

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241
(PRO SE)

Elvis Xavier Rodriguez-Palencia,)
Petitioner,)

Case No. 4:26-CV-833

v.)

Todd Blanche, Acting Attorney General of)
the)
United States; Todd Lyons, Acting)
Director, U.S. Immigration and Customs)
Enforcement; Markwayne Mullin,)
Secretary)
of Homeland Security; Warden, Stewart)
Detention Center,)

Respondents.

PRELIMINARY STATEMENT

Petitioner Elvis Xavier Rodriguez-Palencia ("Petitioner"), A  a native and citizen of Venezuela, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner has been held in civil immigration detention at the Stewart Detention Center, Lumpkin, Georgia, since May 6, 2026, following over **two years and five months** of full and continuous compliance with the conditions of his Form I-220A Order of Release on Recognizance, issued by U.S. Customs and Border Protection on December 1, 2023. Petitioner has a pending affirmative asylum application before U.S. Citizenship and Immigration Services (USCIS) and holds a valid USCIS-issued Employment Authorization Document, Category C08, valid through January 12, 2030. He has paid federal and state income taxes during his time in the United States and has been continuously employed at Yancey Bros. Co. in Griffin, Georgia.

Petitioner has **no criminal convictions** in the United States or anywhere else. Petitioner is detained under 8 U.S.C. § 1226(a) (discretionary detention pending removal proceedings); he has not been served with a charge that triggers mandatory detention under § 1226(c). To date, **no bond hearing has been held**, and the U.S. Department of Justice's Executive Office for Immigration Review (EOIR) ACIS portal shows that no future immigration court hearings are scheduled. Petitioner's detention is therefore both indefinite in duration and unsupported by any individualized assessment of flight risk or danger. His continued detention violates the Due Process Clause of the Fifth Amendment and entitles him to immediate relief.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. § 2241(c)(3), which grants district courts the power to issue writs of habeas corpus on behalf of a person "in custody in violation of the Constitution or laws or treaties of the United States." *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (*habeas* jurisdiction extends to constitutional challenges to immigration detention).
2. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) because Petitioner is physically confined at the Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815, located in Stewart County, Georgia, which lies within the Columbus Division of the Middle District of Georgia. 28 U.S.C. § 90(b)(2).

3. The only proper respondent to a core habeas petition is the immediate custodian — here, the Warden of Stewart Detention Center. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). Additional respondents are named in their official capacities to provide complete relief.

II. PARTIES

A. Petitioner. Petitioner Elvis Xavier Rodriguez-Palencia is a native and citizen of Venezuela, born on [REDACTED] Petitioner has been in civil immigration detention since May 6, 2026, at Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815.

B. Respondent Todd Blanche is the Acting Attorney General of the United States, with offices at 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001. He is sued in his official capacity.

C. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, with offices at 500 12th Street, SW, Washington, DC 20536. He is sued in his official capacity.

D. Respondent Markwayne Mullin is the Secretary of Homeland Security, with offices at 2707 Martin Luther King Jr. Avenue, SE, Washington, DC 20528. He exercises supervisory authority over ICE and Petitioner's detention. He is sued in his official capacity.

E. Respondent **Warden, Stewart Detention Center**, is the official directly responsible for Petitioner's physical custody at Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815. He/she is sued in his/her official capacity.

III. STATEMENT OF FACTS

A. Entry, Border Encounter, and Release on I-220A.

4. Petitioner is a native and citizen of Venezuela, born on [REDACTED] Petitioner entered the United States on or about November 30, 2023, near Brownsville, Texas, after presenting himself to U.S. Customs and Border Protection (CBP) Border Patrol. Petitioner cooperated fully with Border Patrol agents at the Donna, Texas, processing facility.

5. On December 1, 2023, CBP issued Petitioner Form I-862 Notice to Appear (NTA), File No. A249-175-058, charging him under 8 U.S.C. § 1182(a)(6)(A)(i) as an alien present in the United States without admission or parole. The NTA scheduled an initial Master Calendar Hearing before the Kansas City Immigration Court on March 9, 2028. The same day, CBP released Petitioner under **Form I-220A Order of Release on Recognizance** subject to standard conditions, including the requirement that Petitioner appear for all hearings, surrender for removal if so ordered, and not violate any local, state, or federal laws.

6. Petitioner's Venezuelan nationality is not in dispute. It is established by his USCIS-issued **Form I-766 Employment Authorization Document** (Category C08, USCIS# [REDACTED])

Card# [REDACTED] valid from January 13, 2025, through January 12, 2030, which lists *Venezuela* as country of birth; by ICE's own Online Detainee Locator, which lists *Venezuela* as Petitioner's country of birth; and by the Notice to Appear itself, which charges Petitioner as a *native of VENEZUELA and a citizen of VENEZUELA*.

B. Two Years and Five Months of Continuous I-220A Compliance.

7. From December 1, 2023 through May 6, 2026 — a period of **over two years and five months** — Petitioner fully and continuously complied with every condition of his I-220A Order of Release. He attended every required check-in. He maintained a stable address at [REDACTED] [REDACTED] where he lives with his wife. He filed change-of-address forms (EOIR-33) when required.

8. During that entire 2-year-and-5-month period, Petitioner had no arrests, no convictions, no failures to appear, and no violations of any condition of his release.

C. Pending Asylum Claim and USCIS-Issued Employment Authorization.

9. Petitioner has a pending affirmative asylum application before U.S. Citizenship and Immigration Services. Based on the pending asylum application, USCIS issued Petitioner an **Employment Authorization Document** (Form I-766) under Category C08 (asylum applicant), valid from January 13, 2025, through January 12, 2030. The issuance of an EAD is itself an

official USCIS determination that Petitioner is lawfully authorized to work in the United States during the pendency of his asylum claim.

10. The EOIR ACIS public-portal record for  currently reflects: "*There are no future hearings for this case*" and "*This case is pending.*" No future immigration court date is scheduled. As a practical matter, Petitioner therefore has **no fixed endpoint** to his detention — he could remain detained indefinitely while the immigration court system processes the case.

D. Pending State Misdemeanor Charges (Disclosed in Full).

11. On May 2, 2026, Petitioner was stopped by Spalding County, Georgia law enforcement following a vehicle stop and was arrested on three **first-offense state misdemeanor charges**: (a) DUI – Alcohol (Less Safe) – 1st offense, O.C.G.A. § 40-6-391(a)(1); (b) Driving While License Suspended or Revoked – 1st offense, O.C.G.A. § 40-5-121; and (c) Speeding, O.C.G.A. § 40-6-181. Petitioner has **not been convicted** of any of these charges. The charges remain pending in Spalding County. Petitioner is presumed innocent. Petitioner respectfully discloses these pending charges in this Petition because candor with the Court requires it.

12. These pending misdemeanor charges do **not** trigger mandatory detention under 8 U.S.C. § 1226(c). Section 1226(c) requires *conviction* of an enumerated offense — not a mere arrest. Petitioner's detention is therefore governed by the discretionary detention provisions of **8 U.S.C. § 1226(a)**, which require an individualized bond determination.

E. ICE Detention on May 6, 2026; No Bond Hearing.

13. On or about May 6, 2026, ICE took Petitioner into custody from the Spalding County jail and transferred him to Stewart Detention Center in Lumpkin, Georgia. As of the date of this filing, no bond hearing has been held before an Immigration Judge. No bond determination — adequate or otherwise — has been made. The Government has never been required to demonstrate that Petitioner poses a flight risk or a danger to the community in any individualized adversarial proceeding.

F. Family, Community, and Employment Ties.

14. Petitioner is married to **Laurimar Fabiola Ferrer Rincón**, who is also lawfully present in the United States as an asylum applicant, residing at [REDACTED]

[REDACTED] Mrs. Ferrer Rincón has committed to providing housing for Petitioner and to ensuring his appearance at all immigration proceedings. Petitioner has been continuously employed at [REDACTED] and has paid federal and state income taxes during his time in the United States.

IV. LEGAL ARGUMENT

A. Standard of Review.

15. A district court has jurisdiction under 28 U.S.C. § 2241 to issue a writ of habeas corpus whenever the petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). The Court reviews questions of constitutional law *de novo*.

16. Petitioner is proceeding pro se. This Court must construe his pleadings liberally. *Haines v. Kerner*, 404 U.S. 519, 520 (1972); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

B. Petitioner's Prolonged Detention Without Any Bond Hearing Violates the Fifth Amendment Due Process Clause.

17. The Fifth Amendment provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. Immigration detainees — including those without lawful status — are "persons" protected by the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("*[t]he Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent*").

18. Prolonged civil immigration detention without a constitutionally adequate bond hearing violates due process. Courts evaluate such claims under the three-factor balancing test of *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976): (1) the private interest affected; (2) the risk of erroneous deprivation and the probable value of additional procedural safeguards; and (3) the government's interest. The Eleventh Circuit has likewise recognized that prolonged immigration

detention raises serious due process concerns warranting bond-hearing relief. *See Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1214–18 (11th Cir. 2016) (recognizing constitutional concerns with prolonged detention; subsequently vacated as moot but framework remains persuasive).

19. **First Mathews Factor — Private Interest.** Petitioner's liberty is at stake. Freedom from imprisonment is "*at the core of the liberty protected by the Due Process Clause.*" *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Petitioner has been ripped from his wife, his community, and his employer after over two years and five months of full compliance with the conditions of his I-220A release. He has a pending asylum application and a USCIS-issued EAD. These are substantial liberty interests of the highest order.

20. **Second Mathews Factor — Risk of Erroneous Deprivation.** The risk of erroneous deprivation here is at its maximum: **no bond hearing has occurred at all.** No neutral adjudicator has ever weighed Petitioner's 2-year-and-5-month record of perfect I-220A compliance, his stable Georgia residence, his marriage to a fellow asylum applicant, his continuous lawful employment under a USCIS-issued EAD, his payment of taxes, his pending asylum claim, or the available alternatives to detention. The probable value of an individualized bond hearing — at which the Government bears the burden of demonstrating by clear and convincing evidence that detention is justified — is therefore substantial. *See Mathews*, 424 U.S. at 335. The mere existence of three pending, uncharged-as-felonies, unconvicted state traffic-related misdemeanor charges cannot constitutionally substitute for a hearing.

21. **Third Mathews Factor — Government Interest.** The Government has a legitimate interest in ensuring appearance at immigration proceedings and protecting the community from flight or danger. But these interests are **fully served** by an individualized bond hearing — they do not require, and the Constitution does not permit, indefinite detention without one. The administrative burden of providing a bond hearing is minimal. The Government has no legitimate interest in detaining a non-criminal asylum-applicant with a USCIS-issued EAD and a 2-year-and-5-month record of full release-condition compliance — without ever requiring it to justify that detention before a neutral adjudicator.

22. Applying *Mathews*, all three factors favor Petitioner. His prolonged civil detention, with no bond hearing whatsoever and no scheduled future hearing date, violates the Fifth Amendment.

C. Petitioner Is Detained Under § 1226(a), Which Statutorily Entitles Him to a Bond Hearing.

23. Petitioner is detained pursuant to 8 U.S.C. § 1226(a), which authorizes — but does not require — detention pending a final removal decision. Section 1226(a) expressly authorizes the Attorney General to release the alien on bond or conditional parole and entitles the alien to a bond hearing before an Immigration Judge. 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 1003.19; *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

24. None of Petitioner's pending state misdemeanor charges triggers mandatory detention under 8 U.S.C. § 1226(c). Section 1226(c) requires **conviction** of an enumerated offense — not a mere arrest. Petitioner has no convictions of any kind. He is presumed innocent of the pending Spalding County charges. He is therefore detained under the *discretionary* detention authority of § 1226(a), which entitles him to a bond hearing on the merits.

25. When § 1226(a) detention becomes prolonged and no bond hearing is provided, due process requires the Government to justify continued detention by clear and convincing evidence before a neutral adjudicator at a hearing that fully considers all *Matter of Guerra* factors. *See Sopo*, 825 F.3d at 1214–18; *Mathews*, 424 U.S. at 335.

D. Pending Misdemeanor Charges Without Conviction Cannot Justify Indefinite Detention Without Any Bond Hearing.

26. The presumption of innocence is foundational to American constitutional law. *See Coffin v. United States*, 156 U.S. 432, 453 (1895). Petitioner has been *charged* with — but not *convicted* of — three first-offense state misdemeanors. The Government cannot constitutionally treat unproven allegations as proven facts to justify indefinite civil detention without a bond hearing. To the extent the Government wishes to argue that the pending charges bear on flight risk or danger, **that is precisely the argument that must be made — and tested — at a bond hearing**. Indefinite confinement without any hearing whatsoever cannot be reconciled with the Fifth Amendment.

27. For any flight-risk or danger argument the Government may advance, this Court should weigh the countervailing facts: Petitioner has lived continuously in Georgia for over two years and five months; he is married to a fellow lawfully-present asylum applicant; he has been continuously employed at [REDACTED] he holds a valid USCIS-issued EAD; he has paid federal and state income taxes; he has a stable Georgia address at [REDACTED] [REDACTED] and his prior I-220A compliance record is perfect. These facts, weighed individually or collectively, do not establish flight risk or danger by clear and convincing evidence — and the Government has never been put to that burden.

V. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a Writ of Habeas Corpus finding that Petitioner's detention violates the Fifth Amendment Due Process Clause;
2. Order Respondents to release Petitioner from civil immigration detention forthwith, with or without conditions, including reinstatement of the Form I-220A Order of Release on Recognizance under which Petitioner complied for over two years and five months;
3. In the alternative, order Respondents to provide Petitioner with a constitutionally adequate bond hearing before an Immigration Judge within ten (10) days, at which: (a) Respondents must bear the burden of proving by clear and convincing evidence that Petitioner is

a flight risk or a danger to the community that cannot be mitigated by alternatives to detention; and (b) the Immigration Judge must fully consider all *Matter of Guerra* factors, including Petitioner's family ties, employment history, payment of taxes, USCIS-issued EAD, pending asylum claim, two-year-and-five-month record of I-220A compliance, and the unconvicted nature of the pending state charges;

4. Issue an emergency stay of any removal order pending resolution of this Petition, and enjoin Respondents from transferring Petitioner outside this District without prior order of the Court;

5. Construe Petitioner's pleadings liberally as required by *Haines v. Kerner*, 404 U.S. 519 (1972); and

6. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted on May 9, 2026.

Elvis R.

Elvis Xavier Rodriguez-Palencia

Pro Se

Stewart Detention Center

146 CCA Road

Lumpkin, Georgia 31815

VERIFICATION

I, Elvis Xavier Rodriguez-Palencia, declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that I have read the foregoing Petition for Writ of Habeas Corpus and that the factual statements contained therein are true and correct to the best of my knowledge, information, and belief.

Executed on the 9th day of May, 2026, at Stewart Detention Center, Lumpkin, Georgia 31815.

Elvis R.

Elvis Xavier Rodriguez-Palencia

Pro Se

Stewart Detention Center

146 CCA Road

Lumpkin, Georgia 31815

CERTIFICATE OF SERVICE

I, Elvis Xavier Rodriguez-Palencia, hereby certify that on the 9th day of May, 2026, I caused a true and correct copy of the Petition for Writ of Habeas Corpus to be served upon the following parties by depositing the same in the United States mail, first-class postage prepaid, and by certified mail, return receipt requested, addressed as follows:

1. Civil Process Clerk, United States Attorney's Office, Middle District of Georgia, 300 Mulberry Street, Suite 400, Macon, Georgia 31201.
2. Todd Blanche, Acting Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.
3. Markwayne Mullin, Secretary of Homeland Security, 2707 Martin Luther King Jr. Avenue, SE, Washington, DC 20528.
4. Todd Lyons, Acting Director, U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Washington, DC 20536.
5. Warden, Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 9th day of May, 2026, at Stewart Detention Center, Lumpkin, Georgia 31815.

Elvis R

Elvis Xavier Rodriguez-Palencia

Pro Se 

Stewart Detention Center

146 CCA Road

Lumpkin, Georgia 31815