

States, Petitioner sought protection through asylum, withholding of removal, and protection under the Convention Against Torture.

Petitioner actively litigated his claims. He submitted Form I-589, supporting affidavits, country conditions evidence, corroborating witness statements, identity documents, legal briefing, and supplemental filings. When the Immigration Judge identified a perceived deficiency relating to translation certification requirements, Petitioner complied with the Court's instructions and submitted a corrected affidavit together with the original-language version and translator certification.

Despite these efforts, the Immigration Judge deemed the application abandoned and entered a removal order on May 27, 2026.

Petitioner timely appealed to the Board of Immigration Appeals. That appeal remains pending.

While pursuing appellate review, Petitioner remains detained by Immigration and Customs Enforcement. Although Petitioner sought custody review before the Immigration Court, he has not received a constitutionally adequate individualized custody determination that meaningfully considered his extensive equities, including his United States citizen child, stable employment history, sponsor, community ties, tax history, and lack of criminal record.

The Due Process Clause does not permit the Government to continue depriving Petitioner of his liberty while his removal proceedings remain ongoing and while a substantial challenge to the underlying removal order remains pending without affording meaningful process concerning his detention.

Petitioner therefore seeks a writ directing Respondents to provide an individualized custody hearing before a neutral adjudicator within seven days, at which the Government bears the burden of establishing by clear and convincing evidence that continued detention is necessary because

Petitioner presents a danger to the community or a significant risk of flight. Alternatively, Petitioner seeks release under appropriate conditions of supervision.

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner challenges the legality of his present physical detention by the Department of Homeland Security and Immigration and Customs Enforcement.
2. This Court additionally possesses jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act and the Fifth Amendment to the United States Constitution.
3. Jurisdiction is further supported by the Suspension Clause of Article I, Section 9, Clause 2 of the United States Constitution.
4. Petitioner is presently confined at the Metropolitan Detention Center in Brooklyn, New York, which lies within the Eastern District of New York.
5. Venue is therefore proper in this District because Petitioner's immediate custodian is located within this District and because the detention challenged herein is occurring within this District.

LEGAL FRAMEWORK

6. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
7. Although Congress possesses broad authority over immigration matters, detention authority is not unlimited and remains subject to constitutional constraints. *Demore v. Kim*, 538 U.S. 510 (2003).
8. The Second Circuit has repeatedly recognized that immigration detention implicates substantial liberty interests requiring meaningful procedural safeguards.

9. In *Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020), the Court held that due process prohibited continued detention where the Government failed to justify confinement through constitutionally adequate procedures.
10. The Second Circuit has likewise recognized that detention authority depends upon the procedural posture of removal proceedings and that significant constitutional concerns arise when detention continues without meaningful process. See *Hechavarria v. Sessions*, 891 F.3d 49 (2d Cir. 2018).
11. Petitioner does not seek review of the merits of his removal proceedings. Rather, Petitioner challenges the legality of his continued physical detention while his appeal remains pending before the Board of Immigration Appeals.
12. The issue before this Court is whether the Government may continue depriving Petitioner of his liberty without providing a constitutionally adequate individualized custody determination while a substantial administrative appeal remains pending.

THE PENDING BIA APPEAL IS SUBSTANTIAL AND NON-FRIVOLOUS

13. The Government may attempt to characterize Petitioner's appeal as unlikely to succeed. The record demonstrates otherwise.
14. During proceedings before the Immigration Court, concerns were raised regarding compliance with translation requirements applicable to Petitioner's supporting affidavit. Petitioner was afforded an opportunity to submit corrective materials prior to the next hearing date.
15. Petitioner complied with the Immigration Judge's instructions.
16. Prior to the subsequent hearing, Petitioner submitted:
 - a. an updated affidavit;
 - b. the original Spanish-language version;

- c. a certified English translation;
 - d. a translator certification;
 - e. supplemental country conditions evidence;
 - f. corroborating witness statements;
 - g. documentary evidence supporting his claims for relief; and
 - h. legal briefing in support of his applications. See Exhibits G and H.
17. The record therefore reflects active prosecution of Petitioner's asylum, withholding of removal, and Convention Against Torture claims.
18. Nevertheless, the Immigration Judge deemed the Form I-589 abandoned and entered a removal order. See Exhibit B; Exhibit E.
19. Petitioner's pending appeal challenges, among other things: See Exhibits C and D.
- a. the Immigration Judge's abandonment finding;
 - b. the Immigration Judge's abuse of discretion;
 - c. the denial of a meaningful opportunity to present evidence;
 - d. procedural due process violations; and
 - e. the refusal to adjudicate Petitioner's protection claims on the merits.
20. Because these issues are presently before the Board of Immigration Appeals, Petitioner's appeal cannot reasonably be characterized as frivolous.
21. The existence of a substantial pending appeal further weighs heavily against continued detention.

**PETITIONER'S DETENTION SERVES NO LEGITIMATE GOVERNMENT
PURPOSE**

22. Petitioner presents exceptionally strong documentary evidence demonstrating that he is neither a danger to the community nor a flight risk. See Exhibit H (Bond Equities Packet).
23. Petitioner is the father of a United States citizen child.
24. Petitioner has demonstrated substantial and longstanding ties to the United States.

25. Petitioner has maintained employment and has filed federal income tax returns.
26. Multiple members of Petitioner's community have submitted letters attesting to his character, reliability, and commitment to his family.
27. A sponsor has agreed to provide housing, transportation, and support upon Petitioner's release.
28. Petitioner has no criminal convictions and no history of violence.
29. Petitioner has no history of failing to appear in immigration proceedings.
30. To the contrary, the record demonstrates Petitioner's active participation in removal proceedings, repeated efforts to comply with court directives, and prompt pursuit of appellate review. See Exhibits C, D, E, F, and G.
31. Petitioner therefore possesses every incentive to continue pursuing his claims for protection and to appear at future immigration proceedings.
32. Under these circumstances, continued detention serves no legitimate governmental purpose and is excessive in relation to any purported regulatory objective.

EXHAUSTION OF AVAILABLE REMEDIES

33. Petitioner has actively pursued all available administrative remedies.
34. Petitioner timely appealed the Immigration Judge's decision to the Board of Immigration Appeals.
35. Petitioner additionally sought custody review before the Immigration Court through a Motion for Custody Redetermination. See Exhibit I. The Immigration Court subsequently denied bond on June 15, 2026.
36. Because the relief requested herein concerns ongoing constitutional violations arising from Petitioner's detention, habeas jurisdiction is proper.

FACTUAL BACKGROUND

Petitioner Carlos Geovanny Once Corte is a native and citizen of Ecuador.

Beginning in January 2020, Petitioner became the target of members of Los Choneros, a violent transnational criminal organization operating throughout Ecuador. Gang members demanded extortion payments from Petitioner. After Petitioner refused and reported the incident to police authorities, gang members retaliated against him and later fired shots at his residence.

Petitioner reasonably feared that he would be killed if he remained in Ecuador. He therefore fled Ecuador and eventually entered the United States seeking safety.

Petitioner has substantial ties to the United States.

Petitioner is the father of a United States citizen child, Joshua Gael Once Borja, born on September 30, 2023.

Petitioner has established a consistent employment history in the United States, filed tax returns, maintained community relationships, and obtained sponsorship from individuals willing to provide housing and support upon release.

Petitioner has no criminal history and no record suggesting that he presents any danger to the community.

IMMIGRATION PROCEEDINGS

The Department of Homeland Security initiated removal proceedings charging Petitioner under INA § 212(a)(6)(A)(i).

Petitioner sought asylum, withholding of removal, and protection under the Convention Against Torture.

During proceedings before the Immigration Court, a dispute arose concerning compliance with translation requirements applicable to Petitioner's supporting affidavit. The Immigration Judge ultimately deemed Petitioner's Form I-589 abandoned and entered a removal order on May 27, 2026. Petitioner timely appealed that decision to the Board of Immigration Appeals.

As discussed in greater detail above, the appeal challenges the Immigration Judge's abandonment determination and raises substantial procedural and due process issues.

The appeal remains pending and Petitioner's removal order is therefore not administratively final.

DETENTION HISTORY

On or about April 28, 2026, Petitioner was taken into custody by U.S. Immigration and Customs Enforcement.

Petitioner remains detained at the Metropolitan Detention Center in Brooklyn, New York.

Petitioner has remained continuously detained while pursuing his appeal before the Board of Immigration Appeals.

Petitioner timely sought custody review before the Immigration Court through a Motion for Custody Redetermination.

On June 15, 2026, the Immigration Court conducted a custody redetermination hearing and denied bond.

Although Petitioner received a custody hearing, he respectfully submits that the hearing did not cure the constitutional concerns presented in this Petition.

Petitioner's removal order remains on appeal before the Board of Immigration Appeals and is therefore not administratively final.

As set forth herein, Petitioner contends that the removal order resulted from an erroneous abandonment determination entered despite Petitioner's submission of corrected materials and substantial supporting evidence.

Petitioner further submits that continued detention remains unwarranted in light of his substantial release equities, including his United States citizen child, employment history, tax filings, community support, sponsor, lack of criminal history, and demonstrated compliance with immigration proceedings. See Exhibit H.

Accordingly, Petitioner remains detained despite a substantial pending appeal, overwhelming evidence supporting release, and the availability of reasonable alternatives to detention.

PETITIONER'S RELEASE EQUITIES

Petitioner presents extraordinarily strong release factors demonstrating that he is neither a danger to the community nor a flight risk. See Exhibit H (Bond Equities Packet).

These factors include:

- Petitioner's United States citizen child, Joshua Gael Once Borja, born on September 30, 2023. See Exhibit H, Birth Certificate.
- Significant family and community ties within the United States. See Exhibit H, Character Reference Letters.
- Verified employment history and evidence of lawful work performed while residing in the United States. See Exhibit H, Employment Verification Letter from Aventus Construction.
- Multiple years of federal income tax filings demonstrating compliance with legal obligations and substantial ties to the United States. See Exhibit H, Tax Returns.
- A confirmed sponsor willing to provide housing, transportation, financial assistance, and support upon Petitioner's release from custody. See Exhibit H, Sponsor Affidavit of Steven Serrano.
- Multiple letters from family members, employers, and community members attesting to Petitioner's good moral character, reliability, work ethic, and commitment to his family. See Exhibit H, Character Reference Letters.
- No criminal convictions.
- No history of violence.
- No history of failing to appear for immigration proceedings.
- No record of disciplinary infractions while in ICE custody.

- Demonstrated compliance with immigration court directives and active prosecution of his applications for asylum, withholding of removal, and protection under the Convention Against Torture.

These factors overwhelmingly demonstrate that Petitioner is neither a danger to the community nor a flight risk. They further establish that reasonable alternatives to detention are readily available and that continued confinement is unnecessary to ensure Petitioner's appearance at future proceedings.

The evidence contained in Exhibit H demonstrates that Petitioner possesses substantial community ties, stable residence options, financial support, family responsibilities, and every incentive to continue pursuing his pending appeal before the Board of Immigration Appeals.

ARGUMENT

Petitioner does not contend that detention has become unconstitutional solely because of its duration. Rather, Petitioner challenges detention that continues without meaningful individualized custody review while a substantial administrative appeal remains pending from a disputed abandonment determination. The constitutional defect arises from the absence of adequate process, not merely the length of confinement.

I. THIS COURT POSSESSES HABEAS JURISDICTION TO REVIEW THE LEGALITY OF PETITIONER'S CONTINUED DETENTION

The writ of habeas corpus has long served as the traditional mechanism through which federal courts review the legality of executive detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

Petitioner does not ask this Court to adjudicate his asylum claim, determine whether he ultimately qualifies for withholding of removal, or decide issues currently pending before the Board of Immigration Appeals. Rather, Petitioner challenges only the legality of his continued physical detention and seeks constitutionally adequate procedures regarding that detention.

Federal district courts possess jurisdiction under 28 U.S.C. § 2241 to review claims that immigration detention violates the Constitution, federal statutes, or applicable regulations. See *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas*, 533 U.S. at 687-88.

Petitioner is presently detained within the Eastern District of New York. His immediate custodian is located within this District. Accordingly, habeas jurisdiction and venue are proper.

II. THIS CASE IS NOT A ROUTINE PROLONGED DETENTION CASE

Respondents may attempt to characterize this matter as an ordinary challenge to immigration detention that has lasted only several weeks.

That characterization would fundamentally misstate Petitioner's claim.

Petitioner is not seeking relief solely because detention has continued for a particular number of days or months.

Rather, Petitioner seeks relief because:

- a. a substantial appeal remains pending before the Board of Immigration Appeals;
- b. the removal order underlying his detention resulted from a disputed abandonment finding;
- c. the record reflects extensive efforts to comply with the Immigration Judge's directives;
- d. the record reflects active prosecution of asylum, withholding, and Convention Against Torture claims;
- e. Petitioner possesses overwhelming evidence demonstrating that he is neither a danger nor a flight risk; and
- f. continued detention has occurred without a constitutionally adequate individualized custody determination.

The unusual procedural posture of this case distinguishes it from ordinary detention challenges.

The issue before this Court is whether the Government may continue depriving Petitioner of his liberty while a substantial administrative appeal remains pending and while no meaningful adjudicator has evaluated whether detention remains necessary.

III. PETITIONER'S PENDING APPEAL FURTHER SUPPORTS HABEAS RELIEF

As set forth above, Petitioner's pending appeal challenges the Immigration Judge's decision deeming his asylum application abandoned despite Petitioner's efforts to comply with the Court's directives and submit corrected materials.

The Court need not determine whether the Board of Immigration Appeals will ultimately reverse the Immigration Judge. Nor must the Court determine whether Petitioner ultimately merits asylum, withholding of removal, or protection under the Convention Against Torture.

What matters for present purposes is that Petitioner's appeal is substantial and non-frivolous.

The appeal raises significant questions concerning the abandonment determination, the opportunity afforded to Petitioner to cure alleged deficiencies, and whether Petitioner's protection claims should have been adjudicated on their merits.

These issues remain pending before the Board of Immigration Appeals.

The existence of a substantial pending appeal distinguishes this case from routine detention matters and further demonstrates why meaningful individualized custody review is constitutionally required.

IV. CONTINUED DETENTION VIOLATES THE FIFTH AMENDMENT

The Fifth Amendment protects every person within the United States from deprivation of liberty without due process of law.

Physical liberty occupies the highest position among constitutionally protected interests.

Zadvydas recognized that freedom from bodily restraint lies at the heart of the liberty protected by the Due Process Clause.

Likewise, the Second Circuit has repeatedly emphasized that immigration detention implicates extraordinarily significant liberty interests.

See *Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020).

Under *Mathews v. Eldridge*, courts evaluate:

- (1) the private interest affected;
- (2) the risk of erroneous deprivation; and
- (3) the Government's interest.

Each factor favors Petitioner.

A. Petitioner's Liberty Interest Is Extraordinary

Petitioner remains confined in a federal detention facility.

Detention separates him from his United States citizen child, his family, his community, and his employment.

The liberty interest implicated here is therefore substantial.

B. The Risk of Erroneous Deprivation Is Significant

The risk of erroneous deprivation is especially pronounced because the detention stems from a removal order currently under active review by the Board of Immigration Appeals.

The underlying order resulted from an abandonment determination that Petitioner contends was legally erroneous.

Petitioner maintains that he complied with the Immigration Judge's directives and submitted corrected materials prior to the hearing at which abandonment was found.

Thus, the legal foundation supporting continued detention remains the subject of substantial administrative litigation.

C. The Government's Interest Is Minimal

The Government's interest in continued detention is weak.

Petitioner presents no danger to the community.

Petitioner has no criminal convictions.

Petitioner has no history of violence.

Petitioner has no history of failing to appear.

Petitioner has demonstrated compliance with immigration proceedings.

Petitioner has every incentive to continue litigating his protection claims.

Because less restrictive alternatives exist, continued physical detention is excessive in relation to any legitimate regulatory objective.

V. PETITIONER IS DETAINED PURSUANT TO INA § 236(a), WHICH REQUIRES INDIVIDUALIZED CONSIDERATION

Petitioner's appeal remains pending before the Board of Immigration Appeals.

Accordingly, his removal order is not administratively final.

His detention therefore remains governed by INA § 236(a).

See *Hechavarria v. Sessions*, 891 F.3d 49 (2d Cir. 2018).

Section 236(a) authorizes release on bond or conditional parole.

The statutory framework contemplates individualized decision-making.

The implementing regulations likewise require consideration of whether a detainee presents a danger to persons or property and whether he is likely to appear for future proceedings.

Matter of Guerra, 24 I&N Dec. 37 (BIA 2006), identifies relevant factors including:

- family ties;
- employment history;
- length of residence;
- criminal record;
- immigration history;
- community support; and

- likelihood of appearance.

Those factors overwhelmingly favor release.

Petitioner is the father of a United States citizen child. See Exhibit H, Birth Certificate of Joshua Gael Once Borja.

Petitioner possesses significant family ties within the United States. See Exhibit H, Birth Certificate; Sponsor Affidavit; and Character Reference Letters.

Petitioner has established a consistent employment history and maintained lawful employment while residing in the United States. See Exhibit H, Employment Verification Letter from Aventus Construction.

Petitioner has filed federal income tax returns demonstrating compliance with his legal obligations and substantial ties to the United States. See Exhibit H, Tax Records and Federal Income Tax Returns.

Petitioner has secured a sponsor willing to provide housing, transportation, financial assistance, and support upon release from custody. See Exhibit H, Sponsor Affidavit of Steven Serrano.

Petitioner enjoys substantial community support from family members, employers, and community members who have attested to his good moral character, reliability, work ethic, and commitment to his family. See Exhibit H, Character Reference Letters.

Petitioner has no criminal history. See Exhibit H, Bond Equities Packet.

Petitioner has no history of absconding or failing to appear for immigration proceedings.

Petitioner has actively participated in his immigration proceedings, complied with court directives, and diligently pursued his applications for asylum, withholding of removal, and protection under the Convention Against Torture. See Exhibits D, E, F, and G.

No adjudicator has conducted a constitutionally adequate individualized custody determination that fully considered Petitioner's substantial equities in light of the pending BIA appeal and disputed abandonment ruling.

The documentary evidence contained in Exhibit H demonstrates that Petitioner presents neither a danger to the community nor a meaningful risk of flight and that reasonable alternatives to detention are readily available.

VI. PETITIONER'S DETENTION SERVES NO LEGITIMATE REGULATORY PURPOSE

Civil immigration detention is permissible only insofar as it serves legitimate regulatory objectives.

The two primary objectives traditionally recognized are:

- (1) protecting the community; and
- (2) ensuring appearance at future proceedings.

Neither objective justifies continued detention here.

Petitioner does not present a danger.

Petitioner does not present a meaningful flight risk.

His family, employment, sponsor, child, and pending appeal all create powerful incentives to comply with future proceedings.

Because less restrictive alternatives are readily available, continued detention serves no legitimate purpose and constitutes an excessive deprivation of liberty.

VII. THE APPROPRIATE REMEDY IS AN IMMEDIATE BOND HEARING OR RELEASE

Where detention violates constitutional requirements, habeas relief is appropriate.

At minimum, Respondents should be ordered to provide an individualized custody hearing before an Immigration Judge within seven days.

At that hearing:

- a. DHS should bear the burden of proof;
- b. the burden should be clear and convincing evidence;
- c. ability to pay should be considered;
- d. alternatives to detention should be considered; and
- e. all relevant favorable equities should be evaluated.

If such a hearing is not promptly provided, the Court should order Petitioner's release under reasonable conditions of supervision. Such relief is particularly appropriate where Petitioner possesses substantial equities, presents no danger to the community, and raises a non-frivolous challenge to the underlying removal order currently pending before the Board of Immigration Appeals.

CONCLUSION

This Court need not determine whether Petitioner ultimately merits asylum, withholding of removal, or protection under the Convention Against Torture.

Nor must the Court determine whether the Board of Immigration Appeals will ultimately reverse the Immigration Judge.

The question before this Court is far narrower.

The issue is whether the Government may continue depriving Petitioner of his liberty while a substantial administrative appeal remains pending, despite overwhelming evidence supporting release and despite the absence of a meaningful individualized custody determination.

The Constitution answers that question in the negative.

For the foregoing reasons, the Petition for Writ of Habeas Corpus should be granted.

WHEREFORE, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and enter an Order:

- A. Assuming jurisdiction over this matter pursuant to 28 U.S.C. § 2241 and the Constitution of the United States;
- B. Declaring that Petitioner's continued detention without a constitutionally adequate individualized custody determination violates the Due Process Clause of the Fifth Amendment;
- C. Ordering Respondents to provide Petitioner with an individualized custody hearing before an Immigration Judge within seven (7) days of this Court's Order;
- D. Requiring that, at such custody hearing, the Department of Homeland Security bear the burden of proving by clear and convincing evidence that Petitioner's continued detention is necessary because he presents either:
 - 1. a danger to the community; or
 - 2. a substantial risk of flight;
- E. Requiring the Immigration Judge to consider Petitioner's ability to pay any monetary bond and to consider whether a lower bond amount or non-financial conditions of supervision would reasonably assure Petitioner's appearance at future proceedings;
- F. Requiring consideration of reasonable alternatives to detention, including release on recognizance, reporting requirements, electronic monitoring, community supervision, or other less restrictive conditions;
- G. Ordering that, if Respondents fail to provide the custody hearing required herein within seven (7) days of this Court's Order, Petitioner shall be immediately released from custody under reasonable conditions of supervision;
- H. In the alternative, ordering Petitioner's immediate release upon such terms and conditions as this Court deems appropriate;
- I. Awarding such other and further relief as this Court deems just, proper, and equitable.

Dated: New York, New York
June 17, 2026

Respectfully submitted,

/s/ Manuel D. Gomez, Esq.

MANUEL D. GOMEZ, ESQ.,

LAW OFFICE OF MANUEL D. GOMEZ, P.C.

Attorneys for Petitioner

225 Broadway, Suite 900

New York, New York 10007

Tel.: (212) 571-2640 – Fax: (212) 571-2302