UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

VINICIO ROLANDO CORDOVA VERA, Petitioner(s), v. HERIBERTO TELLEZ, Warden, Metropolitan Detention Center; TODD LYONS, Acting Director, U.S. Immigrations and Customs Enforcement; PAMELA BONDI, U.S. Attorney General; and KRISTI NOEM, U.S. Secretary of Homeland Security, Respondents(s).	Case No. 1:26-cv-18

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

1. During the pendency of removal proceedings, a noncitizen without a criminal record may be released on bond if present in the United States for over two years. *See* 8 U.S.C. § 1226(a); *see also* 8 §§ C.F.R. 1236.1, 1003.19.

2. When an immigration judge has ordered a noncitizen released pursuant to bond, an order authorizing release may be stayed by DHS in two circumstances: (a) through the exercise of *discretion* by the Board of Immigration Appeals after DHS seeks an emergency stay of the judge's order; or (b) *automatically* stayed upon DHS filing a notice of intent to appeal the custody redetermination with immigration court within one business day of the order. *See* 8 C.F.R. § 1003.19(i)(1), (2).

3. When either a (a) discretionary or (b) automatic stay is granted, the noncitizen remains detained pending a decision of the Board of Immigration Appeals. *See id.*

4. Within the calendar year of 2025 alone, at least thirty district court decisions have concluded that the automatic stay provision in 8 C.F.R. § 1003.19(i)(2) violates or likely violates the Due Process rights of Habeas petitioners released on bond by an immigration judge. *See J.M.P. v. Arteta,* No. 25 CIV. 4987 (DEH), 2025 WL 2984913, at *14 fn. 20 & 21 (S.D.N.Y. Oct. 23, 2025) (collecting cases[1]).

5. Neither the automatic or discretionary stay provisions in 8 C.F.R. § 1003.19(i)(1)-(2) place any burden on the Government to prove the need for detention or contain any standard for individualized consideration of a stay application. *See J.M.P. v. Arteta* at *17-19 (S.D.N.Y. Oct. 23, 2025) (concluding that automatic and discretionary stays were substantially the same in causing deprivation of Habeas petitioner's Due Process rights).

6. Petitioner's interest in liberty from physical detention is as substantial as a private interest can be. *See Hamdi v. Rumsfeld,* 542 U.S. 507, (2004) ("the most elemental of liberty

[1] *Carlon v. Kramer*, No. 4:25 Civ. 3178, 2025 WL 2624386 (D. Neb. Sep. 11, 2025); *Palma v. Trump*, No. 4:25 Civ. 3176, 2025 WL 2624385 (D. Neb. Sep. 11, 2025); *Perez v. Kramer*, No. 4:25 Civ. 3179, 2025 WL 2624387 (D. Neb. Sep. 11, 2025); *Sampiao v. Hyde*, No. 1:25 Civ. 11981, —— F.Supp.3d ——, 2025 WL 2607924 (D. Mass. Sep. 9, 2025); *Martinez v. Noem*, No. 5:25 Civ. 1007, 2025 WL 2598379 (W.D. Tex. Sep. 8, 2025); *Herrera v. Knight*, No. 2:25 Civ. 1366, —— F.Supp.3d ——, 2025 WL 2581792 (D. Nev. Sep. 5, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25 Civ. 3172, 2025 WL 2531521 (D. Neb. Sep. 3, 2025); *Fernandez v. Lyons*, No. 8:25 Civ. 506, 2025 WL 2531539 (D. Neb. Sep. 3, 2025); *Perez v. Berg*, No. 8:25 Civ. 494, —— F.Supp.3d ——, 2025 WL 2531566 (D. Neb. Sep. 3, 2025); *Leal-Hernandez v. Noem*, No. 1:25 Civ. 2428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Jacinto v. Trump*, No. 4:25 Civ. 3161, —— F.Supp.3d ——, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Maldonado v. Olson*, No. 25 Civ. 3142, —— F.Supp.3d ——, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Anicasio v. Kramer*, No. 4:25 Civ. 3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Garcia Jimenez v. Kramer*, No. 4:25 Civ. 3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149 (D. Minn. 2025); *Günaydin v. Trump*, 784 F. Supp. 3d 1175 (D. Minn. 2025); *Maza v. Hyde*, No. 1:25 Civ. 12407, —— F.Supp.3d ——, 2025 WL 2951922 (D. Mass. Oct. 20, 2025); *Merino v. Ripa*, No. 25 Civ. 23845, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025); *Carlos v. Noem*, No. 2:25 Civ. 1900, 2025 WL 2896156 (D. Nev. Oct. 10, 2025); *Arcos v. Noem*, 4:25 Civ. 4599, 2025 WL 2856558 (S.D. Tex. Oct. 8, 2025); *Casun v. Hyde*, No. 25 Civ. 427, 2025 WL 2806769 (D.R.I. Oct. 2, 2025); *Quispe-Ardiles v. Noem*, No. 1:25 Civ. 1382, 2025 WL 2783800 (E.D. Va. Sep. 30, 2025); *Luna Quispe v. Crawford*, No. 1:25 Civ. 1471, 2025 WL 2783799 (E.D. Va. Sep. 29, 2025); *Alves da Silva v. ICE*, No. 25 Civ. 284, —— F.Supp.3d —— , 2025 WL 2778083 (D.N.H. Sep. 29, 2025); *Silva v. Larose*, No. 25 Civ. 2329, 2025 WL 2770639 (S.D. Cal. Sep. 29, 2025); *Singh v. Lewis*, No. 4:25 Civ. 96, 2025 WL 2699219 (W.D. Ky. Sep. 22, 2025); *Hasan v. Crawford*, No. 1:25 Civ. 1408, —— F.Supp.3d ——, 2025 WL 2682255 (E.D. Va. Sep. 19, 2025); *Barrera v. Tindall*, No. 3:25 Civ. 541, 2025 WL 2690565 (W.D. Ky. Sep. 19, 2025); *Arce v. Trump*, No. 8:25 Civ. 520, 2025 WL 2675934 (D. Neb. Sep. 18, 2025); *Vazquez v. Feeley*, No. 2:25 Civ. 1542, 2025 WL 2676082 (D. Nev. Sep. 17, 2025); *cf. Campos Leon v. Forestal*, No. 1:25 Civ. 1774, 2025 WL 2694763 (S.D. Ind. Sep. 22, 2025); *B.D.V.S. v. Forestal*, No. 1:25 Civ. 1968, 2025 WL 2855743 (S.D. Ind. Oct. 8, 2025).

interests... [is] being free from physical detention by one's own government"); *Foucha v. Louisiana,* 504 U.S. 71, 80 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action"); *and Zadvydas v. Davis,* 533 U.S. 678, 690 (2001) (following *Foucha*).

7. The risk of erroneous deprivation of a noncitizen's liberty interest when DHS invokes either the automatic or discretionary stay provisions of § 1003.19(i)(1)-(2) is prohibitively high. *See J.M.P. v. Arteta* at *17-19 (S.D.N.Y. Oct. 23, 2025).
8. The Government interest in Petitioner's continued detention is minimal and outweighed by the Petitioner's substantial interest in liberty.
9. Therefore, Petitioner's detention constitutes a deprivation of his right to Due Process under the 5th Amendment.
10. Courts have broad discretion in conditioning a judgment for Habeas Corpus relief. *See* 28 U.S.C. § 2243 ("The court shall summarily hear and determine the facts, and dispose of [the application for a Writ of Habeas Corpus] as law and justice require").
11. Therefore, as law and justice require, the Court should order Petitioner's release pursuant to the Court's broad discretionary under 28 U.S.C. § 2243.

STATEMENT OF FACTS

12. Petitioner Vinicio Rolando Cordova Vera ([redacted]) is male, native and citizen of Ecuador.
13. In or about 2003, Petitioner entered the United States without inspection. Petitioner has resided continuously in the United States ever since.

14. In December 2025, Petitioner was detained by ICE and placed into removal proceedings. Petitioner was charged as subject to removal for being unlawfully present in the United States without being admitted or paroled. *See* INA 212(a)(6)(A)(i); 8 U.S.C. § 1231.
15. On December 30, 2025, Petitioner was ordered released from custody on bond by Immigration Judge Dara Reid.
16. On December 30, 2025, ICE filed Motion for Emergency Stay and Appeal of the custody redetermination to the Board of Immigration Appeals. On December 31, 2025, the Board of Immigration Appeals granted an emergency stay of the bond order.
17. Petitioner was notified of DHS's Motion for Emergency Stay and Appeal on December 31, 2025.
18. Petitioner was given little to no notice or opportunity to respond to DHS's Motion for an Emergency Stay. Petitioner has received no reason for the grant of an Emergency Stay by the Board of Immigration Appeals at the date of this writing.
19. Upon information and belief, Petitioner is currently detained at Metropolitan Detention Center, 80 29th St., Brooklyn, NY 11232.
20. Petitioner has no criminal history. Petitioner has never been arrested, charged, or convicted of any criminal offense in the United States or any other country.
21. Petitioner and his fiancée, Diana Carolina Ramos Caceres, are scheduled to be married on January 10, 2026.
22. Petitioner's fiancée is a legal permanent resident of the United States, and Petitioner intends to pursue legal status through her once they are married.

PARTIES

23. Petitioner Vinicio Rolando Cordova Vera is a noncitizen from the Ecuador who is currently detained by ICE. Upon information and belief, Petitioner is currently detained at Metropolitan Detention Center, 80 29th St., Brooklyn, NY 11232.

24. Defendant Heriberto Tellez is the warden the Metropolitan Detention Center in Brooklyn. He is being sued in his official capacity. He is Petitioner's immediate custodian

25. Defendant Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. He is being sued in his official capacity. He is Petitioner's legal custodian.

26. Defendant Kristi Noem is the Secretary of the U.S. Department of Homeland Security. She is being sued in her official capacity. She is Petitioner's legal custodian.

27. Defendant Pamela J. Bondi is the United States Attorney General. She is being sued in her official capacity. She oversees Immigration Judges and the Board of Immigration Appeals. She is Petitioner's legal custodian.

JURISDICTION

28. Officials and agencies of the United States have been named as defendants. The Court has personal jurisdiction over the defendants under 28 U.S.C. § 1346(a)(2).

29. The Court has subject matter jurisdiction to hear Petitioner's request for relief under 28 U.S.C. § 2241 and Article I, § 9 cl. 2 of the United States Constitution.

30. 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

31. Venue is proper in the Eastern District of New York because, upon information and belief, Petitioner is confined in this district at Metropolitan Detention Center, 80 29th St., Brooklyn, NY 11232. 28 U.S.C. § 1391(b)(2); *see Rumsfield v. Padilla*, 542 U.S. 426, 442 (2004) (the Writ of Habeas Corpus is "issuable only in the district of confinement.")

REQUIREMENTS OF 28 U.S.C § 2243

32. The Writ of Habeas Corpus provides a "swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963)

33. The Court must grant this Petition for Writ of Habeas Corpus or issue and Order to Show Cause ("OSC") to the Respondents "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 three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process
(Procedural Due Process)

1. The allegations in paragraph 1 through 33 are re-alleged and incorporated herein.
2. Procedural Due Process guarantees fair process. *See U.S. v. Salerno*, 481 U.S. 739, 746 (1987); *see also Mathews v. Eldridge,* 424 U.S. 319, 335 (1976) (articulating factors).
3. Petitioner is being deprived of his right to liberty, the risk of deprivation is high, and there would be great value in additional procedural safeguards.
4. The Government has little interest in Petitioner's continued detention.
5. Continued detention of Petitioner is a violation of Procedural Due Process.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

1. The allegations in paragraph 1 through 33 are re-alleged and incorporated herein.
2. The Due Process Clause covers a substantive sphere "barring certain government actions regardless of the fairness of the procedures used to implement them." *See Matzell v. Annucci*, 64 F.4th 425, 436 (2d Cir. 2023)
3. ICE's continued detention of Petitioner is so arbitrary that it constitutes a gross abuse of government authority.
4. Even in the presence of procedural protections, the government's actions are wholly without justification. *See Southerland v. City of New York*, 680 F.3d 127, 152 (2d Cir. 2012)
5. Continued detention of Petitioner is a violation of Substantive Due Process.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner shall not be transferred out of New York;

(3) Declare that Petitioner's detention is unlawful;

(4) Issue an Order to Show Cause ordering Defendants to show cause why this Petition should not be granted within three days;

(5) Order Petitioner's release pursuant to the Court's broad discretionary under 28 U.S.C. § 2243;

(6) In the alternative, hold a bail hearing and order Petitioner's release through the Court's inherent authority under *Mapp v. Reno*, pending adjudication of this Petition;

(7) Award attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law;

(8) Order any further relief this Court deems just and proper.

Respectfully submitted this 2nd Day of January 2026.

Respectfully submitted,
EDWARD J. CUCCIA, PC

/s/ Edward J. Cuccia

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner and submit this verification on their 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 2nd day of January, 2026.

/s/ Edward J. Cuccia
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