

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JOSE GEOVANNI ENCARNACION-VILLAFUERTE,

Petitioner,

v.

TODD BLANCHE, Attorney General
of the United States,

MARKWAYNE MULLIN, Secretary
of the U.S. Department of Homeland Security,

TODD LYONS, Acting Director, U.S. Immigration
and Customs Enforcement, Baltimore Field Office

VERNON LIGGINS, Acting Field Office Director
ICE Enforcement and Removal Operations,

Respondents.

Case No: 1:26-cv-01618

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner seeks habeas corpus relief from unlawful immigration detention. Respondents detain Petitioner in violation of the Fifth Amendment's due process guarantee and beyond the lawful limits of 8 U.S.C. § 1225(b)(2). Petitioner's warrantless seizure and indefinite civil detention, without any individualized finding of flight risk or danger, are punitive in effect and disproportionate to any legitimate civil immigration purpose. Petitioner is subject to 8 U.S.C. § 1226(a), is entitled to a bond hearing, and requests an order declaring continued detention unlawful and directing Respondents to release Petitioner or promptly conduct a custody redetermination hearing.

Jose Geovanni Encarnacion Villafuerte is a native of Guatemala, born on [REDACTED] [REDACTED], who has lived in Jessup, Maryland since entering the United States in July 2003. He has never been encountered by the Department of Homeland Security and has no history of arrests. He lives with his spouse and children and works in roofing six days a week as the sole financial provider for his household. On April 26, 2026, he was driving to work in Elkridge, Maryland and planned to pick up his nephew, a co-worker, near a Lowe's store. Five vehicles surrounded his car and blocked him from moving forward. Officers removed him from the vehicle by force and took him into custody without presenting a warrant or providing an explanation at the scene. His car remained in the roadway where it had been stopped. He has remained detained since that time.

This petition challenges the legality of his arrest and continued detention. Mr. Encarnacion Villafuerte was engaged in routine, non-violent conduct at the time of the stop. He has no criminal history and had no prior contact with immigration authorities. The manner of the stop, the use of force, and the absence of explanation at the scene exceed what is necessary for a civil immigration purpose. His continued detention imposes a level of restraint that is excessive in relation to any legitimate objective and is disproportionate to his record and conduct

CUSTODY

1. Petitioner is in the physical custody of Respondents Vernon Liggins, Acting Field Office Director, ICE ERO, and is detained at the Baltimore Holding Room, Baltimore, Maryland, a DHS-operated facility.

JURISDICTION

2. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause). Petitioner is in custody under color of federal authority in violation of the Constitution and laws of the United States. Relief is also available under 28 U.S.C. § 2201 *et seq.* (Declaratory Judgment Act) and 28 U.S.C. § 1651 (All Writs Act).

VENUE

3. Venue is proper in this District because Petitioner is detained at Baltimore Holding Room within this District and a Respondent with immediate custody is located here.

PARTIES

4. Petitioner is a native and citizen of Guatemala, currently detained at Baltimore Holding Center, Maryland.
5. Respondent Vernon Liggins is Acting Field Office Director, ICE ERO, Baltimore. He is a legal custodian with authority to release Petitioner.
6. Respondent Markwayne Mullen is the Secretary of DHS, responsible for detention and removal policies.
7. Respondent Todd Blanche is the Attorney General of the United States.
8. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Exhaustion of administrative remedies is futile and must be excused. On July 8, 2025, former Acting ICE Director Todd Lyons issued a memorandum mandating § 1225 detention for all unadmitted noncitizens, effectively foreclosing individualized bond consideration at the agency level. The Board of Immigration Appeals subsequently affirmed this restrictive stance in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), which strips immigration judges of bond jurisdiction for all individuals classified under § 1225(b)(2). Together, these executive and administrative actions eliminate any meaningful process Petitioner could pursue. Because no adequate administrative remedy exists to challenge Petitioner's statutory misclassification, this judicial action is his only recourse. See *Shalala v. Ill. Council on Long Term Care*, 529 U.S. 1, 13 (2000).

STATUTORY FRAMEWORK

10. The dispositive issue is whether detention falls under 8 U.S.C. § 1225(b)(2) or § 1226(a). Section 1225(b) mandates custody only for “applicants for admission” and has historically applied to border-proximate encounters. *DHS v. Thuraissigiam*, 591 U.S. 121, 134 n.2 (2020). By contrast, § 1226(a) is the default detention framework for interior arrests, permitting discretionary bond absent a § 1226(c) trigger. *Jennings v. Rodriguez*, 583 U.S. 281, 301 (2018).
11. In *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), the BIA abruptly extended § 1225(b)(2) to all unadmitted noncitizens, including long-term interior residents, contradicting contemporaneous decisions preserving § 1226(a) bond

jurisdiction for interior arrests, *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025), and limiting § 1225(b) to expedited removal contexts, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

12. After *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), this Court owes no deference to that shift. Applying the statutory text and structure, § 1226(a) governs Petitioner's detention, rendering continued custody without a bond hearing unlawful.

STATEMENT OF FACTS

13. On April 26, 2026, in Elkridge, Maryland, Jose Geovanni Encarnacion Villafuerte was driving to work on a Sunday morning. He planned to pick up his nephew, a co-worker, near a Lowe's store. While en route, five vehicles surrounded his car and blocked him from moving forward. Officers approached, removed him from the vehicle by force, and took him into custody. The officers did not present a warrant or provide an explanation at the scene.
14. After removing him from the vehicle, officers transported him for processing. His car remained in the roadway where it had been stopped. As his nephew approached the Lowe's location, he recognized the vehicle abandoned in the street and contacted family members to report what had occurred.
15. Mr. Encarnacion Villafuerte had no prior arrests and had never been encountered by the Department of Homeland Security before this incident. He has remained in detention since his apprehension. The circumstances of the stop involved multiple

vehicles blocking his path, physical removal from his car, and the absence of any contemporaneous explanation or documentation provided to him at the scene.

16. Mr. Encarnacion Villafuerte was born in Guatemala on [REDACTED] and has lived in Jessup, Maryland since entering the United States in July 2003. He resides with his spouse, who lacks lawful status, and their children. His 16-year-old son attends [REDACTED] and receives support from a special education teacher due to severe anxiety and ongoing treatment with a therapist and psychiatrist. His 9-year-old child attends Jessup Elementary School. His 23-year-old child, who was born in Guatemala, has a pending asylum application and works as a restaurant manager and part-time bartender. Mr. Encarnacion Villafuerte also has siblings in the United States who are U.S. citizens or lawful permanent residents. He works in roofing six days per week as the sole financial provider for his household, attends church regularly, and participates in community soccer activities on weekends

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF FIFTH AMENDMENT RIGHT TO SUBSTANTIVE AND PROCEDURAL DUE PROCESS

17. Petitioner incorporates by reference all preceding paragraphs.
18. Petitioner is not an “applicant for admission” under § 1225(b)(2). Petitioner has lived in the interior for years, and the arrest far from any port of entry falls outside the statute’s historical and textual scope. The government’s reliance on *Matter of Yajure-Hurtado* represents a sharp break from decades of settled practice, lacks

statutory footing, disregards the interpretive constraints reaffirmed in *Loper Bright*, and produces constitutionally untenable results for long-term residents.

19. Detention under § 1225(b)(2) therefore violates substantive due process. Civil detention is permissible only where a “special justification” outweighs the individual’s liberty interest. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001). No such justification exists here. Respondents have not alleged, and cannot establish, any special justification for subjecting Petitioner to effective mandatory detention under the BIA’s holding in *Yajure-Hurtado*. 29 I&N Dec. at 228.

20. As a civil detainee, Petitioner retains a “historic liberty interest” at the core of the Due Process Clause. *Youngberg v. Romeo*, 457 U.S. 307, 316 (1982); *Matherly v. Andrews*, 859 F.3d 264, 274 (4th Cir. 2017). Fourth Circuit precedent requires that any non-punitive restraint be narrowly tailored to a specific risk. *Patten v. Nichols*, 274 F.3d 829, 837 (4th Cir. 2001); *Zadvydas*, 533 U.S. at 690–91. Absent such tailoring, continued confinement amounts to punishment without trial in violation of the Fifth Amendment.

Procedural Due Process Requires Immediate Release Pending Bond Hearing

21. Even if Respondents concede that Petitioner is detained under § 1226(a) and entitled to a bond hearing, procedural due process requires release pending that hearing. Due process turns on whether the available procedure satisfies constitutional minimums, not on the mere promise of a future hearing. Under present conditions, it does not. *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).

22. Bond adjudication in immigration courts has been structurally compromised on a nationwide basis. The administration has instructed immigration judges to stop granting bond to noncitizens who crossed the border without inspection, departing from decades of individualized practice. This shift has coincided with the routine imposition of prohibitively high bonds that function as de facto detention orders, despite the longstanding requirement that ability to pay be considered. Setting unattainable bond “is not an exercise of discretion; it is a de facto denial of release.” *Hernandez v. Sessions*, 872 F.3d 976, 989–90 (9th Cir. 2017); *Stack v. Boyle*, 342 U.S. 1, 5 (1951). Bond was historically not denied where a noncitizen had a fixed address, employment, family ties, or a viable claim for relief, and was never denied solely based on manner of entry. Current practice replaces individualized assessment with categorical denial based on entry status. That approach is constitutionally defective. Detention must be “narrowly tailored” to a specific risk. *Zadvydas*, 533 U.S. at 690. Reliance on boilerplate or static factors violates due process. *Dubon Miranda v. Barr*, 403 F. Supp. 3d 442, 449 (D. Md. 2019).
23. The scope and systemic nature of this breakdown is documented by national news investigations. A New York Times investigation published April 9, 2026 found that the administration has dismissed more than 100 immigration judges, threatened remaining judges with disciplinary action for insufficient deportation rates, and instructed judges to stop granting bond to noncitizens who crossed without inspection — departing from decades of individualized practice and causing the number of detained noncitizens abandoning cases to rise sharply. A Politico investigation published March 6, 2026 documented multiple federal courts across

the country finding that immigration bond hearings under current conditions produced “predetermined” outcomes, relied on uncorroborated evidence, and resulted in findings of flight risk “untethered by the facts” — leading multiple district courts to bypass bond hearings and order outright release because “a bond hearing before an immigration judge would not comport with due process.” These documented systemic failures are directly applicable here. Detention driven by such a structurally compromised process becomes punitive rather than regulatory. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

24. A bond hearing conducted within a system marked by institutional pressure and de facto detention does not occur at a meaningful time or in a meaningful manner. When confinement is driven by static entry factors rather than individualized risk, it ceases to be regulatory and becomes punitive. *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 468, 478 (3d Cir. 2015). Continued detention pending such a compromised process is an impermissible administrative end-run around the Due Process and Suspension Clauses. *Dubon Miranda*, 403 F. Supp. 3d at 449.

Fourth Circuit Authority for Pre-Bond Release

25. The Fourth Circuit has confirmed that federal courts retain habeas jurisdiction under 28 U.S.C. § 2241 to remedy unconstitutional immigration detention raising legal or constitutional claims. *Olatunji v. Ashcroft*, 387 F.3d 383, 386 (4th Cir. 2004). That authority is critical where detention implicates the “most fundamental of all liberties”—freedom from bodily restraint. *Patten v. Nichols*, 274 F.3d 829, 837 (4th Cir. 2001). Because such deprivation strikes at the core of the Due Process Clause, this Court must exercise independent judgment to prevent

unconstitutional administrative action against a long-term resident. *Matherly v. Andrews*, 859 F.3d 264, 274 (4th Cir. 2017).

26. Under *Salerno* and *Zadvydas*, pre-bond release is constitutionally required where the hearing process is structurally compromised. In criminal cases, liberty is the norm pending detention hearings. 18 U.S.C. § 3142; *United States v. Salerno*, 481 U.S. 739, 750–51 (1987). Immigration law reverses that burden, requiring detainees to prove they are not a danger or flight risk. *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006). When detention itself severs the ties and evidence needed to meet that burden, continued confinement violates the right to a meaningful opportunity to be heard. *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *Dubon Miranda v. Barr*, 403 F. Supp. 3d 442, 449 (D. Md. 2019).

27. Pre-bond release is consistent with Fourth Circuit authority and conserves public resources while permitting meaningful bond preparation. Supervised release adequately protects the government's interests without imposing unconstitutional detention and does not impair the government's ability to prove flight risk at a subsequent hearing. Given the compromised process, Petitioner's lack of criminal history, strong community ties, and the constitutional imperatives of this Circuit, the government cannot justify continued detention under the Fifth Amendment. The appropriate remedy is immediate release pending a bond hearing conducted under constitutionally adequate conditions.

COUNT TWO

VIOLATION OF FIFTH AMENDMENT RIGHT TO SUBSTANTIVE DUE

PROCESS — PUNITIVE DETENTION

28. Petitioner incorporates all preceding paragraphs by reference.
29. The Fifth Amendment's Due Process Clause prohibits civil detention that is punitive in effect. Detention becomes punitive—and therefore unconstitutional—when it is excessive in relation to its regulatory purpose. *Kansas v. Hendricks*, 521 U.S. 346, 361 (1997). Petitioner's warrantless seizure and indefinite civil detention, without any individualized finding of flight risk or danger, are excessive in relation to any non-punitive purpose and therefore punitive.
30. The government's actions violate the Fifth Amendment's Due Process Clause because they impose punitive and excessive treatment on a civil detainee whose conduct has been entirely peaceful. Officers surrounded Mr. Encarnacion Villafuerte with five vehicles, blocked his movement, forcibly removed him from his car, and took him into custody without presenting a warrant or providing an explanation at the scene. They left his vehicle abandoned in the roadway. He had no prior arrests and had never been encountered by immigration authorities before this incident. Since that time, he has remained detained. This sequence of events reflects treatment that is disproportionate to any legitimate civil enforcement purpose and exceeds what is necessary to secure his presence. The use of force, the absence of process at the time of arrest, and the continued detention of a long-term resident with no criminal history operate as punishment rather than regulation.

31. The severity of the government's response, measured against his record and conduct, imposes needless harm and amounts to treatment that is excessive and incompatible with the limits of civil detention under the Due Process Clause. Despite this limited record, officers transferred Petitioner into immigration detention and have held Petitioner there without release. This continued confinement serves no clear civil purpose tied to past conduct. The length and conditions of detention exceed what is needed to ensure appearance at proceedings and instead impose a restraint that mirrors punishment. By extending custody without a clear, individualized justification, the government has imposed a measure that is excessive in relation to any legitimate regulatory goal.
32. This detention is also grossly disproportionate to Petitioner's conduct and circumstances. Petitioner has lived in the United States for years without incident, maintained steady employment, and supported family. Continued confinement under these facts imposes a severe and ongoing deprivation of liberty that is not tied to any demonstrated risk or need. The impact of detention extends beyond Petitioner, leaving the household without income and causing harm to any dependents. These effects underscore that the detention operates as a punitive measure rather than a civil one, in violation of the Fifth Amendment's due process protections.
33. Indefinite civil detention also inflicts cumulative psychological harm. Confinement without a date for a lawful, uncompromised hearing constitutes sustained mental and emotional suffering, exacerbated by its impact on Petitioner's family. When detention ceases to be regulatory and becomes punitive, habeas relief is proper.

Bell v. Wolfish, 441 U.S. 520 (1979); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Taken together, the warrantless seizure and continued detention amount to punishment disproportionate to any legitimate civil immigration purpose, in violation of the Fifth Amendment's Due Process Clause.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Exercise jurisdiction and issue a Show Cause Order directing Respondents to justify the challenged detention;
- B. Enjoin Respondents from transferring Petitioner, removing him from the United States, or otherwise impairing this Court's jurisdiction during this action;
- C. Declare that Petitioner is detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and that *Matter of Yajure-Hurtado* is not entitled to deference under *Loper Bright* and does not lawfully apply to long-term interior residents arrested far from the border;
- D. Order Petitioner's immediate release on reasonable conditions with his personal property;
- E. If a bond hearing is ordered, require that it be conducted in Maryland; that it be an individualized assessment of flight risk and danger, consideration of ability to pay, and written findings, with no automatic stay of release pending appeal;
- F. Declare that Petitioner's warrantless and indefinite civil detention constitutes punishment disproportionate to any legitimate civil purpose, in violation of the Fifth Amendment; and,

G. Grant any other relief this Court deems just and proper.

DATED: April 26, 2026

Respectfully submitted,
Petitioner

By: _____/s/_____

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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 Petitioner to be presently detained in Maryland, based on the fact that Petitioner was arrested by ICE in Maryland two days ago and the fact that Petitioner recently called a friend/family member from the ICE Baltimore Hold Room to inform him he was there; (2) **emergency relief is necessary**, because Petitioner is at risk of unlawful removal from the United States; and (3) this Court has subject-matter jurisdiction over the Petitioner pursuant to 28 U.S.C. § 2241, and no jurisdiction-stripping statute applies to prevent habeas corpus review of detention and unlawful removal.

DATED: April 26, 2026

Respectfully submitted,
Petitioner

By: _____/s/_____

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

I represent Petitioner 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: April 26, 2026

_____/s/_____

Jorge E. Artieda
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2026, I served a true and correct copy of the foregoing
Petition on Respondents by USPS Certified Mail, Signature Required, to:

The Honorable Markwayne Mullen

Secretary of Homeland Security
U.S. Department of Homeland Security
Office of the Executive Secretary
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The Honorable Todd Blanche

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_____/s/_____

Jorge E. Artieda