UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

JUAN CARLOS VELASQUEZ (A# xxx-xxx-700), Petitioner, v. SAMUEL OLSON, Acting Field Office Director, Chicago Field Office, Immigration and Customs Enforcement, in his official capacity; KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity; PAMELA BONDI, U.S. Attorney General, in her official capacity; TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; Respondents.	Case No. **PETITION FOR A WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Juan Carlos Velasquez, a citizen of Bolivia, is in the physical custody of Respondents at the Broadview Processing Center in Broadview, Illinois. When Mr. Velasquez entered the United States without inspection on or about October 20, 2022, and established a credible fear of returning to Bolivia, he was placed into removal proceedings. [1] Mr. Velasquez is currently scheduled for a hearing before the Chicago Immigration Court on February 9, 2026.

2. On information and belief, Mr. Velasquez was unlawfully detained by federal immigration agents on November 5, 2025, in or around Chicago, Illinois, while working as a landscaper in possession of a valid employment authorization document and brought to the Broadview Processing Center where he is currently detained.

3. Accordingly, to vindicate Mr. Velasquez's constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

4. Mr. Velasquez asks this Court to find that his detention is unlawful and order his release.

JURISDICTION

5. Mr. Velasquez is in the physical custody of Respondents and detained at Broadview Processing Center in Broadview, Illinois.

6. 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).

7. 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.

[1] Petitioner's counsel is working on obtaining a copy of his Notice to Appear to verify the grounds of inadmissibility Petitioner has been charged with.

VENUE

8. 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 Northern District of Illinois, the judicial district in which Mr. Velasquez currently is detained.

9. 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 Northern District of Illinois.

REQUIREMENTS OF 28 U.S.C. § 2243

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

11. 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

12. Petitioner Juan Carlos Velasquez is a citizen of Bolivia who has resided in the United States since approximately October 20, 2022. Border Patrol detained Mr. Velasquez for about two months when he entered the United States, and upon release of humanitarian parole

under 8 C.F.R. 212(b)(5), Mr. Velasquez relocated to Chicago, Illinois. On November 5, 2025, ICE re-detained Mr. Velasquez.

13. Respondent Samuel Olson is the Acting ICE Chicago Field Office Director, which includes the states of Illinois, Indiana, Wisconsin, Missouri, Kentucky, and Kansas. As the Broadview Processing Center is in Illinois and within the Chicago Field Office's area of responsibility, Mr. Olson is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

14. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

15. Respondent Pamela Bondi is the Attorney General of the United States. She 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. She is sued in her official capacity.

16. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

FACTUAL BACKGROUND

17. Mr. Velasquez is a 31-year-old citizen of Bolivia who entered the United States without inspection on October 20, 2022, and has lived here ever since. Mr. Velasquez lived in Chicago, Illinois, prior to his detention.

18. Mr. Velasquez resides with his wife Marizol Garcia Valderrama, who is a citizen of Bolivia, and two minor children who are natural-born United States citizens. Ms. Garcia Valderrama is a derivative beneficiary of Mr. Velasquez's asylum application. *See* Ex. B (first page of Form I-589, Application for Asylum and for Withholding of Removal). USCIS approved Mr. Velasquez's application for employment authorization on or about September 5, 2024. *See* Ex. C (employment authorization and social security cards).

19. On information and belief, Mr. Velasquez was detained without cause on November 5, 2025, in or around Chicago, Illinois, and is now held at the Broadview Processing Center in Broadview, Illinois. *See* Ex. F (ICE Detainee Locator) (returning no confirmation of the facility who has physical custody of Mr. Velasquez due to its recency).

20. Mr. Velasquez has been in removal proceedings since being paroled into the United States on December 16, 2022, and issued a Notice to Appear upon establishing a credible fear of returning to Bolivia, following his apprehension and detention by Border Patrol. *See* Ex. A (Form I-94, Arrival Departure Record) (paroling Mr. Velasquez into the United States).

21. DHS filed the Notice to Appear with the immigration court on January 4, 2023. Mr. Velasquez's next immigration court hearing is scheduled for February 9, 2026, in Chicago, Illinois. *See* Ex. D (notice of hearing); Ex. E (automated case information) (showing hearing scheduled in 2026).

22. Mr. Velasquez is represented by counsel in his removal proceedings and is eligible to apply for asylum based on his credible fear of returning to Bolivia and timely filing of a Form I-589, Application for Asylum and for Withholding of Removal. *See* Ex. B (first page of Form I-589, Application for Asylum and for Withholding of Removal). *See also* 8 U.S.C. § 1158

(asylum); 8 U.S.C. § 1231(b) (withholding); 8 C.F.R. § 208.13 (asylum); 8 C.F.R. § 208.16 (withholding). He has attended all his immigration court hearings.

EXHAUSTION OF REMEDIES

23. No statutory requirement of administrative exhaustion applies to Mr. Velasquez's case. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Mr. Velasquez's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81 (2006).

24. Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner's constitutional claims. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (BIA 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); s*ee also Gonzalez v. O'Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that "the BIA has no jurisdiction to adjudicate constitutional issues").

LEGAL FRAMEWORK

I. Due Process Clause

25. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993). To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

26. Under *Mathews*, courts 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." 424 U.S. at 335.

a. Private Interest

27. As to the first *Mathews* factor, "[t]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Mr. Velasquez has been detained for a day at Broadview Processing Center in conditions that are indistinguishable from criminal incarceration. This detention prevents him from seeing his family, going to work to support himself and his family, and deprives him of any privacy and freedom of movement.

b. Risk of Erroneous Deprivation

28. As to the second *Mathews* factor, courts must "assess whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *8 (D. Minn. May 21, 2025). The current procedures cause an erroneous deprivation of Mr. Velasquez's liberty interest in remaining free from detention.

29. There are reasonable alternatives available for Respondents to pursue. 8 U.S.C. § 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and apprehended near the border. As such, proper

application of the INA's detention scheme allows for the possibility of detaining Mr. Velasquez under Section 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of erroneous deprivation of Petitioner's freedom is high. *See Singh v. Lewis*, 2025 WL 2699219, at *9 ("the risk of erroneously depriving him of his freedom is high if the IJ fails to assess his risk of flight or dangerousness.").

c. Government Interest

30. As to the third *Mathews* factor, the government's interest in maintaining the current procedure is minimal here. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of Section 1226(a), which requires a bond redetermination hearing where an immigration judge will consider Mr. Velasquez's individualized facts and circumstances to determine whether he is a danger to the community or a flight risk.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

31. Mr. Velasquez incorporates by reference the allegations of fact set forth in the preceding paragraphs.

32. Noncitizens who have entered the United States and have been residing in the United States are detained under 8 U.S.C. § 1226(a) unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. Respondents' actions here violate § 1226(a) because, to date, Respondents have re-detained Mr. Velasquez without cause.

33. The application of § 1226(a) to Mr. Velasquez violates the INA.

COUNT II

Violation of Due Process

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

35. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

36. Mr. Velasquez has a fundamental interest in liberty and being free from official restraint.

37. Mr. Velasquez entered the country without inspection, was apprehended and detained by Border Patrol, and was ultimately released and paroled into the United States upon establishing a credible fear of returning to Bolivia. Such an individual may only be subject to discretionary detention under 8 U.S.C. § 1226, which provides for release on bond. Respondents have thus erroneously re-detained Mr. Velasquez without cause and in violation of his constitutional right to due process of law. The re-detention without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents immediately release Mr. Velasquez or, in the alternative, provide Mr. Velasquez with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 14 days;

c. Enjoin Respondents from moving Mr. Velasquez outside the jurisdiction of this Court pending adjudication of this petition;

d. Declare that Mr. Velasquez's continued detention violates the INA and the Due Process Clause of the Fifth Amendment;

e. Award Mr. Velasquez 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

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

DATED this 6th of November, 2025

Respectfully submitted,

/s/ June J. Htun
June J. Htun
Attorney for Petitioner

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 6th of November, 2025.

/s/ June J. Htun