IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:26-cv-03331

EVER CRUZ CRUZ,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility;
GEORGE VALDEZ, in his official capacity as Field Office Director, Denver Field Office of U.S. Immigration and Customs Enforcement;
DAVID VENTURELLA, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
MARKWAYNE MULLIN, in his official capacity as Secretary of U.S. Department of Homeland Security; and
TODD BLANCHE, in his official capacity as Attorney General of the United States.

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, EVER CRUZ CRUZ, by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 because Respondents continue to detain him in violation of the Due Process Clause of the Fifth Amendment.

2. This Petition presents a new due process challenge to Cruz's present and ongoing detention. It does not seek to amend the prior habeas action or obtain reconsideration of the order entered there. The claim asserted here rests on developments that occurred after the prior petition was granted: Cruz's detention has now exceeded seven months, and EOIR has denied him a new custody hearing while continuing to treat an undisclosed allegation as an established basis for confinement.

3. In the prior action, the District Court ordered a bond hearing at which DHS bore the burden of proving dangerousness by clear and convincing evidence and flight risk by a preponderance of the evidence. At the May 11, 2026 hearing, however, DHS relied in substantial part on a Form I-213 characterization of alleged Smartlink text messages without producing the actual messages. Cruz does not possess or have access to those messages and cannot test their language, context, recipient, timing, translation, or authenticity.

4. The proceedings since then have placed Cruz in an impossible procedural bind. On June 22, 2026, the District Court denied his Motion to Enforce in *Cruz v. Baltazar*, No. 1:26-cv-01451-SKC, concluding that requiring production of the Smartlink messages or testimony about them would ask the Court to reweigh the evidence. ECF No. 22 at 4. Then, on July 12, 2026, the Immigration Court denied Cruz even a new custody hearing because it found no material change in circumstances relevant to the prior danger analysis.

5. The result is a closed evidentiary loop: the prior danger finding remains operative because of messages Cruz cannot obtain; the prior court declined to revisit the evidentiary weight assigned to DHS's characterization; and EOIR will not permit a new hearing at which DHS could be required to prove what the messages actually say.

6. In effect, this forces Cruz to disprove an undisclosed allegation even though DHS bears the burden of justifying his detention.

7. Meanwhile, Cruz has now been detained for more than seven months since his December 5, 2025, unlawful re-detention. His removal case remains pending before the Board of Immigration Appeals ("BIA"), and there is no immediate or certain end date to his confinement.

8. That present constitutional injury was not ripe when the prior petition was filed or when habeas relief was granted. Due process does not permit the Government to convert a one-

time custody determination into an indefinite authorization for civil confinement by withholding the central evidence, denying any meaningful means to challenge it, and effectively transferring the Government's burden to the detained person.

9. Accordingly, this Court should grant the instant Petition for Writ of Habeas Corpus and order Cruz's immediate release on the same conditions of release he was previously subject to in August 2025. *See E.A.T.B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130, at *6 (W.D. Wash. Aug. 19, 2025) (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty"); *Ramirez Terra v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-cv-01723-MJP-TLF, 2025 WL 2637663, at *4 (W.D. Wash. Sept. 12, 2025) (similar); *Kumar v. Wamsley*, No. 25-cv-1772, 2025 WL 2677089, at *3– 4 (W.D. Wash. 2025) (similar); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *9 (W.D. Wash. Oct. 7, 2025) (similar); *Y.M.M. v. Wamsley*, No. 2:25-cv-02075-TMC, 2025 WL 3101782, at *2–3 (W.D. Wash. Nov. 6, 2025) (similar).

JURISDICTION

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

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

12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

13. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Cruz is detained within this District, Cruz's immediate physical custodian is located within this District, and a substantial part of the events giving rise to the claims in this action occurred in this District. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1005–06 (2025) (per curiam) ("For core habeas petitions, jurisdiction lies in only one district: the district of confinement" (internal quotation marks and citation omitted)).

REQUIREMENTS OF 28 U.S.C. § 2241

14. Challenges to immigration detention are properly brought directly through habeas. *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004). More specifically, 28 U.S.C. § 2241 "confers jurisdiction upon the federal courts to hear such cases." *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (citing 28 U.S.C. § 2241(c)(3)) (authorizing any person to claim in federal court that they are being held "in custody in violation of the Constitution or laws ... of the United States").

15. The fundamental purpose of § 2241 habeas proceeding is the same as that of § 2254 habeas and § 2255 proceedings: they are an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody. *McIntosh v. U.S. Parole Com'n*, 115 F.3d 809, 811 (10th Cir. 1997) (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)).

16. Cruz is "in custody" for the purpose of § 2241 because he is detained by Respondents at the Denver Contract Detention Facility in Aurora, Colorado. Cruz is under the direct control of Respondents and their agents.

NOTICE OF RELATED CASE

17. Pursuant to D.C.COLO.LCivR 3.2, Cruz provides notice that this action is related to *Cruz v. Baltazar*, No. 1:26-cv-01451-SKC, previously assigned to the Honorable S. Kato Crews.

18. The actions involve the same Petitioner, the same Respondents, the same underlying period of immigration detention, and related due-process issues. The present action, however, asserts a claim based on Cruz's continued and prolonged detention and developments occurring after the prior petition was filed and granted, including EOIR's July 12, 2026, denial of renewed custody review.

19. Cruz provides this notice solely to disclose the related action and does not request special assignment or reassignment.

PARTIES

A. Petitioner

20. Petitioner Ever Cruz Cruz was re-detained by Respondents on December 5, 2025, and has been detained at the Denver Contract Detention Facility in Aurora, Colorado, since that date. He is in the custody and direct control of Respondents and their agents.

B. Respondents

21. Respondent Juan Baltazar is sued in his official capacity as the Warden of the Denver Contract Detention Facility, a private, for-profit detention facility that contracts with ICE to detain individuals suspected of civil immigration violations. Respondent Baltazar has immediate physical custody of Cruz.

22. Respondent George Valdez is sued in his official capacity as the Field Office Director of the U.S. Immigration and Customs Enforcement Denver Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's Denver Area of Responsibility, including the detention of Cruz. Respondent Valdez maintains an office and regularly conducts business in this district.

23. Respondent David Venturella is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. 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 this District; and is legally responsible for any effort to detain and remove Cruz.

24. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security and has ultimate authority over DHS. In that capacity and through his agents, Respondent Mullin has broad authority over and responsibility for the operation and enforcement of the immigration laws; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove Cruz.

25. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States and the most senior official of the U.S. Department of Justice (DOJ). In that capacity and through his agents, he is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for Immigration Review, which administers the immigration courts and the BIA.

FACTUAL ALLEGATIONS

A. Cruz's Initial Bond Grant and Release

26. Cruz entered the United States without inspection on or about March 22, 2009, and has continuously resided in the United States since that time.

27. Cruz is the father of an eight-year-old United States citizen son, providing him another substantial family tie to the United States and an additional incentive to remain available for his immigration proceedings.

28. On May 19, 2025, Cruz was arrested by the Orange County Sheriff following an argument with Ms. Hotz, who was then his girlfriend. The charges arising from that arrest were later dismissed.

29. Following that arrest, immigration authorities placed Cruz in removal proceedings through the filing of a Notice to Appear with the immigration court on June 8, 2025.

30. After the initiation of removal proceedings, immigration authorities transferred Cruz from Florida to Adelanto, California.

31. On July 11, 2025, an Immigration Judge in Adelanto granted Cruz bond in the amount of $ 5,000.00, with the option for Alternatives to Detention. Ms. Hotz served as his sponsor. *See Order of the Immigration Judge Granting Bond, dated July 11, 2025, attached hereto as Attachment A.*

32. Cruz was physically released from immigration custody on or about August 12, 2025, and returned home to Florida.

33. As a condition of his release, Cruz was placed on GPS monitoring through the Intensive Supervision Appearance Program ("ISAP"). He was required to report approximately once per month in person to the Orlando ISAP/BI Incorporated office and was also provided a phone application through which he received appointment information and communicated with his assigned case manager.

34. Between his release in August 2025 and his re-detention on December 5, 2025, Cruz reported in person to the Orlando BI Office approximately five times.

35. Cruz took these requirements seriously because he understood that any misunderstanding could be used against him and that his continued liberty depended on strict compliance.

B. Cruz's Re-Detention and the Origins of the Disputed Smartlink Allegations

36. On December 1, 2025, Cruz contacted his case manager to report that he could not locate the charger for his GPS ankle monitor.

37. Cruz was instructed to come to the BI Office that same day. Cruz complied and arrived at approximately 2:45 p.m.

38. When Cruz arrived, he was told his case manager had already left for the day, and office staff refused to see him.

39. Cruz then sent messages through the application on his phone asking why his case manager would not see him and what he was supposed to do next. He waited approximately thirty minutes, trying to obtain guidance and document that he had appeared as directed, before leaving because no one would meet with him, and no one explained what else he was expected to do.

40. On December 5, 2025, Ms. Hotz received a call informing her that Cruz needed to report in person to the BI Office that same day. She relayed the message to Cruz and told him he needed to go immediately.

41. Cruz again complied and appeared as instructed.

42. Neither Cruz nor Ms. Hotz understood there to be any alleged violation serious enough that immigration authorities intended to take him back into custody.

43. When Cruz arrived on December 5, 2025, he was re-detained.

44. No one clearly explained to Cruz what he was accused of doing wrong before he was taken into custody.

45. Cruz was not given written notice, an opportunity to speak with a supervisor, a meaningful opportunity to review the allegation, or any chance to correct a misunderstanding before his liberty was revoked.

46. Instead, Cruz was re-detained first and only later left trying to determine, from records obtained through counsel, what immigration authorities claimed he had done.

47. Ms. Hotz likewise states that neither she nor Cruz received written notice explaining the basis for his re-detention before he was taken back into immigration custody, despite the fact that she was his sponsor and had assumed financial responsibility for the immigration bond.

48. Respondents did not provide Cruz with a pre-deprivation hearing before a neutral decisionmaker to determine whether re-detention was justified based on flight risk or danger.

C. Prior Federal Habeas Proceedings and the May 11, 2026, Bond Hearing

49. On April 6, 2026, Cruz filed a prior habeas action, *Cruz v. Baltazar*, No. 1:26-cv-01451-SKC (D. Colo. 2026), challenging the process by which Respondents had re-detained him on December 5, 2025.

50. On May 4, 2026, the District Court granted the prior petition and ordered Respondents to provide Cruz a bond hearing under 8 U.S.C. § 1226(a). *See ECF No. 12, dated May 4, 2026, attached hereto as Attachment B-1.* On May 8, 2026, the District Court clarified that DHS bore the burden of proving flight risk by a preponderance of the evidence and dangerousness to any person or the community by clear and convincing evidence. *See ECF No. 18, dated May 8, 2026, attached hereto as Attachment B-2.*

51. On May 11, 2026, Cruz appeared for the ordered bond hearing, more than five months after his re-detention. The hearing therefore did not provide the pre-deprivation process at issue in the prior action, but it became the asserted basis for his continued confinement.

52. The Immigration Court denied bond after the May 11 hearing. *See Written Decision of the Immigration Judge Denying Bond, dated May 12, 2026, attached hereto as Attachment C.*

53. The written decision relied in substantial part on the Form I-213's assertion that Cruz sent "threatening text messages" through the Smartlink application, became belligerent when ERO officers arrived, resisted custody, and attempted to open the door of an ERO vehicle.

54. DHS did not produce the actual Smartlink messages. It did not provide screenshots, timestamps, sender or recipient information, the identity of the allegedly threatened staff member, the words DHS contends were threatening, any translation, or the surrounding exchange.

55. Cruz does not possess or have access to the retained Smartlink messages. The messages, if retained, are within the control of DHS and/or its supervision contractor, and DHS has not made them available to Cruz.

56. The alleged messages were material to both findings used to deny release. The Immigration Court treated the asserted threats as evidence of danger and also relied on the same asserted messages and alleged noncooperation as evidence of flight risk.

57. Without the messages, Cruz could not meaningfully determine whether DHS had accurately described them, identify any misunderstanding or mistranslation, explain their context, or confront the specific factual basis for the allegation.

58. On May 14, 2026, Cruz filed a Motion to Enforce in the prior action, asserting that DHS had not met the burden imposed by the District Court because the Immigration Court relied on an untested characterization of messages that DHS never produced.

59. On June 22, 2026, the District Court denied the Motion to Enforce. It concluded that Cruz's request for the Smartlink messages or testimony concerning them asked the Court to determine that the Immigration Judge placed too much weight on the Form I-213 and therefore amounted to a request to reweigh evidence. *See ECF No. 22, dated June 22, 2026, attached hereto as Attachment B-3.*

60. The June 22 order did not result in production of the messages, authenticate their contents, or provide Cruz any other means to test the allegation. The evidentiary defect therefore remained uncured.

61. Even assuming the May 11 hearing complied with the prior Court's order when it was held, that determination cannot provide a constitutionally adequate basis for detention indefinitely. Cruz's detention has continued for months, the central evidence remains unavailable to him, and EOIR has now foreclosed any renewed assessment of whether detention remains necessary.

D. EOIR Has Denied Cruz a Meaningful Opportunity to Reassess Custody

62. On July 9, 2026, Cruz filed a written request for a new custody hearing under 8 C.F.R. § 1003.19(e). The request identified materially changed circumstances, including that his detention had crossed the six-month mark and that he had filed a documented petition for U nonimmigrant status with USCIS. *See Cruz's Request for Custody Redetermination Based on Materially Changed Circumstances, Without Underlying Confidential Exhibits, dated July 9, 2026, attached hereto as Attachment E.*

63. The request again explained that the prior danger and flight risk findings rested in substantial part on Smartlink messages that DHS had never produced, and that Cruz could not access. It specifically identified the absence of the messages, screenshots, timestamps, sender and recipient information, exact language, translation, and context.

64. On July 12, 2026, the Immigration Court denied the request without a new hearing. The Court stated that Cruz had not established a material change in circumstances relevant to the prior danger analysis. *See Order of the Immigration Judge Denying Request for Custody*

Redetermination Based on Materially Changed Circumstances, dated July 12, 2026, attached hereto as Attachment F.

65. That ruling leaves Cruz unable to reach the very hearing at which DHS would again bear the burden of proving danger and flight risk. EOIR continues to treat the prior danger finding as established while denying a new hearing because Cruz cannot demonstrate a sufficient change to that finding.

66. But Cruz cannot meaningfully challenge or disprove the prior finding because DHS has never provided the evidence on which it materially rests.

67. As a practical matter, only DHS or its contractor can produce the Smartlink messages or establish that they no longer exist. In either event, Cruz cannot be required to rebut evidence that is—or was—uniquely within Respondents' control.

68. DHS's position is like declaring that a building is unsafe, refusing to identify the defect, and then keeping it closed indefinitely based on the mere declaration that it is unsafe.

69. By withholding the messages, DHS prevents Cruz and any reviewing decisionmaker from identifying the precise concern that purportedly requires his confinement. The undisclosed allegation may concern a particular employee, the manner in which Cruz communicated, the frequency of the communications, or some other circumstance. Each would call for a different—and potentially straightforward—condition of release.

70. For example, Cruz could be assigned a different case manager, prohibited from contacting a particular employee, required to communicate through counsel or a designated supervisor, placed back on GPS monitoring, subjected to enhanced reporting, or required to comply with any other condition tailored to the actual concern. But no court can determine whether such measures would be sufficient when DHS refuses to disclose what allegedly occurred. DHS

cannot withhold the asserted risk, thereby prevent the formulation of conditions responsive to that risk, and then rely on the absence of a tailored release plan to justify continued detention.

71. The procedure therefore inverts the burden imposed in the prior action. Instead of requiring DHS to prove with reliable evidence that continued detention remains necessary, it requires Cruz to overcome an accusation whose underlying evidence is unavailable to him.

72. The combined effect of the June 22 federal order and the July 12 EOIR order is that no decisionmaker is presently testing the actual evidence: enforcement was denied as an invitation to reweigh, while renewed custody review was denied for lack of a material change to the very finding based on the undisclosed evidence.

73. Cruz does not ask this Court merely to assign different weight to the Form I-213. He challenges the constitutionality of an ongoing custody process that permits prolonged detention to continue on the basis of inaccessible evidence while foreclosing any meaningful procedure for requiring DHS to substantiate the allegation.

E. Cruz's Detention Has Become Unreasonably Prolonged and Unlawful

74. Cruz has remained detained continuously since December 5, 2025.

75. Cruz has now been detained for more than seven months.

76. Cruz's removal proceedings remain pending before the Board of Immigration Appeals.

77. On June 16, 2026, Cruz submitted his appeal brief to the BIA. Respondents did not submit a brief in opposition to the appeal.

78. Cruz is actively pursuing his immigration remedies and has a strong incentive to appear for future proceedings, including his pending BIA appeal and filed U-visa petition.

79. His immigration case remains ongoing, there is no final order that may presently be executed, and there is no immediate or certain end date to his detention.

80. Cruz's detention is no longer brief, limited, or reasonably tied to a current individualized determination supported by evidence he has been permitted to examine and challenge.

81. Instead, his detention continues through the closed procedural loop described above. Respondents rely on alleged threatening messages they have not produced, and EOIR refuses a new hearing because Cruz has not changed the prior danger analysis based on those same messages.

82. The risk of erroneous deprivation is not static. It increases as Cruz remains confined month after month without any meaningful means to test the evidence that purportedly justifies continued detention.

83. Cruz remains confined in a civil immigration detention facility that imposes restraints resembling penal confinement, even though immigration detention is civil and non-punitive.

84. His detention is not reasonably related to adjudication of the BIA appeal. Cruz can litigate that appeal while released on the previously imposed bond and supervision conditions.

85. Nor is continued detention reasonably necessary to ensure appearance or protect the community. Cruz previously reported under ICE supervision, is actively pursuing relief, and the Government has not produced the actual messages on which it relies to establish danger or flight risk.

86. Continued detention on this basis, after more than seven months and without meaningful access to the asserted evidence or a procedure that requires DHS to prove continued necessity, violates procedural and substantive due process.

LEGAL FRAMEWORK

87. 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).

88. Because immigration detention is civil rather than criminal, it must comply with both substantive and procedural due process limitations.

89. Substantive due process requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

90. The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 531 (2003).

91. Detention that is not reasonably related to either of those purposes violates substantive due process.

92. To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, and weigh the following three factors: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including

the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

93. Due process requires a meaningful opportunity, at a meaningful time and in a meaningful manner, to contest the factual basis for a deprivation of liberty before a neutral decisionmaker. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970).

94. The private interest here is Cruz's physical liberty, which is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

95. Cruz's prior release on bond further strengthens that liberty interest because individuals on conditional release possess an interest in their continued liberty. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

96. As detention continues, the available procedures must remain adequate to test whether confinement is still necessary and to reduce the risk of erroneous deprivation. *Zadvydas*, 533 U.S. at 690; *Mathews*, 424 U.S. at 335.

97. Procedural due process also requires procedures adequate to reduce the risk of erroneous deprivation. *Mathews*, 424 U.S. at 335.

98. Where Respondents rely on documentary evidence to justify prolonged detention, meaningful process requires more than Respondents' characterization of the document. The evidence must be disclosed in a manner sufficient to permit the detained person to challenge its content, context, reliability, and significance.

99. When Respondents bear the burden of proving danger or flight risk, they cannot satisfy due process by withholding the underlying evidence and forcing the detained person to disprove Respondents' description of it. That procedure converts Respondents' burden into an impossible burden of rebuttal for the detained person.

100. Nor may a materially-changed-circumstances requirement operate as a permanent barrier to review where the prior danger finding materially rests on evidence the detained person cannot obtain. A procedure that treats an undisclosed allegation as fixed and then denies a hearing because the detainee cannot change that finding is not a meaningful opportunity to be heard.

101. This claim does not ask the Court to reweigh the evidence considered on May 11. It challenges whether the combined procedures now governing Cruz's ongoing detention provide any meaningful way to test the factual basis for confinement or to hold DHS to its burden as detention becomes prolonged.

102. As civil detention lengthens, the need for a current, reliable, and genuinely adversarial justification becomes more acute. Repetition of an untested allegation cannot sustain detention indefinitely.

103. Because DHS has already received an opportunity to justify detention, has not produced the central evidence, and EOIR has now denied Cruz a new hearing, immediate release is the appropriate remedy.

CLAIMS FOR RELIEF

Count One
Violation of the Due Process Clause of the Fifth Amendment
Unreasonably Prolonged Detention Based on Withheld Evidence and Denial of Meaningful Custody Reassessment

104. Cruz realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

105. This claim arose after the prior habeas petition was filed and granted. It challenges the constitutionality of Cruz's present detention after that detention became prolonged and after EOIR's July 12, 2026 order foreclosed a renewed custody hearing despite DHS's continued withholding of the evidence on which the prior danger finding materially rests.

106. Cruz has been detained continuously since December 5, 2025, and has now been confined for more than seven months.

107. Cruz's removal case remains pending before the BIA, and there is no certain end date to his detention.

108. Cruz's private interest is extraordinarily weighty. He has lost his physical liberty, been confined in a civil detention facility, and been separated from his U.S. citizen long-term partner, his U.S. citizen child, and his community.

109. The risk of erroneous deprivation is substantial because Cruz's detention continues to rest in material part on alleged threatening Smartlink messages that DHS has never produced and Cruz cannot access.

110. The May 11 bond hearing did not provide a meaningful opportunity to challenge that evidence because DHS relied on the Form I-213's characterization of the messages without producing the messages themselves.

111. The June 22 order denying enforcement did not cure that defect. It treated Cruz's request for the messages or supporting testimony as a request to reweigh evidence, leaving the underlying messages undisclosed.

112. The July 12 order then denied Cruz a new custody hearing because he had not established a material change relevant to the prior danger analysis, even though that analysis materially depends on the undisclosed messages.

113. Cruz is therefore trapped in a closed evidentiary loop. He cannot obtain the evidence needed to challenge the prior finding, and he cannot obtain a new hearing because he has not first changed the finding based on evidence unavailable to him.

114. That procedure effectively requires Cruz to disprove an accusation while DHS retains control of the evidence and avoids its court-ordered burden to prove danger by clear and convincing evidence and flight risk by a preponderance of the evidence.

115. Cruz does not seek review of the discretionary weight assigned to competing evidence. He challenges the constitutionality of continued detention where Respondents withhold the central evidence and the available procedures foreclose meaningful reassessment.

116. The risk of erroneous deprivation has increased as detention has lengthened. A custody finding based on untested evidence cannot remain constitutionally sufficient indefinitely merely because it was made once.

117. Respondents' legitimate interests in ensuring appearance and protecting the community do not justify prolonged detention through a process that never requires it to substantiate the central allegation with the evidence in its control.

118. Reasonable conditions already exist to address any legitimate concern. Cruz was previously released on a $ 5,000.00 bond with Alternatives to Detention and can again be subject to GPS monitoring, reporting, or other tailored conditions.

119. Continued detention under these circumstances violates procedural due process because Cruz has no meaningful opportunity to examine and rebut the evidence used to deprive him of liberty and no meaningful mechanism to require DHS to carry its burden.

120. Continued detention also violates substantive due process because, absent a current and reliable showing that detention remains necessary, Cruz's prolonged confinement is no longer reasonably related to a legitimate non-punitive purpose.

121. Cruz is therefore entitled to immediate release.

PRAYER FOR RELIEF

Petitioner EVER CRUZ CRUZ respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause within three days as to why this Petition should not be granted as required by 28 U.S.C. § 2243;

(3) Grant the Petition for Writ of Habeas Corpus;

(4) Order Respondents to immediately release Cruz from custody;

(5) Order Respondents to restore Cruz to the same release posture that existed before his December 5, 2025, re-detention, including release on the previously imposed bond and supervision terms[1]; and

(6) Grant any further relief the Court deems just and proper.

Dated this 23rd day of July 2026.

Respectfully submitted,

s/ Skylar M. Larson
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ATTORNEY FOR PETITIONER

[1] *See Khabazha v. United States Immigr. & Customs Enf't,* 2025 WL 3281514, at *2 (S.D.N.Y. Nov. 25, 2025) (seeking "unconditional release from custody on conditions equivalent to those that existed prior to his June 23, 2025 detention."); *N---- N---- v. McShane,* 2025 WL 3143594, at *1-2 (E.D. Pa. Nov. 10, 2025) (seeking "release from ICE's conditions not imposed in the immigration judge's order" after an immigration judge granted petitioner's release on bond); and *Orellana Juarez v. Moniz,* 788 F. Supp. 3d 61, 64 (D. Mass. 2025) (seeking relief "under 28 U.S.C. § 2241 and the Due Process Clause of the Fifth Amendment for relief from conditions set by ICE.")

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **Petition for Writ of Habeas Corpus and Attachments A-G** will be effectuated contemporaneously with the Court's issuance of an Order directing service, at which time true and correct copies will be sent as directed to the following:

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Respondent

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ATTORNEY FOR PETITIONER

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FOR THE DISTRICT OF COLORADO

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DAVID VENTURELLA, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
MARKWAYNE MULLIN, in his official capacity as Secretary of U.S. Department of Homeland Security; and
TODD BLANCHE, in his official capacity as Attorney General of the United States.

Respondents.

ATTACHMENTS TO PETITION FOR WRIT OF HABEAS CORPUS

ATTACHMENT A.	Order of the Immigration Judge Granting Bond in the Amount of $ 5,000.00, dated July 11, 2025
ATTACHMENT B.	Orders Entered in *Cruz v. Baltazar*, No. 1:26-cv-01451-SKC
B-1.	Order Granting Petition for Writ of Habeas Corpus, ECF No. 12, dated May 4, 2026
B-2.	Order Clarifying Respondents' Burden of Proof at the Bond Hearing, ECF No. 18, dated May 8, 2026
B-3.	Order Denying Petitioner's Motion to Enforce, ECF No. 22, dated June 22, 2026
ATTACHMENT C.	Written Decision of the Immigration Judge Denying Bond, dated May 12, 2026
ATTACHMENT D.	DHS' Evidentiary Submission for May 11 Bond Hearing, dated May 10, 2026
ATTACHMENT E.	Cruz's Request for Custody Redetermination Based on Materially

	Changed Circumstances, Without Underlying Confidential Exhibits, dated July 9, 2026
ATTACHMENT F.	Order of the Immigration Judge Denying Request for Custody Redetermination Based on Materially Changed Circumstances, dated July 12, 2026
ATTACHMENT G.	Petition for U Nonimmigrant Status Receipt Notice, dated July 13, 2026