

UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT OF CALIFORNIA

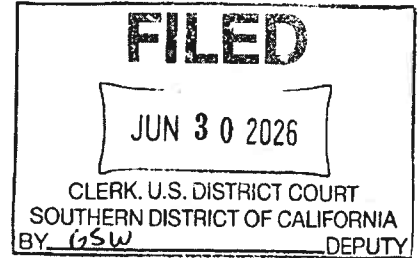
JAVIER ORLANDO GIMENEZ MONTILLA

Proceeding Pro Se,

Petitioner,

v.

_____, Warden, Imperial Regional Detention Facility;
_____, Field Office Director, ICE El Centro Field
Office; TODD M. LYONS, Acting Director, United States
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of Homeland Security;
PAMELA BONDI, United States Attorney General, in
their official capacities,
Respondents.



Civil Action No.:

'26CV3798 JO MMP

PETITION FOR WRIT OF HABEAS
CORPUS

PETITION FOR A WRIT OF HABEAS CORPUS
(Verified Petition Pursuant to 28 U.S.C. § 2241)

INTRODUCTION

Petitioner JAVIER ORLANDO GIMENEZ MONTILLA 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 case, was arbitrarily arrested by Border Patrol on May 27, 2026, in Orlando, Florida. He was not committing any crime; he was driving to work after leaving a medical appointment related to his recent kidney surgery. He has no criminal history. Since his apprehension, Petitioner has been transferred through at least four different states—from Florida to Louisiana, to Arizona, and now to California—far from his family, his doctors, and his community.

Petitioner's detention is not only arbitrary but medically dangerous. He recently underwent a partial nephrectomy for a renal mass that his family understands to be kidney cancer, and he requires

critical medical follow-up that is jeopardized by his continued and unstable detention. His wife and dependent children, who rely on him entirely for financial and emotional support, are now facing extreme hardship.

The Government has failed to provide Petitioner with a meaningful, individualized custody determination that considers his significant medical condition, his lack of criminal history, his pending asylum claim, his stable work and family life in Florida, and the devastating impact his detention is having on his 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 a serious medical condition, no criminal record, strong family ties, and a pending case, while denying him 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 Imperial Regional Detention Facility, 1572 Gateway Road, Calexico, CA 92231. He is under the direct control of:

- Warden, Imperial Regional Detention Facility;
- Field Office Director, ICE El Centro 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 Calexico, California, which is within the Southern District of California;
- The Facility and the Respondents' custodial officers are located in this District.

PARTIES

Party	Description
Petitioner	I, Javier Orlando Gimenez Montilla, A-Number  , citizen of Venezuela, presently detained at the Imperial Regional Detention Facility.
Respondent 1	Warden, Imperial Regional Detention Facility, named in official capacity.
Respondent 2	Field Office Director, ICE El Centro Field Office, named in official capacity.
Respondent 3	Todd M. Lyons, Acting Director, United States Immigration and Customs Enforcement, named in official capacity.
Respondent 4	Kristi Noem, Secretary, Department of Homeland Security, named in official capacity.
Respondent 5	Pamela Bondi, Attorney General, United States, named in official capacity.

STATEMENT OF FACTS

1. Petitioner JAVIER ORLANDO GIMENEZ MONTILLA is a native and citizen of Venezuela, born on [REDACTED].
2. He entered the United States on or about September 15, 2021, to seek protection from the conditions in his home country.
3. Petitioner has a pending application for asylum (Form I-589) and has complied with immigration proceedings. An I-797C Notice of Action confirms a biometrics appointment for his asylum application was scheduled for September 27, 2022, in Orlando, Florida.
4. His immigration case remains pending. The Executive Office for Immigration Review (EOIR) confirms he has a Master Calendar Hearing scheduled for July 6, 2026, before Immigration Judge Stuart J. Zander. To his knowledge, he does not have a final order of removal.
5. On May 27, 2026, Petitioner was arbitrarily detained in Orlando, Florida. He had just left a medical appointment related to a recent, major kidney surgery and was on his way to work.
6. He was not speeding, did not violate any traffic laws, and was not engaged in any criminal activity. According to his family, Border Patrol officers followed his vehicle, initiated a stop, asked for immigration documents which he explained were at his home, and then arrested him.
7. The arrest was based solely on a suspicion of his immigration status, not on any threat he posed to public safety. 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.

8. Following his arrest, Petitioner was subjected to a series of disruptive interstate transfers. He was held for approximately three days in Pompano, Florida, before being moved to a facility in Louisiana, then another in Arizona, and finally to his current location at the Imperial Regional Detention Facility in California.
9. These transfers have moved him thousands of miles from his home, his family, his job, and his medical providers in Florida, severely impeding his ability to prepare his asylum case and receive continuity of care.
10. Prior to his detention, Petitioner was a longtime resident of Florida. He resided at   with his wife, Morenny del Valle Rivero Salazar, as evidenced by their residential lease agreement.
11. He is lawfully married to Morenny del Valle Rivero Salazar, as shown by their Venezuelan marriage certificate .
12. Petitioner is the sole financial and emotional provider for his wife and dependent children. His prolonged detention has caused his family extreme financial and emotional distress.
13. He has a stable work history, having been employed for approximately three years at Atlantic Cargo in Florida before his arrest. This, along with his established residence, demonstrates he is not a flight risk.
14. Most critically, Petitioner has a serious medical condition. On April 15, 2026, just over one month before his arrest, he underwent surgery for a left renal mass. Medical records confirm he had a left partial nephrectomy. His family understands this condition to be kidney cancer, and he requires ongoing and consistent medical follow-up, which is fundamentally compromised by his detention and multiple transfers.
15. To date, the Government has not afforded Petitioner a meaningful, individualized bond

hearing to assess whether his detention is necessary. According to his family, a request for bond was denied, allegedly due to the location of his arrest in Florida, but no formal, reasoned decision has been provided.

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 that would trigger mandatory detention under § 1226(c), his custody is governed by the discretionary provisions of § 1226(a). This section requires an individualized custody determination and permits release on bond. 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" 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. Prolonged detention without a meaningful opportunity to be heard violates this core constitutional principle.

3. **Bond-Hearing Requirement.** The Ninth Circuit has held that 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 to justify continued detention. *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). The hearing must include consideration of the detainee's individual circumstances, including family ties, medical conditions, and lack of criminal history.

4. **Family Unity and Well-Being.** Federal courts recognize a strong public policy interest in maintaining family unity. Petitioner's detention directly contravenes this interest by separating him from his dependent wife and children, causing them severe hardship. An

individualized custody determination must weigh the impact of detention on his family.

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 his physical health. Second, the risk of erroneous deprivation is extremely high, as he has been denied a meaningful hearing to present evidence of his medical needs, his family ties, his lack of dangerousness, and his stable life in Florida. Third, the governmental interest in providing a proper hearing is minimal compared to the severe and potentially irreversible harm to both Petitioner's health and his family's well-being.

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 correct legal standard. As he has not been convicted of any disqualifying crime, his detention is governed by the discretionary standard of 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 fairly assessed.
4. Respondents have detained Petitioner since May 27, 2026, and subjected him to multiple interstate transfers 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—a person with a serious medical condition requiring follow-up care—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, constitutes arbitrary and unconstitutional detention.
4. Petitioner has therefore suffered an unconstitutional deprivation of his liberty and his right to bodily integrity 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.
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 his medical condition, lack of criminal history, and family ties 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 Imperial Regional Detention Facility.
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 medical needs, his family ties, his lack of criminal record, 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, Javier Orlando Gimenez Montilla, 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: June 24, 2026.

/s/ Javier Orlando Gimenez Montilla
Javier Orlando Gimenez Montilla
Pro Se