

DETAINED

UNITED STATES DISTRICT COURT
for the
MIDDLE DISTRICT OF FLORIDA

JOSE MARGARITO LUCAS VAIL

A#

Petitioner,

V.

WARDEN, GLADES COUNTY DETENTION CENTER)
MARKWAYNE MULLIN, SECRETARY OF HOMELAND)
SECURITY, TODD M. LYONS, ACTING DRECTOR)
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,)
DHS, AND TODD BLANCHE, ATTORNEY GENERAL)
OF THE UNITED STATES)
Respondents.)

CASE No.:

2:26-cv-1679-KCD-NPM

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

I. INTRODUCTION

1. Petitioner (“Mr. Lucas Vail”) seeks a *Writ of Habeas Corpus* pursuant to 28 U.S.C. § 2241 to challenge his unlawful detention by the Department of Homeland Security (“DHS”) in violation of the Immigration and Nationality Act (“INA”) and the Due Process Clause of the Fifth Amendment to the United States Constitution.
2. The Department of Homeland Security (“DHS”) and its agents with Immigration and Customs Enforcement (“ICE”) arrested Mr. Lucas Vail on or about May 4, 2026. Since that time, he has been detained in Glades County Detention Center. He was taken into custody while driving, despite having valid and current documentation at the time of his arrest. Respondent maintains stable employment, has strong community support, and has demonstrated good moral character through his conduct and relationships within the community. Under these circumstances, Respondent’s continued detention is unreasonable and unconstitutional.
3. Petitioner Jose Margarito Lucas Vail is a national of Guatemala [SEE EXHIBIT A]. He has continuously resided in the United States since 2012, during which time he has developed substantial family, social, and community connections. Although he has maintained a clean criminal history and has lived in the country for many years, he continues to be held in detention without being provided a meaningful opportunity to be released on bond or through any other form of supervised release.

4. Mr. Lucas Vail's continued detention violates the Due Process Clause of the Fifth Amendment. By continuing to deprive Respondent of his physical liberty despite the absence of any criminal convictions or evidence that he poses a danger to the community, ICE and DHS have exceeded the scope of their limited authority. Accordingly, Respondent brings this Petition for *Writ of Habeas Corpus* to challenge his continued detention on statutory and constitutional grounds.

II. BACKGROUND

5. Petitioner is a national of Guatemala who entered the United States seeking protection. Prior to his departure from Guatemala in or around 2012, the country was experiencing widespread violence, institutional corruption, and severe human rights abuses. According to the 2012 U.S. Department of State Country Report on Human Rights Practices and reports by Human Rights Watch, Guatemala faced extremely high levels of impunity, police corruption, gang violence, drug trafficking, arbitrary detentions, extrajudicial killings, and intimidation carried out by criminal organizations and, in some cases, state security forces. Criminal gangs and narcotics-trafficking organizations exercised significant control in many regions of the country, using violence, extortion, kidnappings, and targeted killings to intimidate civilians. Human rights defenders, witnesses, judicial officials, and ordinary citizens were frequently subjected to threats and retaliation, while the justice system remained largely unable to provide effective protection or accountability. Petitioner personally witnessed the deteriorating security

conditions, widespread fear, and lack of governmental protection, and reasonably feared becoming a victim of violence and persecution if he remained in Guatemala. Given the pervasive insecurity, corruption, and documented human rights abuses occurring during that period, Petitioner was compelled to flee Guatemala and seek protection in the United States. [SEE EXHIBIT B]

6. Petitioner first arrived in the United States on or about December 21, 2012, at or near San Antonio, Texas. He was not inspected by U.S. immigration officials.

III. JURISDICTION AND VENUE

7. Mr. Lucas Vail is detained at the Glades County Detention Center in Moore Haven, Florida, within the Middle district of Florida. [SEE EXHIBIT C]
8. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because petitioner is currently in federal immigration custody and seeks to challenge the legality of his ongoing detention. Venue is proper in in the Middle District of Florida because Petitioner is detained within this District.
9. This Court has subject-matter jurisdiction under the Suspension Clause of the U.S. Constitution, Art. I, § 9, cl. 2, and 28 U.S.C. § 1651 (All Writs Act), because Petitioner is presently held in federal custody under the authority of the United States. His detention by Respondents constitutes a severe restraint on his liberty in violation of the Constitution and laws of the United States. *See Hensley v. Municipal Court*, 411 U.S. 345 (1973).

IV. PARTIES

10. Petitioner Jose Margarito Lucas Vail is a national and citizen of Guatemala currently detained at Glades County Detention Center.
11. Warden, Glades County Detention Center where Petitioner has been held in custody since approximately May 4, 2026.
12. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. He is sued in his official capacity.
13. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs Enforcement, responsible for ICE's detention and removal operations among all its other functions. He is sued in his official capacity.
14. Respondent Todd Blanche is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States. He is sued in his official capacity.

V. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

15. The Court must grant the petition for *writ of habeas corpus* or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed."

16. Courts have long recognized the significance of the *habeas* statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

17. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

VI. FACTS

Petitioner is a native and citizen of Guatemala who entered the United States seeking protection. Prior to departing Guatemala, Petitioner experienced widespread violence, insecurity, corruption, and lack of effective governmental protection. During that period, criminal organizations and gangs operated with significant impunity, and many civilians faced threats, extortion, and violence without meaningful assistance from authorities. Fearing for his safety and future in Guatemala, Petitioner fled the country and sought protection in the United States. Petitioner first arrived in the United States on or about December 21, 2012, at or near San Antonio, Texas. He was not inspected by U.S. immigration officials. Since entering the United States, Petitioner has developed significant ties to the community and has remained continuously present in the country for approximately fourteen years. During that time, Petitioner has established stable family, residential, and community connections, reflecting strong roots in the United States and a commitment to complying with immigration proceedings.

In May, Petitioner was lawfully driving in Florida when he was unexpectedly stopped by local law enforcement despite committing no traffic violation or criminal offense. During the encounter, officers questioned Petitioner regarding his immigration status. Upon learning that Petitioner was not a United States citizen, local law enforcement contacted Immigration and Customs Enforcement (“ICE”). Petitioner was subsequently detained and transferred into ICE custody solely on the basis of his immigration status. Petitioner has remained detained despite the absence of any criminal convictions or evidence suggesting that he poses a danger to the community.

Petitioner holds lawful employment authorization [SEE EXHIBIT D], has a pending asylum application [SEE EXHIBIT E], and has continuously pursued all available legal avenues to regularize his immigration status in the United States. Petitioner’s ongoing pursuit of lawful immigration relief further demonstrates his intent to comply with all immigration proceedings and obligations.

Petitioner has extensive ties to the United States, including stable employment, longstanding personal relationships, family ties, and significant personal and financial commitments within the country. These factors strongly demonstrate that Petitioner is neither a flight risk nor a danger to the community.

Given Petitioner’s lack of criminal convictions, his substantial equities in the United States, and the lack of any finding that he poses a danger to the public, his detention has become unreasonable and violates the Due Process Clause of the Fifth Amendment.

VII. EXHAUSTION

ICE asserts authority to detain Petitioner pursuant to immigration enforcement custody. However, Petitioner was taken into ICE custody while driving, despite being in possession of valid and current documentation, including a driver's license and employment authorization at the time of his arrest. He was not released on bond or any alternative form of supervision and has remained in detention since that time.

No statutory exhaustion requirement applies to Petitioner's challenge to the lawfulness of his detention. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a *habeas* petitioner exhaust his administrative remedies before challenging his immigration detention."). To the extent prudential exhaustion principles may apply, exhaustion is excused as futile.

Prudential exhaustion is further excused because Petitioner faces irreparable harm. Each day of continued detention constitutes an ongoing deprivation of liberty, including loss of freedom, emotional distress, and disruption of family and community relationships. *See, e.g., Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018).

Prudential exhaustion is also excused because immigration courts and the Board of Immigration Appeals lack authority to adjudicate constitutional challenges to detention.

See, e.g., *Matter of C-*, 20 I&N Dec. 529, 532 (BIA 1992); *Matter of Akram*, 25 I&N Dec. 874, 880 (BIA 2012); *Matter of Valdovinos*, 18 I&N Dec. 343, 345 (BIA 1982).

Accordingly, requiring Petitioner to exhaust administrative remedies would be futile and would only prolong ongoing irreparable harm. This Court may properly exercise *habeas* jurisdiction without requiring exhaustion.

VIII. GROUNDS OF RELIEF

Petitioner's Detention Violates the Fifth Amendment Due Process Clause

The Fifth Amendment's Due Process Clause protects noncitizens from unlawful deprivation of liberty during immigration proceedings. See *Demore v. Kim*, 538 U.S. 510, 523 (2003). Freedom from imprisonment, detention, or physical restraint is a core liberty interest protected by the Due Process Clause as recognized in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Immigration detention must be reasonably related to legitimate regulatory purposes, such as ensuring appearance at immigration proceedings or protecting community safety, and must not be arbitrary, excessive, or punitive in nature. Petitioner is a native and citizen of Guatemala who has resided in the United States since 2012. Petitioner first entered the United States on or about December 21, 2012, at or near San Antonio, Texas and was not inspected by U.S. immigration officials.

Petitioner has a pending asylum application since 2023, reflecting his long-standing pursuit of protection under U.S. immigration law. Petitioner is also authorized to work in the

United States, holds a valid driver's license, and maintains a valid Employment Authorization Document.

Petitioner has no criminal convictions, and no individualized determination has established that Petitioner is a flight risk or a danger to the community. Accordingly, continued detention is not reasonably related to a legitimate regulatory purpose and violates the Fifth Amendment's Due Process Clause.

Petitioner's Detention Must Be Statutorily Authorized

Immigration detention must be supported by clear statutory authority under the Immigration and Nationality Act. Under 8 U.S.C. § 1226(a), detention is permitted only after an individualized assessment of risk, and bond or release must be meaningfully considered.

Respondents have not provided individualized findings demonstrating that Petitioner is a flight risk or danger to the community. Detention based solely on immigration enforcement status, without a criminal conviction or individualized justification, exceeds statutory authority.

Petitioner was first admitted to the United States in 2012 and has since established long-term residence. He has maintained lawful presence and authorization to remain in the United States, including employment authorization and valid identification documents, while pursuing ongoing immigration relief proceedings. Continued detention without individualized justification is inconsistent with statutory requirements governing immigration custody.

Alternatives to Detention Are Available

Alternatives to detention are available and appropriate in this case, including supervision through the Intensive Supervision Appearance Program (ISAP), electronic monitoring, or regular check-ins with ICE. Petitioner's long-term residence in the United States provide reliable conditions ensuring compliance without the need for continued detention. Petitioner has consistently complied with immigration obligations, including immigration requirements and participation in all immigration proceedings, and there is no indication that he poses a flight risk or danger to the community. Under these circumstances, non-custodial alternatives are sufficient to ensure Petitioner's appearance at all future proceedings while avoiding unnecessary and prolonged detention.

The Government Bears the Burden of Justifying Continued Detention

Immigration detention is civil and not punitive. Because it results in a severe deprivation of liberty, the government bears the burden of demonstrating that detention is legally and constitutionally justified. See *Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996). Respondents have failed to meet that burden. Petitioner has no criminal convictions, holds a valid Driver's License, maintains valid employment authorization, and has a pending asylum application. Absent individualized findings supported by evidence, continued detention is arbitrary and unlawful.

Detention Unlawfully Interferes with Petitioner's Pending Immigration Relief

Petitioner's continued detention unlawfully interferes with his ability to pursue pending immigration relief. Petitioner has properly filed his asylum, and this application is bona

fide and demonstrate Petitioner's eligibility to pursue protection under U.S. immigration law. By remaining in detention, Petitioner is prevented from effectively preparing and presenting his immigration claims. Detention under these circumstances is not reasonably related to any legitimate regulatory purpose and imposes a punitive effect in violation of the Fifth Amendment's Due Process Clause, as recognized in *Zadvydas v. Davis*.

IX. PRAYER FOR RELIEF

1. Assume jurisdiction over this matter;
2. Expedite consideration of this action pursuant to 28 U.S.C. § 1657, because it is an action brought under Chapter 153 (*habeas corpus*) of Title 28;
3. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to explain within three (3) days why the *writ of habeas corpus* should not be granted;
4. Grant a *writ of habeas corpus* directing Respondents to immediately release Petitioner from custody, or, in the alternative, release Petitioner on bond under such conditions as the Court deems appropriate, pursuant to 8 C.F.R. § 241.5, including the use of electronic monitoring measures such as ankle monitoring devices or other approved tracking devices to ensure compliance with release conditions;
5. Order that Respondents shall not transfer Petitioner outside the middle District of Florida while this petition is pending, unless prior authorization is obtained from this Court. This relief is requested pursuant to the Court's inherent authority to preserve and protect its jurisdiction over this *habeas* proceeding and is not sought

as a Temporary Restraining Order or preliminary injunction, but solely to ensure that the Court can fully adjudicate the merits of this case. Any transfer made in violation of this order shall not defeat this Court's jurisdiction.

6. Grant any and all further relief that this Court deems just and proper..

X. DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 06/14/2026

Jose Margarito Lucas

Signature of Petitioner