

UNITED STATES DISTRICT
COURT MIDDLE DISTRICT OF GEORGIA

RUBIEL VASQUEZ BERDUO
Proceeding Pro Se,
Petitioner,

v.

_____, Warden, Stewart Detention Center;
_____, Field Office Director, ICE Atlanta Field Office;
TODD M. LYONS, Acting Director, United States
Immigration and Customs Enforcement; MARKWAYNE
MULLIN, Secretary of Homeland Security; TODD
BLANCHE, United States Attorney General, in their
official capacities,

Respondents.

Civil Action No.:

PETITION FOR WRIT OF HABEAS
CORPUS

PETITION FOR A WRIT OF HABEAS CORPUS

(Verified Petition Pursuant to 28 U.S.C. § 2241)

INTRODUCTION

Petitioner RUBIEL VASQUEZ BERDUO respectfully petitions this Honorable Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his unlawful and unconstitutional civil immigration detention by the United States Department of Homeland Security and Immigration and Customs Enforcement (ICE).

Petitioner, a 22-year-old asylum seeker from Guatemala, has been detained since February 16, 2026. He entered the United States as a 17-year-old minor in 2021 and was successfully integrated through a Family Reunification Program, where he demonstrated good conduct. His

detention commenced after a local arrest for a minor misdemeanor offense, “Intoxicated and Disruptive.” However, that criminal case was **summarily DISMISSED by the District Attorney**. Petitioner was never convicted of any crime. Despite the dismissal, ICE took custody and continues to detain him.

On April 29, 2026, an Immigration Judge ordered Petitioner removed. The deadline to appeal this decision to the Board of Immigration Appeals (BIA) is **May 29, 2026**. His detention and the looming removal order now threaten to extinguish his only opportunity for appellate review and permanently separate him from his family, including his U.S. citizen uncles.

The Government has failed to provide Petitioner with a meaningful, individualized custody determination that considers the critical fact that his criminal case was dismissed, his entry as a minor, his successful participation in a reunification program, his five years of stable employment, and his strong family ties. This failure violates the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.

Freedom from arbitrary physical restraint is a cornerstone of the liberty protected by the Constitution. Detaining a young man with no criminal convictions, who has demonstrated rehabilitation and community ties, and whose appellate rights are about to expire, is a fundamental violation of due process. Because Petitioner's detention is statutorily and constitutionally infirm, habeas relief is necessary. Petitioner respectfully requests that this Court grant the writ and order his immediate release, or, in the alternative, order an immediate individualized bond hearing where the Government bears the burden of justifying his continued detention.

CUSTODY

Petitioner is in the physical custody of Respondents at the Stewart Detention Center, 146 CCA ROAD, LUMPKIN, GA 31815. He is under the direct control of:

- Warden, Stewart Detention Center;
- Field Office Director, ICE Atlanta Field Office;
- Acting Director, United States Immigration and Customs Enforcement;
- Secretary, Department of Homeland Security;
- Attorney General, United States.

JURISDICTION

This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 2241 (writ of habeas corpus).

1. Personal jurisdiction attaches to the named respondents in their official capacities.
2. The Court's jurisdiction is further supported by the Due Process Clause of the Fifth Amendment and the Suspension Clause of the United States Constitution.

VENUE

Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because:

- Petitioner is detained in Lumpkin, Georgia;
- The Facility and the Respondents' custodial officers are located in this District.

PARTIES

Party	Description
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	I, Rubiel Vasquez Berduo, A Number [REDACTED] citizen of Guatemala,
Petitioner	presently detained at the Stewart Detention Center.

Respondent	Description
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1	Warden, Stewart Detention Center, named in official capacity.
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Respondent	Description
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2	Field Office Director, ICE Atlanta Field Office, named in official capacity.
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Respondent	Acting Director, United States Immigration and Customs Enforcement,
3	named in official capacity.

Respondent	Description
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4	Secretary, Department of Homeland Security, named in official capacity.
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Respondent	Description
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5	Attorney General, United States, named in official capacity.
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STATEMENT OF FACTS

1. Petitioner RUBIEL VASQUEZ BERDUO is a native and citizen of Guatemala, born on

[REDACTED] 4. He is 22 years old.

2. He entered the United States on or about June 22, 2021, at the age of 17, as an unaccompanied minor seeking protection.

3. Upon entry, he was placed in the Lincoln Hall Boy's Haven Ives School Family Reunification Program, which he entered on July 3, 2021. School reports from the program noted his consistent participation, good conduct, and interest in learning English. He was discharged on July 20, 2021, to reunify with family.
4. For nearly five years, Petitioner established a life in North Carolina, working consistently in the restaurant industry. His mother and siblings in Guatemala are emotionally and financially dependent on him. He has U.S. citizen uncles who reside in the United States.
5. On February 16, 2026, Petitioner was arrested in Wayne County, North Carolina, and charged with one count of "Intoxicated and Disruptive," a low-level misdemeanor.
6. On March 12, 2026, the District Attorney for Wayne District Court **DISMISSED** the case (disposition code: VD-District Dismissals w/o Leave by DA). Petitioner was never convicted of this or any other crime.
7. Despite the dismissal of the criminal charge, ICE assumed custody of Petitioner and transferred him to the Stewart Detention Center in Lumpkin, Georgia, where he is currently detained.
8. On April 29, 2026, an Immigration Judge in Lumpkin, Georgia, ordered Petitioner removed from the United States.
9. According to the Executive Office for Immigration Review (EOIR), the deadline to file an appeal of this decision with the Board of Immigration Appeals (BIA) is **May 29, 2026**.
10. Petitioner has strong community ties, as evidenced by a notarized letter from Ms. Bertalina Ramirez, who attests to his good character, strong work ethic, and integrity.
11. He is not a danger to the community, as the sole charge against him was dismissed. His nearly five years of stable residency and employment demonstrate he is not a flight risk.

12. The Government has not afforded Petitioner a meaningful, individualized bond hearing to assess whether his detention is necessary, particularly in light of the dismissal of his criminal charge, his arrival as a minor, and his strong family and community ties.
13. His continued detention has caused him significant depression and anxiety and prevents him from consulting with counsel to preserve his appellate rights before the May 29, 2026 deadline.

LEGAL FRAMEWORK

1. **Statutory Basis for Detention.** Petitioner's detention is governed by 8 U.S.C. § 1226. Because Petitioner has not been convicted of any crime, he is not subject to mandatory detention under § 1226(c). Instead, his custody is governed by § 1226(a), which provides for discretionary release on bond and requires an individualized custody determination. Respondents' failure to provide such a hearing is a violation of the statute.
2. **Due Process Clause.** The Fifth Amendment prohibits the government from depriving any "person" within the United States of liberty without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This protection applies to all individuals within the United States, regardless of their immigration status.
3. **Bond-Hearing Requirement.** Due process requires the government to provide individualized bond hearings where it must prove by clear and convincing evidence that a non-citizen is a flight risk or a danger to the community. *See Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). The hearing must include consideration of the detainee's individual circumstances, including the fact that his only criminal charge was dismissed.
4. **Consideration of Equities.** A proper custody determination must weigh all relevant

factors, including Petitioner's entry as a minor, his successful participation in a reunification program, his lack of any criminal conviction, his long-term employment, and his family ties. Respondents have failed to conduct such a particularized inquiry.

5. *Mathews v. Eldridge* Balancing. Applying the three part test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), confirms that Petitioner's detention violates due process. First, Petitioner has a fundamental private interest in his liberty. Second, the risk of erroneous deprivation is extremely high, as he has been denied a meaningful hearing to present evidence that the sole basis for his arrest was a charge that was ultimately dismissed. Third, the governmental interest in providing a proper hearing is minimal compared to the severe harm caused by his continued detention, which includes the potential for the forfeiture of his appellate rights.

CLAIMS FOR RELIEF

COUNT ONE – VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT

(INA)

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. Petitioner is being detained without a bond hearing under the incorrect legal standard. As he has not been convicted of any crime, his detention is governed by 8 U.S.C. § 1226(a).
3. Section 1226(a) and its implementing regulations (8 C.F.R. § 236.1, § 1003.19) require that Petitioner be afforded a prompt and individualized bond hearing where his eligibility for release can be assessed.
4. Respondents have detained Petitioner since February 2026 without such a hearing, in direct violation of the INA.

5. Accordingly, Petitioner is entitled to an order requiring Respondents to provide him with an immediate bond hearing consistent with the statutory framework.

COUNT TWO – VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

1. Petitioner realleges and incorporates by reference each allegation set forth above
2. The Due Process Clause requires that any deprivation of liberty be accompanied by fair procedures, including a hearing before a neutral decision-maker. *Zadvydas*, 533 U.S. at 690.
3. Detaining Petitioner for a prolonged period without a bond hearing, where the Government cannot demonstrate that he poses a flight risk or a danger to the community because the underlying criminal charge was dismissed, constitutes arbitrary and indefinite detention.
4. Petitioner has therefore suffered an unconstitutional deprivation of his liberty and is entitled to relief.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Issue an immediate Temporary Restraining Order enjoining Respondents from transferring, removing, or deporting Petitioner pending resolution of this application, particularly before the BIA appeal deadline of May 29, 2026.
2. Assume jurisdiction over this matter.
3. Order Respondents to show cause why a writ of habeas corpus should not be granted,

within three (3) days, and set a hearing on this petition within five (5) days of the return, as required by 28 U.S.C. § 2243.

4. Declare that Petitioner's continued detention without an individualized bond hearing that properly considers the dismissal of his criminal case violates 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment.
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from the Stewart Detention Center.
6. In the alternative, order Respondents to provide Petitioner with an immediate bond hearing before an Immigration Judge, at which the Government must prove by clear and convincing evidence that his continued detention is necessary, and at which the Immigration Judge must consider his lack of criminal convictions, his ties to the community, his ability to pay, and alternative conditions of release.
7. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, and 28 U.S.C. § 2412.
8. Grant such further relief as this Court deems just and proper

VERIFICATION

I, Rubiel Vasquez Berduo, being the petitioner, hereby certify under penalty of perjury that the statements set forth herein are true and correct to the best of my knowledge and belief.

Date: May 26, 2026.

/s/ Rubiel Vasquez
Rubiel Vasquez Berduo
Pro Se