UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Genauris Jose Arias Lara, Petitioner, vs. **David Wesling**, Acting Field Office Director, Boston, U.S. Immigration and Customs Enforcement; **Todd Lyons**, Acting Director, U.S. Immigration and Customs Enforcement; **Markwayne Mullin**, Secretary, U.S. Department of Homeland Security, Respondents.	**Case No: 1:25-CV-229-LM-AJ**

SECOND AMENDED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Genauris Jose Arias Lara (Mr. Arias) had been lawfully living in the United States for seven months when he was abruptly detained by the Department of Homeland Security (DHS) in March of 2025 and kept in detention until June 14, 2025.

2. Mr. Arias had fled his home in the Dominican Republic in 2024 for fear of persecution and made his way to the U.S.-Mexico border where he then entered the United States to seek asylum.

3. After crossing the border, he surrendered to immigration authorities and was placed in detention while officers assessed his fear of persecution.

4. After being heard by an Immigration Judge, Mr. Arias was found to have a credible fear of persecution and was placed in standard removal proceedings.

5. Once in standard removal proceedings, DHS determined that Mr. Arias merited release, subject to various conditions.

6. Upon release, Mr. Arias was allowed to live with a relative while he pursued his asylum application before the Immigration Court.

7. As part of the conditions of his release, Immigration and Customs Enforcement (ICE), a component of DHS, enrolled Mr. Arias in its Intensive Supervision Appearance Program (ISAP). ISAP affixed Mr. Arias with a GPS ankle monitor and provided him with a phone to report to ICE periodically.

8. He did so without issue. Mr. Arias sent photographs to ICE whenever instructed, complied with his check-ins, and lived a quiet life in Massachusetts while awaiting his next court hearing.

9. Despite this, Mr. Arias was detained in March of 2025 without warning and was placed in ICE custody. For three months, Mr. Arias was detained without explanation.

10. Mr. Arias filed a Petition for Writ of Habeas Corpus on June 13, 2025, and only then did ICE release him.

11. Following Mr. Arias' release from ICE custody, ICE asserted that Mr. Arias' detention and subsequent release have been and continue to be conditioned on ICE's exercise of discretion, such that ICE may revoke Mr. Arias' release and detain him at any time, for any reason.

12. Nevertheless, ICE cannot place such a condition on Mr. Arias' freedom because Mr. Arias' detention and subsequent release were and continue to be governed by the Immigration and Nationality Act (INA) § 236(a), which limits ICE's authority to revoke Mr. Arias' release and re-detain him upon a material change of circumstances.

13. Furthermore, ICE cannot arbitrarily re-detain Mr. Arias without violating the Due Process guarantee of the Fifth Amendment to the United States Constitution.

14. By this Second Amended Petition, Mr. Arias requests (1) that this Court enter a determination that his custody is properly controlled by § 236(a) of the INA, and (2) that this Court enjoin the Government from re-detaining Mr. Arias unless: (a) ICE determines that a material change of Mr. Arias' individual circumstances has occurred, which affects his dangerousness or likelihood of absconding from his removal proceedings, or (b) he becomes subject to a final order of removal from the United States.

JURISDICTION & VENUE

15. The U.S. District Court for the District of New Hampshire has jurisdiction to adjudicate the present Petition for Writ of Habeas Corpus pursuant to Sections 2241 and 1331 of United States Code Title 28.

16. The U.S. District Court for the District of New Hampshire is the proper venue to hear Mr. Arias's petition because Mr. Arias was detained at FCI - Berlin within the State of New Hampshire at the time he originally filed his Petition.

PARTIES

17. Genauris Jose Arias Lara is a national of the Dominican Republic who was detained at FCI – Berlin, at the direction of DHS, at the time he filed his original Petition on June 13, 2025 and whose current release from detention remains subject to conditions set by DHS.

18. Respondent David Wesling is the Acting Field Office Director for the U.S. Immigration and Customs Enforcement (ICE) Boston Field Office and directs the detention of individuals in ICE custody in New England. He is being sued in his official capacity.

19. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement (ICE) and supervises all ICE field offices, including the Boston Field Office. He is being sued in his official capacity.

20. Respondent Markwayne Mullin is the U.S. Secretary of Homeland Security. He supervises the Department of Homeland Security (DHS), including its component, U.S. Immigration and Customs Enforcement (ICE). He is being sued in his official capacity. Respondent Mullin has been added to this Second Amended Petition in place of former Secretary Kristi Noem.

FACTS

21. The Declaration of Petitioner Genauris Jose Arias Lara, sworn under penalty of perjury, is attached to this Petition as **Exhibit 1** and the allegations therein are incorporated hereto by reference – in satisfaction of the requirements of United States Code Title 28, Sections 2242 and 1746.

A. Mr. Arias's Entry into the United States and Initial Release from Custody

22. Genauris Jose Arias Lara was born in the Dominican Republic and is a citizen of that country.

23. Mr. Arias fled the Dominican Republic in 2024 after [redacted]

24. Mr. Arias traveled through Central America to Mexico, near the U.S.-Mexico border, to seek asylum in the United States.

25. Mr. Arias crossed the border into the U.S. through San Diego, California where he then surrendered to Customs and Border Protection (CBP) officers. CBP detained Mr. Arias for approximately one month.

26. On August 1, 2024, DHS issued an expedited order of Removal against Mr. Arias pursuant to § 235(b)(1) of the INA.

27. Mr. Arias then told immigration officers that he was afraid of returning to the Dominican Republic and he was scheduled for a Credible Fear Interview (CFI) related to this fear.

28. The interviewing officers returned a negative finding on his credible fear, but the denial was reversed by an Immigration Judge after Mr. Arias sought further review. The Immigration Judge vacated DHS's negative credible fear determination and told Mr. Arias he could apply for asylum. *See* Order of the Immigration Judge dated August 16, 2024, attached as **Exhibit 2**.

29. Following the Immigration Judge's order, DHS issued Mr. Arias a Notice to Appear (NTA) which commenced INA § 240 removal proceedings against him and vacated DHS's previous Expedited Order of Removal. *See* Notice to Appear dated August 27, 2024, attached as **Exhibit 3**.

30. The NTA identified Mr. Arias as "an alien present in the United States who has not been admitted or paroled," and Mr. Arias' next hearing was scheduled for September 2025 before the Chelmsford Immigration Court in Chelmsford, Massachusetts. *See id.*

31. DHS then issued Mr. Arias a Notice of Custody Determination, which stated that, pursuant to INA § 236 and 8 C.F.R. § 1236, Mr. Arias would be released, subject to certain conditions. *See* Notice of Custody Determination dated August 28, 2024, attached as **Exhibit 4**.

32. As part of the conditions of his release, Mr. Arias was enrolled in ICE's Intensive Supervision Appearance Program (ISAP). He was placed on a GPS ankle monitor and was given a phone through which he was asked to report to ICE whenever directed. *See* ISAP Identification Card, attached as **Exhibit 1, Sub-Exhibit B**.

33. Mr. Arias was subsequently released from custody to live with his U.S. Citizen cousin in Boston, Massachusetts.

34. In so releasing Mr. Arias, DHS necessarily determined that he posed neither a danger to the community nor a risk of absconding from his Immigration Court proceedings.

B. Mr. Arias' Re-Detention

35. From the time he was released, Mr. Arias has resided in Massachusetts and complied with all his check-ins, sending photos to ICE through the provided phone as instructed, while he prepared to submit his asylum application.

36. Mr. Arias has not committed or been charged with any crimes since his arrival in the United States or in any other country, and he has not missed any scheduled appearance in Immigration Court.

37. Notwithstanding this compliance, Mr. Arias and his brother were unexpectedly stopped by Drug Enforcement Administration (DEA) agents on or around March 18, 2025, while driving to the gym. With guns drawn, the agents ordered Mr. Arias and his brother out of the car and arrested them. Mr. Arias asked what was happening and was given no response.

38. Soon after, the DEA agents transferred custody of Mr. Arias to ICE, pursuant to an administrative warrant authorized by INA § 236 and based purely on the pendency of Mr. Arias' ongoing removal proceedings. *See* Warrant for Arrest of Alien dated March 18, 2025, attached as **Exhibit 5**.

39. ICE issued Mr. Arias a new Notice of Custody Determination stating that he would be detained pursuant to INA § 236 and 8 C.F.R. § 1236. *See* Notice of Custody Determination dated March 18, 2025, attached as **Exhibit 6**.

40. Mr. Arias was bewildered by his detention, given his ISAP compliance, his scheduled hearing before an immigration judge, and his lack of criminal history.

41. The only explanation Mr. Arias received for his detention was that a change in administration had taken place.

42. Mr. Arias was first detained by ICE at Plymouth County Correctional Facility in Plymouth, Massachusetts before he was transferred to FCI – Berlin in New Hampshire, where he remained detained for approximately three months.

43. On June 13, 2025, Mr. Arias filed his original Petition for Writ of Habeas Corpus.

44. On June 14, 2025, ICE released Mr. Arias pursuant to the terms of his prior release from custody, but without his participation in ISAP.

45. Following Mr. Arias' release from ICE custody, ICE asserted that Mr. Arias' detention and subsequent release have been and continue to be conditioned on ICE's exercise of discretion, such that ICE may revoke Mr. Arias' release and detain him at any time, for any reason – pursuant to the terms of a document ICE had issued to Mr. Arias when the agency had first released him from custody on or about August 28, 2024. *See* Interim Notice Authorizing Parole dated August 28, 2024, attached as **Exhibit 1, Sub-Exhibit A**.

46. By the instant Petition for Writ of Habeas Corpus, Mr. Arias challenges the lawfulness of this condition of his release – *i.e.*, that ICE may re-detain him at any time and for any reason – as exceeding ICE's authority under INA § 236(a) and as violating his due process rights under the Fifth Amendment to the United States Constitution.

FIRST CAUSE OF ACTION - UNLAWFUL CONDITION OF RELEASE FROM DETENTION IN VIOLATION OF UNITED STATES CODE TITLE 8, SECTION 1226

47. Mr. Arias incorporates paragraphs 1 through 46 above as if fully restated below.

48. Mr. Arias is in the custody of ICE, at the direction of DHS, under or by color of the authority of the United States, to wit: ICE conditioned Mr. Arias' current release from detention on ICE's discretionary authority to revoke such release at any time, for any reason.

49. This condition of release is unlawful because Mr. Arias' custody is controlled by INA § 236(a) which only allows ICE to re-detain Mr. Arias upon a material change in circumstances such that Mr. Arias has become a flight risk, has become a danger, or has been ordered removed from the United States.

50. The unlawfulness of Mr. Arias' current custody will be effectively redressed by the Court with an order determining that Mr. Arias' release from detention is governed by INA § 236(a) and that ICE can only revoke such release upon a showing that Mr. Arias has become a flight risk, has become a danger, or has been ordered removed from the United States.

SECOND CAUSE OF ACTION – UNLAWFUL CONDITION OF RELEASE FROM DETENTION IN VIOLATION OF U.S. CONSTITUTION, FIFTH AMENDMENT

51. Mr. Arias incorporates paragraphs 1 through 50 above as if fully restated below.

52. Mr. Arias is in the custody of ICE, at the direction of DHS, under or by color of the authority of the United States, to wit: ICE conditioned Mr. Arias' current release from detention on ICE's discretionary authority to revoke such release at any time, for any reason.

53. This condition of release is unlawful because the substantive due process guarantee of the Fifth Amendment to the United States Constitution only allows ICE to re-detain Mr. Arias for a legitimate government purpose which is limited to a material change in circumstances such that Mr. Arias has become a flight risk, has become a danger, or has been ordered removed from the United States.

54. The unlawfulness of Mr. Arias' current custody will be effectively redressed by the Court with an order determining that Mr. Arias' release from detention is governed by INA §

236(a) and that ICE can only revoke such release upon a showing that Mr. Arias has become a flight risk, has become a danger, or has been ordered removed from the United States.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests that the Court:

A. Enter an order determining that Mr. Arias' custody is controlled by § 236(a) of the Immigration and Nationality Act;

B. Enjoin Respondents from re-detaining Mr. Arias unless: (a) they determine that a material change of his individual circumstances occurs such that he becomes a danger to the public or a flight risk, or (b) he becomes subject to a final order of removal from the United States;

C. Award to Petitioner his reasonable litigation costs and attorney's fees pursuant to the Equal Access to Justice Act; and

D. Grant such other further relief that is deemed just and proper by the Court.

Respectfully submitted,

GENAURIS JOSE ARIAS LARA, Petitioner,
By his attorneys,

Dated: April 9, 2026

/s/ Kara Thorvaldsen

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Dated: April 9, 2026

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