UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLOMBUS DIVISION

IVAN DARIO HIGUITA SERNA,

Petitioner,

v.

LADEON FRANCIS, Field Office Director of Enforcement and Removal Operations, ATLANTA Field Office, TODD LYONS, in his official capacity as Acting director of Immigration and Customs Enforcement; Immigration and Customs Enforcement; MARK MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; JASON STREEVAL, Warden of STEWART DETENTION CENTER,

Respondents.

Case No. 4:26-CV-1023

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This case challenges the unlawful re-detention of Petitioner, IVAN DARIO HIGUITA SERNA (A[redacted]), who entered the United States in May 2023 from Colombia to seek Asylum. He was apprehended shortly after his entry but was released while he pursued his removal proceedings.

2. In the years since his release, Petitioner has complied with all his ICE check-ins and complied with all his immigration court hearings.

3. On June 17, 2026, during one of his scheduled ICE check-ins ICE agents abruptly and without notice arrested and detained the Petitioner. The Petitioner was awaiting his scheduled court hearing set for February 2, 2027.

4. The Petitioner was then transferred to the STEWART DETENTION CENTER where he remains to this day.

5. Immigration records show that at the time of his arrest, immigration officers were aware of that Petitioner was a Colombian national with a scheduled immigration court date pending.

6. Prior to re-detaining him on June 17, 2026, Respondents did not provide Petitioner with any written notice explaining the basis for the revocation of his release. Nor did they provide a hearing before a neutral decisionmaker where ICE was required to justify the basis for re-detention or explain why Petitioner is a Fight risk or danger to the community.

7. As this Court has previously held, due process demands a hearing *prior* to the government's decision to terminate a person's liberty. *See Grayden v. Rhodes,* 345 F.3d 1225 (11th Cir. 2003).

8. By failing to provide such a hearing, Respondents have violated Petitioner's constitutional right to due process.

9. Accordingly, this court should grant the instant petition for a writ of habeas corpus and order his immediate release.

JURISDICTION

10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the STEWART DETENTION CENTER in LUMPKIN, GEORGIA.

11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the MIDDLE DISTRICT OF GEORGIA, the judicial district in which Petitioner currently is detained.

14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the MIDDLE DISTRICT OF GEORGIA.

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an

order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

16. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

17. Petitioner Ivan Dario Higuita Serna ("Mr. Higuita") is a citizen of Colombia who has been in immigration detention since the of June 17, 2026. Petitioner was reporting to his scheduled ICE check-in when he was detained and transferred to the Stewart Detention Center. ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to *Matter of MS*, I&N Dec. 509 (A.G. 2019). Due to Respondents erroneous reliance on this decision, it would be futile for Petitioner to apply to EOIR without the intervention of this honorable Court.

18. Respondent Todd Lyons is named in his official capacity as the Acting Director of the Immigration and Customs Enforcement ("ICE"). As the senior Official Performing the duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in the Southern District of Georgia; is legally responsible for any effort to detain Petitioner; and as such is a custodian of the Petitioner. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

19. Respondent Ladeon Francis is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division; however, on information and belief, the DHS is rotating their Field Office Director without publishing a schedule of rotation. As such, Ladeon Francis or his unknown, unannounced provisional replacement is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He or his acting counterpart is named in his or her official capacity. Respondent Francis's address is 180 Ted Turner Dr Se, Ste 522. Atlanta GA 30303.

20. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Secretary Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

21. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

22. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity. Respondent Blanches's address is U.S. Department of Homeland Security, Office of the General Counsel, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

23. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

24. Respondent, Warden Jason Streeval is, is employed by the private, for-profit detention corporation contracted by the Government as an agent to confine immigrants at Stewart Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity. Respondent Warden's address is Warden, Stewart Detention Center, 1116 S Washington Ave, Lumpkin, GA 39862.

LEGAL FRAMEWORK

25. Due process requires that if DHS seeks to re-arrest a person like Petitioner—an individual who has lived in the United States without incident after DHS first released him, submitted family Petitions with USCIS, and otherwise complied with the terms of his release—the government must afford a hearing before a neutral decisionmaker to determine whether any re-detention is justified, and whether the person is a flight risk or danger to the community.

26. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

27. Consistent with this principle, individuals released on parole or other forms of conditional release have a liberty interest in their "continued liberty." *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

28. Such liberty is protected by the Fifth Amendment because, "although indeterminate, [it] includes many of the core values of unqualified liberty," such as the ability to be gainfully employed and live with family, "and its termination inflicts a 'grievous loss' on the [released individual] and often on others." *Id.*

29. To protect against arbitrary re-detention and to ensure the right to liberty, due process requires "adequate procedural protections" that test whether the government's asserted

justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified).

30. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of an individual's release. *See Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) ("The fundamental requisite of due process of law is the opportunity to be heard . . . . at a meaningful time in a meaningful manner." (citation modified)); *see also*, e.g., *Morrissey*, 408 U.S. at 485 (requiring "preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed . . . a violation of parole conditions" and that such determination be made "by someone not directly involved in the case" (citation modified)).

FACTS

31. Mr. Higuita has resided in the United States since May of 2023 and currently resides physically in Lumpkin, Georgia, where he is detained.

32. Upon his entry into the United States, the DHS released respondent into the United States and placed him into removal proceedings.

33. The DHS filed a Notice to Appear with EOIR alleging that Petitioner entered the United States without inspection or parole.

34. Despite this mis-classification Mr. Higuita was arrested upon his entry, detained, and then released pursuant to parole.

35. On or about June 17, 2026, Mr. Higuita was detained by ICE officials during a routine check-in appointment without notice despite already having a scheduled court date and pending family petitions filed with USCIS.

36. Mr. Higuita was then transferred to the Stewart Detention Center in Lumpkin Georgia where he remains detained.

37. Mr. Higuita has no criminal record in the United States or any other country to undersigned counsels' knowledge.

38. Moreover, Mr. Higuita has built a strong network of support in his time in the United States. He has a United States Citizen spouse and has maintained stable employment in his time in the U.S.

39. Prior to Mr. Higuita's re-arrest, Mr. Higuita did not receive written notice of the reason for his re-detention.

40. Prior to Mr. Higuita's re-arrest, ICE did not assess whether Mr. Higuita presented a flight risk or danger to the community, or whether his re-arrest was justified for some other reason.

41. Prior to Mr. Higuita's re-arrest, he was not afforded a hearing before a neutral decisionmaker to determine if his re-detention is justified.

42. As a result, Mr. Higuita remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community while his removal proceedings remains pending.

CLAIMS FOR RELIEF

COUNT I
Violation of Fifth Amendment Right to Due Process

Judicial Due Process

43. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

44. Due process does not permit the government to re-detain Petitioners and strip them of their liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker to determine whether re-detention is warranted based on danger or flight risk. *See Morrissey*, 408 U.S. at 487–88. Such written notice and a hearing must occur prior to any re-detention

45. Respondents revoked Petitioner's release and deprived him of liberty without providing written notice and a meaningful opportunity to be heard by a neutral decisionmaker prior to his re-detention. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

46. Accordingly, Petitioner's re-detention violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Middle District of Georgia while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

e. Declare that Petitioner's detention is unlawful;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

DATED this 20th day of July, 2026.

/s/ Peter Tadeo, Esq.
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

DATED this 20th day of July, 2026.

/s/ Peter Tadeo, **Esq.**
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