstances. Instead, Respondents misrepresented the basis for his arrest, notwithstanding his explanations that the information relied upon was incorrect.

10. As to the second Mathews factor, “[t]he purpose of requiring an exercise of discretion prior to the decision to detain a noncitizen who is not subject to mandatory detention is to prevent an erroneous deprivation of liberty.” *Lopez Benitez*, 2025 WL 2371588, at 12. The risk of erroneous deprivation is high where, as here, Petitioner was arrested and placed into detention facility without consideration of any relevant factors.

11. As to the third factor, “to require that the Government justify continued detention promotes the Government’s interest—one we believe to be paramount—in minimizing the enormous impact of incarceration in cases where it serves no purpose.” *Black*, 103 F.4th at 154; see also *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (observing that “any amount of actual jail time . . . has exceptionally severe consequences for the incarcerated individual and for society which bears the direct and indirect costs of incarceration” (internal quotation marks and alterations omitted)).

Detention that serves no bona fide removal or safety purpose violates substantive due process. See *Zadvydas*, 533 U.S. at 690-91; *Gordon v. Shanahan*, 2015 WL 1176706 (S.D.N.Y. Mar. 13, 2015). ICE’s “bed- availability” rationale is administrative convenience, not a lawful justification for depriving liberty.

12. The continued detention of Petitioner, who has no criminal record, is employed, pays taxes, has complied with all conditions of release, is the sole financial provider for his family, and has a pending asylum application with USCIS—not only infringes upon his protected liberty interest, but also does not serve the interests of the Government or the public.

13. Accordingly, the arrest of the Petitioner by ICE violated the Due Process Clause of the Fifth Amendment. Rather than exercising the individualized discretion required by law, ICE effectuated Petitioner’s detention pursuant to a blanket policy—without notice, without an individualized assessment, and without affording Petitioner any opportunity to be heard. Because Petitioner possessed a protected liberty interest in his continued release from custody, the Government’s failure to provide even the most basic procedural safeguards resulted in an unconstitutional deprivation of liberty. See *Mathews v. Eldridge*, 424 U.S. 319 (1976); see also *Bethancourt Soto v. Soto* (D.N.J. 2025); *Salto-Salto v. Soto*; *Rodriguez-Acurio v. Almodovar*.

COUNT III **Violation of the Fourth Amendment**

14. Petitioner’s arrest constituted an unreasonable seizure in violation of the Fourth Amendment because it was executed without a warrant, without probable cause, and pursuant to a blanket enforcement policy rather than individualized suspicion. Civil immigration enforcement remains subject to Fourth Amendment constraints. *Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015); *Manuel v. City of Joliet*, 580 U.S. 357 (2017).

RELIEF

15. In *Salto-Salto v. Soto* the Court explained that “[w]hereas the basis for the Petitioner’s continued “detention [was] blatantly unlawful from the start, the only commensurate and appropriate equitable remedy to even partially restore [Petitioner] is to immediate release him and enjoin the Government from further similar transgressions,” see, e.g., *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 366, 371-73 (S.D.N.Y. 2019) (“[T]he Supreme Court has repeatedly upheld prisoners’ rights to challenge the constitutionality of their detentions, and allow[ed] courts to implement corrective remedies, regardless of whether there were other bases for the petitioners to be subsequently detained.”).

16. The Court also declined to allow the Government “[t]o transform an unlawful detention into a lawful one through alternative, retrospective, post hoc justification presented mid-litigation, as doing so would give the Government a free pass to violate a person’s statutory and constitutional rights first and search” (citing *Lopez-Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379, at *7& n.4 (E.D. Mich. Aug. 29, 2025) (“The Court cannot credit this new position that was adopted post- hoc, despite clear indication that *Lopez-Campos* was not detained under this provision.”); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 486 (S.D.N.Y. 2025)).

17. DHS agents’ arrest of Petitioner was unlawful from the outset, as it was effectuated without proper legal grounds and an individual assessment of risk, constituting a clear violation of the Petitioner’s constitutional rights. Such a fundamental violation cannot be remedied through any means other than Petitioner’s immediate release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be removed from the United States without an order

by this Court allowing such removal and transferred, except to a facility within the Middle District of Georgia absent further order of this Court;

- c. Issue an Order to Show Cause directing Respondents to explain why the writ should not be granted within three days, as required by 28 U.S.C. § 2243;
- d. Declare Petitioner's detention unlawful;
- e. Order Petitioner's immediate release;
- f. Order enjoining Respondents from re-detaining Petitioner absent a valid exercise of discretion under 8 U.S.C. § 1226(a);
- g. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- h. Grant such further relief as this Court deems just and proper.

Respectfully submitted,

DATED: April 22, 2026

/s/ Marguerite K. Belline, Esq.

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

DATED: April 22, 2026

/s/ Marguerite K. Belline

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