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UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF CALIFORNIA

Filed JUL 01 2026
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

GILBERTO VELASCO BALTAZAR

Proceeding Pro Se,

Petitioner,

v.

_____, Warden, California City Correctional Center;
_____, Field Office Director, ICE Los Angeles Field
Office; TODD M. LYONS, Acting Director, United States
Immigration and Customs Enforcement; MARKWAYNE
MULLIN, Secretary of Homeland Security; MERRICK
GARLAND, United States Attorney General,

Respondents.

Civil Action No.:

PETITION FOR WRIT OF HABEAS
CORPUS

1:26cv5002 DJC AC (HC)

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

INTRODUCTION

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

Petitioner, a father of two and the sole provider for his family, has been detained since March 10, 2026—for more than three months. His detention commenced under circumstances that demonstrate his commitment to complying with the law: he was arrested by ICE agents after he voluntarily appeared for a court appointment related to a misdemeanor DUI charge. He was not a fugitive; he was actively participating in the justice system. He has a single, non-violent misdemeanor conviction for which he received a suspended sentence and probation.

Despite these facts, Petitioner has been deprived of his liberty for 112 days without an individualized bond hearing. His detention is not statutorily authorized under 8 U.S.C. § 1226(a), which requires an individualized custody determination, and it offends the Due Process Clause of

the Fifth Amendment. His detention is creating a severe and immediate hardship for his two minor children, ages 8 and 10, and his elderly parents, who depend on him for financial and emotional support.

The Government has failed to provide Petitioner with a meaningful, individualized custody determination that considers his strong family ties, his stable three-year work history, his compliance with criminal court proceedings, and the fact that any potential risk to the community can be fully mitigated with reasonable conditions of supervision. 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 American liberty. Detaining a father and long-time worker with a single non-violent misdemeanor, separating him from his dependent children, and 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 under reasonable conditions of supervision, 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 California City Immigration Processing Center, 22844 Virginia Boulevard, California City, CA 93505. He is under the direct control of:

- Warden, California City Immigration Processing Center;
- Field Office Director, ICE Los Angeles Field Office;
- Acting Director, United States Immigration and Customs Enforcement;
- Secretary, Department of Homeland Security;

- Acting 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(e) and 28 U.S.C. § 2241(d) because:

- Petitioner is detained in California City, California, which is within the Eastern District of California.
- The facility and the Respondents' custodial officers are located in this District.

PARTIES

Party	Description
Petitioner	I, GILBERTO VELASCO BALTAZAR , A-Number  citizen of Mexico, presently detained at the California City Immigration Processing Center.
Respondent 1	Warden, California City Immigration Processing Center , named in official capacity as Petitioner's immediate custodian.
Respondent 2	Field Office Director, ICE Los Angeles Field Office , named in official capacity as the official with supervisory authority over Petitioner's detention.
Respondent 3	DAVID VENTURELLA, Acting Director, United States Immigration and Customs Enforcement , named in official capacity.
Respondent 4	MARKWAYNE MULLIN, Secretary of Homeland Security , named in official capacity.

Party	Description
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Respondent 5	TODD BLANCHE, Acting Attorney General, United States, named in official capacity.
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STATEMENT OF FACTS

1. Petitioner GILBERTO VELASCO BALTAZAR is a native and citizen of Mexico, born on 
2. He is the father of two children, ages 8 and 10, and the primary financial provider for them and for his elderly parents, ages 69 and 63.
3. Prior to his detention, Petitioner worked for approximately three years in the agricultural/dairy industry, demonstrating a consistent and stable work history.
4. Petitioner is currently in removal proceedings before the Adelanto Immigration Court. According to the Executive Office for Immigration Review (EOIR), his case is pending, and his next Master Hearing is scheduled before Immigration Judge Robert C. O'Neil on July 6, 2026. He does not have a final order of removal.
5. On November 19, 2025, Petitioner was charged with Driving Under the Influence (DUI), a misdemeanor, in Gooding County, Idaho.
6. Petitioner retained an attorney for his DUI case and was actively complying with court requirements. On March 10, 2026, he voluntarily appeared for a scheduled appointment related to that process.
7. In an act of good faith and compliance with the legal system, Petitioner attended this appointment. Upon arrival, he was arrested by ICE agents. His voluntary appearance demonstrates he is not a flight risk.
8. As of June 30, 2026, Petitioner has been detained by ICE for approximately 112 days.

9. Petitioner has a single criminal conviction for the misdemeanor DUI charge (Case No. ). The judgment, filed on March 2, 2026, imposed a sentence of 180 days in jail with 179 days suspended and one day credited for time served. He was also placed on probation for 12 months with conditions including suspension of driving privileges and completion of required programs.
10. The DUI conviction is his only criminal record. He has no history of violence, theft, or drug trafficking.
11. The Government has not afforded Petitioner a meaningful, individualized bond hearing to assess whether his detention is necessary, particularly in light of his non-violent history, his voluntary appearance for his court date, his strong family ties, and his stable work history.
12. His prolonged detention has caused him significant stress, anxiety, and depression. He has also developed physical symptoms, including a skin condition for which he only recently received medication.
13. His detention has caused severe financial and emotional hardship for his dependent children and parents, who have been deprived of their sole provider and caregiver.
14. There are less restrictive alternatives to detention available, including release on bond, an order of supervision, ICE check-ins, or electronic monitoring, all of which would be sufficient to mitigate any perceived risk.

LEGAL FRAMEWORK

1. **Statutory Basis for Detention.** Petitioner's detention is properly governed by 8 U.S.C. § 1226(a). A single misdemeanor DUI conviction is not a crime involving moral turpitude (CMT) or an aggravated felony that would subject an individual to mandatory detention

under § 1226(c). Therefore, his custody is governed by § 1226(a), which provides for discretionary release on bond and requires an individualized custody determination. *See, e.g., Matter of Torres-Varela*, 23 I&N Dec. 78 (BIA 2001) (holding that a DUI is generally not a CIMT). 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. Civil immigration detention, which is preventive and not punitive, cannot be constitutionally indefinite or arbitrary.
3. **Bond-Hearing Requirement for Prolonged Detention.** Even if Petitioner were subject to § 1226(c), his detention of over three months, with no end in sight, triggers due process concerns. The Ninth Circuit has held that prolonged detention without an individualized bond hearing is unconstitutional. *See Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015); *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013). 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.
4. **Individualized Hearing Requirement.** In *Avilez v. Barr*, No. 19-CV-07599, 2020 WL 1812513 (N.D. Cal. Apr. 8, 2020), the court affirmed that § 1226(a) must be construed as requiring the government to provide an alien with an individualized hearing to determine dangerousness or flight risk. Petitioner has been denied this right.
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 custody of his two minor children. Second, the risk of erroneous deprivation is extremely high, as he has been denied a meaningful hearing to present evidence of his family ties, stable employment, his lack of dangerousness, and the fact that he voluntarily appeared at his court appointment. Third, the governmental burden of providing a proper bond hearing is minimal compared to the severe and irreparable harm caused by his prolonged detention.

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's single misdemeanor DUI conviction does not trigger mandatory detention under 8 U.S.C. § 1226(c). Therefore, 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 properly assessed.
4. Respondents have detained Petitioner since March 10, 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 of § 1226(a).

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 of 112 days 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. This is particularly true where Petitioner has strong family and community ties, a stable work history, and a demonstrated willingness to comply with legal obligations by appearing for his criminal court date.
5. Petitioner has therefore suffered an unconstitutional deprivation of his liberty and his fundamental right to parentage and is entitled to immediate 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 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 California City Immigration Processing Center under reasonable conditions of supervision, such as ICE check-ins, a requirement to reside with a stable sponsor, a

prohibition on driving or consuming alcohol, and compliance with all probation and immigration court requirements.

6. In the alternative, order Respondents to provide Petitioner with an immediate bond hearing before a neutral decision-maker, at which the Government must prove by clear and convincing evidence that his continued detention is necessary to prevent a risk of flight or a danger to the community, and at which the decision-maker must consider his family ties, work history, compliance with court dates, and all less restrictive alternatives to detention.
7. Award reasonable costs where authorized by law.
8. Grant such further relief as this Court deems just and proper.

VERIFICATION

I, Gilberto Velasco Baltazar, 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 30, 2026

/s/ Gilberto Velasco Baltazar
Gilberto Velasco Baltazar
Petitioner, Pro Se

DECLARATION OF GILBERTO VELASCO BALTAZAR



I, Gilberto Velasco Baltazar, declare under penalty of perjury under the laws of the United States of America as follows:

1. I am the Petitioner in this action. I submit this declaration in support of my Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and any request for temporary restraining order and/or injunctive relief pursuant to Federal Rule of Civil Procedure 65(b).
2. I am a native and citizen of Mexico. I was born on 

3. I am currently detained by Immigration and Customs Enforcement ("ICE") at California City Immigration Processing Center, located at 22844 Virginia Boulevard, California City, California 93505.
4. I entered the United States in or around June 2023 by crossing the border.
5. I currently have an immigration case pending before the Adelanto Immigration Court.
6. To my knowledge, I do not have a final order of removal.
7. My next Master Calendar hearing is scheduled for July 6, 2026, before Immigration Judge Robert C. O'Neil.

8. Before I was detained, I worked in the field, specifically at a dairy.
9. I worked at the dairy for approximately three years.
10. I worked honestly and responsibly to support myself and help my family.
11. I have family members who depend on me emotionally and financially.
12. My father is 69 years old, and my mother is 63 years old.
13. I also have two children, ages 8 and 10.
14. My family needs my support, and my detention has caused them hardship.
15. In November 2025, I had a case related to driving under the influence.
16. I do not want to hide that from the Court.
17. I understand that I was convicted of a misdemeanor DUI in Idaho.
18. I was sentenced in that case, and I understand that the sentence included probation and conditions.
19. I have tried to comply with the court process and the requirements imposed on me.
20. I had an attorney for that criminal case.
21. I was not trying to avoid my responsibilities.

22. On or about March 10, 2026, I appeared for an appointment related to that process.
23. I went to that appointment because I was trying to comply with what I had been told to do.
24. At that appointment, I was detained after being told there was a warrant against me.
25. I was confused and worried because I believed I had been trying to follow the process and appear as required.
26. Since March 10, 2026, I have remained detained.
27. I have now been detained for more than three months.
28. My detention is civil immigration detention. I am not serving a criminal sentence.
29. I do not believe my continued detention is necessary.
30. I do not pose a danger to the community.
31. I am not a flight risk.
32. I have reasons to remain in the United States and continue my immigration case lawfully, including my family, my work history, and my pending immigration case.
33. I understand that concerns may exist because of my DUI case.
34. I am willing to comply with strict conditions of release to address any concerns.

35. I am willing not to drive unless I am legally authorized to do so.
36. I am willing to comply with any no-alcohol condition.
37. I am willing to comply with DUI classes, probation conditions, treatment, testing, or any other court-ordered requirement.
38. I am willing to appear for every immigration court hearing, ICE appointment, check-in, and reporting requirement.
39. I am willing to live at a stable address with a sponsor if released.
40. I am willing to comply with any reasonable conditions of release, including supervision, ISAP, electronic monitoring, telephone reporting, in-person check-ins, home visits, address updates, or any other condition the Court believes is necessary.
41. Less restrictive alternatives to detention are available in my case.
42. While detained, I have experienced stress, anxiety, and emotional hardship.
43. I have also had medical discomfort in detention, including skin irritation or bumps that appeared like a fungal condition.

44. I received medication for that condition on or about June 25, 2026.
45. I am concerned about my health and the effect continued detention has on me.
46. Being detained has separated me from my family, my work, and my ability to support the people who depend on me.
47. Each additional day in detention causes harm to me and my family.
48. I respectfully ask the Court to consider my pending immigration case, my family ties, my work history, my willingness to comply, my medical concerns, and the availability of less restrictive alternatives to detention.
49. I respectfully request that this Court grant my Petition for Writ of Habeas Corpus and order my immediate release from ICE custody.
50. In the alternative, if the Court does not order my immediate release, I respectfully request an immediate individualized bond or custody hearing before a neutral decision-maker.
51. I also respectfully request that the Court prevent ICE from transferring me to another facility or removing me from the United States while this habeas case and any request for emergency relief are pending.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 30, 2026

/s/ Gilberto Velasco Baltazar

Gilberto Velasco Baltazar
Petitioner, Pro Se