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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

LUIS ERNESTO MARTINEZ POCASANGRE

Agency File No. 

Case No. 1:25-cv-1898

Petitioner
v.

**PETITION FOR HABEUS
CORPUS RELIEF**

RUSS HOTT, Field Office Director,
Washington Field Office, Immigration and
Customs Enforcement, in his official
capacity; PAUL CAPICCHIONI, Assistant
Field Office Director, Washington Field
Office, Immigration and Customs
Enforcement, in his official capacity; U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT AGENCY; TODD M.
LYONS, Acting Director, U.S. Immigration
and Customs Enforcement, in his official
capacity; and KRISTI NOEM, Secretary,

U.S. Department of Homeland Security, in
her official capacity

Respondents.

PETITION FOR HABEAS CORPUS RELIEF

Petitioner, by and through counsel, alleges and complains of Respondents as follows:

I. STATEMENT OF FACTS

1. Petitioner, Luis Ernesto Martinez Pocasangre (hereinafter “Mr. Pocasangre” or “Petitioner”) is a citizen of El Salvador who entered the United States in July of 2020 seeking asylum protections. Mr. Pocasangre is presently being detained at the Abyon Farmville Detention Center, 508 Waterworks Rd. Farmville, VA, 23901. *See* Exhibit J, Icedetaineelocator results as of October 29, 2025.
2. Petitioner has been detained there since September 5, 2025, when he was issued a Notice to Appear (NTA) under INA 240, via the United States Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO), whom houses Federal civil immigration detainees such as the Petitioner. *See* Exhibit I, Notice to Appear.
3. Petitioner is under the direct control of Respondents and their agents; including the Washington ICE ERO Field Office, with oversight authority over the Farmville Detention Center, including the performance of ICE case review for ICE parole release requests, and the Executive Office for

Immigration Review's Annandale Immigration Court for his asylum and immigration bond hearing/s. *Id* at I and J. *See also* Exhibit K, Annandale Immigration Court's Order Regarding Bond Jurisdiction. *See also* Exhibit L, ICE Parole Denial.

4. Petitioner, Mr. Pocasangre, had applied for affirmative asylum with the United States Citizenship and Immigration Services (USCIS) in January of 2020, just 6 months after his initial entry; thus, Mr. Pocasangre has abided by the laws and requirements of the United States for Affirmative Asylum filers, as he filed well within the legally required timeframe of one year, under INA § 208(a)(2)(B). *See* Exhibit H, Asylum/I-589 Receipt.
5. Petitioner, Mr. Pocasangre has no criminal record and has resided at   in Frederick Maryland since July of 2025 (and prior to that, in Hagerstown Maryland since his July 2020 entry). *See* Exhibits B and E.
6. Petitioner, Mr. Pocasangre, has been consistently employed and consistently paid his taxes since entering the United States in July of 2020. *See* Exhibits A, C, and F (tax documents and support letters).
7. Petitioner, Mr. Pocasangre, is the father of a U.S. Citizen child, who was brutally detained when riding as a passenger in his boss's work truck. *See* Exhibits D and F (containing his U.S. Citizen child's biographic documents and photos of the car window broken during the arrest).

II. LEGAL FRAMEWORK

8. Petitioner, Mr. Pocasangre's detention is unlawful because he was detained without the opportunity for a bond hearing despite that on September 5, 2025, Mr. Pocasangre was issued an NTA under INA 240, which entitles him to a bond hearing under **INA § 326(a)**, thus his continued detention

without that hearing, is in violation of his 8th amendment rights and Federal Law under the Immigration and Nationality Act. . *See* Exhibit I, Notice to Appear. *See also* INA § 326(a) stating that **noncriminal aliens in “full” removal proceedings under section 240 of the Act are generally eligible for bond.**

9. Furthermore, Petitioner, Mr. Pocasangre’s detention is unlawful as it appears to have occurred without cause in violation of his 5th Amendment rights to due process, following a traffic stop where he was a passenger in the vehicle, not a driver, and was otherwise lawfully abiding his pending immigration process (his affirmative asylum filing). *See* Exhibits A thru L.

III. PARTIES

10. **Respondent is under the care and direct control of the United States Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO),** whom houses Federal civil immigration detainees such as the Petitioner, who is housed at the Farmville Detention Center, under the authority of Washington ICE ERO. *See* Exhibit J, icedetainee locator.
11. The Annandale Immigration Court Administrator, Natalie Meyers, and presiding Immigration Judge Raphael Choi of the Annandale Immigration Court who determined the Court lacked jurisdiction to consider a bond per the September 17, 2025 court order are also operating under DHS authority. *See* Exhibit K, the Annandale Immigration Court’s Order Regarding Bond Jurisdiction.
12. As both EOIR and the Farmville Detention Center are under the authority of DHS and/or the Washington ICE ERO office, Kristi Noem is DHS director, Todd Lyons is ICE Director, Russ Hott is the Washington Field Office Director and Paul Capicchioni is the Washington assistant field office director for U.S.

Immigration and Customs Enforcement (ICE) in Washington, D.C., which covers the District of Columbia and Virginia.

IV. JURISDICTION AND VENUE

13. This action arises under the Constitution of the United States in the 5th and 8th Amendments and in the Immigration and Nationality Act (“INA”) INA § 326(a) as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (“IIRAIRA”), as well as under INA 241(b)(1)(C)(iv) with corresponding regulation under Title 8 of the United States Code (USC) § 1231 (b)(1)(c)(iv), and the Administrative Procedures Act (“APA”), 5 U.S.C. § 701 et seq. Petitioner is presently in custody under the color of the authority of the United States, and such custody is in violation of the constitution, laws, or treaties of the United States.
14. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article 1, § 9, cl. 2 of the United States Constitution. 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., 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.
15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)(3) and *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) because this is in action against officers of the United States, acting in their official capacities, brought in the district where the Petitioner currently resides and Petitioner’s district of confinement.
16. Petitioner’s ultimate destination is in Federick, Maryland, however he remains confined in Farmville, Virginia, with Immigration Court jurisdiction

before the Annandale Immigration Court, both of which are within the jurisdiction of the US District Court for the Eastern District of Virginia.

17. All Respondents live, work, operate, or function within the Eastern District of Virginia, including those portions known as Farmville and Annandale.

V. REQUIREMENTS OF 28 U.S.C. § 2243

18. The court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to the Respondent’s “forthwith”, unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the court must require Respondents to file a return “within 3 days unless for good cause, additional time not exceeding 20 days, is allowed” *Id.* (Emphasis added).
19. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention without the opportunity for a bond hearing. The great writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

PRAYER FOR RELIEF

As Petitioner, Mr. Pocasangre, has exhausted all agency remedies available for him to request to have an opportunity for a bond hearing before the Annandale Immigration Court, and as ICE has not granted parole and specified that bond is his only option, where he is not subject to mandatory detention under 8 USC 1225 § (B)(ii) nor 8 USC § 1003.19 (h)(2)(i)(B) due to his lacking any criminal record and his NTA issuance under INA 240, his continued detention without the opportunity for a bond hearing violates the Constitution, laws, and regulations of the United States under the 5th and 8th Amendments and the INA § 326(a).

Accordingly, to vindicate Petitioner's constitutional and statutory rights, this court should grant the instant petition for a writ of habeas corpus and order Petitioner's right to a bond hearing before the Annandale Immigration Court.

Wherefore, petitioner requests this Court to:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this petition should not be granted within 3 days;
- (3) Declare that Petitioners detention violates the Due Process Clause of the Fifth Amendment, the cruel and unusual punishment clause of the 8th Amendment, and the INA § 326(a)
- (4) Issue a Writ of Habeas Corpus ordering Respondents to provide and EOIR bond hearing for Petitioner to be considered for release from ICE custody on reasonable bond;
- (5) If the Court finds it appropriate in the alternative, Issue a Writ of Habeas Corpus ordering ICE to release Petitioner under reasonable conditions of supervision, to his family in Maryland;
- (6) Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under laws; and
- (8) Grant any further relief this Court deems just and proper.

Respectfully submitted this 4th day of April, 2025.

/s/ Lauren O'Neal
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Luis Ernesto Martinez Pocasangre, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 29th day of October, 2025.

/s/ Lauren O'Neal
Lauren O'Neal, Esq.
Virginia State Bar No.: 91662