

UNITED STATES DISTRICT
COURT MIDDLE DISTRICT OF GEORGIA

CHRISTIAN JOSÉ MONTESINOS
Proceeding Pro Se,
Petitioner,

v.

_____, Stewart Detention Center;
_____, Field Office Director, ICE Atlanta Field Office;
LECHRISTOPHER WILLIAMS, Acting Director, United
States Immigration and Customs Enforcement; Secretary of
Homeland Security,
PAMELA BONDI, United States Attorney General,
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 Christian José Montesinos 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, an asylum seeker with a pending application, has been detained since May 8, 2026.

His detention commenced under circumstances of aggression and arbitrariness: he was arrested by ICE agents while working as a taxi driver in Peachtree Corners, Georgia, when ICE agents

intercepted his vehicle, blocked his path, and forcibly opened his door. He has no criminal history.

Petitioner's detention is not only arbitrary but creates a severe and immediate humanitarian crisis.

His young daughter, Avril Fabiana Montesinos Carrillo, is now deprived of her father and sole financial provider. His partner Laureth Carrillo and daughter are left without support, facing extreme hardship.

The Government has failed to provide Petitioner with a meaningful, individualized custody determination that considers his lack of criminal history, his pending asylum claim, the fact he was arrested while working lawfully, and the devastating impact his detention is having on his dependent family. 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 an asylum seeker with no criminal record, separating him from his dependent partner and child, without a proper bond hearing 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 before a neutral decision-maker 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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	Christian José Montesinos, A-Number  citizen of Venezuela,
Petitioner	presently detained at Stewart Detention Center.

Respondent Warden, Stewart Detention Center, named in official capacity.

Party	Description
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Respondent

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.
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Respondent

4	Secretary, Department of Homeland Security, named in official capacity.
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Respondent

5	Attorney General, United States, named in official capacity.
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STATEMENT OF FACTS

1. Petitioner CHRISTIAN JOSÉ MONTESINOS is a native and citizen of Venezuela, born on .
2. He entered the United States on or about August 20, 2024, through the CBP One mobile application, seeking protection from persecution in his home country.
3. Petitioner has a pending application for asylum and is currently in removal proceedings before Immigration Judge Jerrica A. Harness. He does not have a final order of removal.
4. His asylum claim is based on persecution and fear of returning to Venezuela due to political and social conditions affecting him and his family.
5. His next Master Hearing is scheduled for June 17, 2026, at 2:00 p.m. via WebEx.

6. On or about May 8, 2026, at approximately 5.00 a.m., Petitioner was working as a taxi driver in Peachtree Corners, Gwinnett County, Georgia.
7. While transporting passengers, Petitioner noticed a black van following him. The van intercepted his vehicle, blocked his path, and nearly caused a collision.
8. ICE agents exited the van, and despite Petitioner only lowering his window halfway, they forcibly opened his car door in an arbitrary and aggressive manner.
9. Petitioner was immediately arrested and taken into custody by ICE, along with his passengers.
10. Petitioner has no prior criminal history, has never been convicted of any crime, and has no history of violence. He is not a danger to the community.
11. Following his arrest, Petitioner has remained detained at Stewart Detention Center in Lumpkin, Georgia.
12. Petitioner is the father of A [REDACTED] a young child who depends on him completely.
13. Petitioner lives in union with his partner, Laireth Carrillo. They are not married but have been together for approximately four and one-half years.
14. Petitioner is the sole financial provider for his partner Laireth Carrillo and his daughter Avril.
15. His prolonged detention has plunged his family into a severe financial crisis, as his partner is unable to support their daughter alone.
16. Petitioner has strong ties to the community in Georgia, including a Georgia driver's license, Social Security card with DHS authorization, pending Employment Authorization Document (Category C08), vehicle insurance, family health insurance

- coverage, and a Bank of America account. These demonstrate he is not a flight risk.
17. Since his detention, Petitioner has suffered significant emotional and physical distress, including symptoms of anxiety, panic, depression, and stress related to his prior experiences in Venezuela and the traumatic nature of his arrest.
18. The Government has not afforded Petitioner a meaningful, individualized bond hearing to assess whether his detention is necessary, particularly in light of his lack of criminal record, his pending asylum claim, his strong community ties, and the extreme hardship his detention is causing his dependent family.
19. His continued detention has caused him significant stress and anxiety and prevents him from providing for his family and preparing his defense against removal.

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. The hearing must include consideration of the detainee's individual circumstances, including family ties and the impact of detention on dependent family members.

4. **Family Unity.** Federal courts have recognized the government's interest in policies that avoid unnecessarily separating families. Petitioner's detention directly contravenes this interest by removing the sole financial provider from his dependent partner and child, causing extreme hardship. An individualized custody determination must weigh the impact on family unity as a significant factor.
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 and in the care and support of his dependent family. Second, the risk of erroneous deprivation is extremely high, as he has been denied a meaningful hearing to present evidence of his family ties, his lack of dangerousness, and his strong community connections. Third, the governmental interest in providing a proper hearing is minimal compared to the severe and potentially irreversible harm to both Petitioner and his family.

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 May 8, 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 has not demonstrated that he poses a flight risk or a danger to the community, and without considering the severe harm to his dependent family, constitutes arbitrary and indefinite detention.
 4. Petitioner has therefore suffered an unconstitutional deprivation of his liberty and his fundamental right to family unity and is entitled to relief.
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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.
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 impact on his dependent family 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 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 history, the risk of harm to his family, 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, Christian José Montesinos, 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 28, 2026

/s/ Christian Montesinos
Christian José Montesinos
Pro Se