UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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CLERK
U.S. DISTRICT COURT
E.D.N.Y.

JOAN E. CAMPOS JOVEL,
Petitioner,

v.

PAM BONDI, in her official capacity as Attorney General; KRISTI NOEM, in her official capacity as U.S. Secretary of Homeland Security, U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; and WILLIAM P. JOYCE in his official capacity as Acting Director of New York Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; RAUL MALDONADO, in his official capacity as Warden of Metropolitan Detention Center.

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT
E.D.N.Y.
MARCH 2, 2026
BROOKLYN OFFICE
26-CV-1193
Judge Nina R. Morrison

INTRODUCTION

1. This case concerns the illegal arrest, and the illegal subsequent detention of petitioner, Joan Campos Jovel. He has lived in the United States for over twenty-years since his entry without inspection. He has an approved I-130, petition for an alien relative through his United States citizen father. Mr. Campos Jovel's mother is a United States permanent resident. He is currently seeking the regulatory scheme of a provisional unlawful presence waiver which will result in obtaining permanent residence with the least hardship borne by his US citizen and US permanent resident family members.

The regulations for this were duly promulgated and enacted to alleviate the hardship that arises from significant separation.

2. Mr. Campos Jovel was arrested by U.S. Immigration and Customs (ICE) agents while driving to work at approximately 5:30 AM on February 17, 2026, in Nassau County, New York. He was provided no specific reasons for his arrest. He was subsequently transferred to Delaney Hall in Newark, NJ before his transfer to the Metropolitan Detention Center in Brooklyn, NY.
3. Prior to his unlawful arrest by masked ICE agents, upon information and belief, Mr. Campos Jovel has had one negative interface with law enforcement. He was convicted of misdemeanor aggravated DWI, VTL 1192 2-AA on May 1, 2025. This conviction does not trigger grounds of inadmissibility and does not foreclose Mr. Campos Jovel's viable pathway to permanent residence
4. Mr. Campos Jovel's arrest and detention are wholly unjustified and unrelated to any individualized consideration of his circumstances. In the time he has lived in the United States, Mr. Campos Jovel has done worked to integrate himself into his community and has dedicated himself to supporting his family.
5. Despite the availability of prospective relief, and no consideration of individual circumstance, ICE illegally and unconstitutionally arrested the petitioner depriving him of his most basic due process rights and his liberty.

FACTS

6. Mr. Campos Jovel was born March 30, 1984, and is a citizen and national of El Salvador. He entered the United States without inspection, upon information and

belief in 2003. He was not encountered by U.S. Customs and Border Patrol and traveled to New York to reunite with his family.

7. Mr. Campos Jovel's father, while still a Legal Permanent Resident (LPR), filed an I-130 petition for alien relative with the U.S. Immigration and Citizenship Services on November 26, 2019. Mr. Campos Jovel's father's naturalized in March of 2025. The petition was approved on June 11, 2022, classifying Mr. Campos Jovel as an unmarried adult son or daughter of a LPR. The petition was transferred to the National Visa Center on the date of approval to commence consular processing for permanent residence.

8. On February 17, 2026, at approximately 5:30AM, while a passenger in a car on the way to work, the car was blocked by three vehicles. Masked agents, with drawn firearms approached the vehicle and ordered that Mr. Campos Jovel and the driver lower their windows and demanded identification. The agents proceeded to take Mr. Campos Jovel into custody. The U.S. Department of Homeland Security initiated removal proceedings on February 18, 2026.

9. Mr. Campos Jovel is seeking to pursue a regulatory scheme for a discretionary decision by USCIS, that if granted, would allow him to obtain permanent residence through consular processing but remain in the United States with his parents and siblings while his provisional unlawful presence waiver is pending.

10. Mr. Campos Jovel is following a legal pathway prescribed by immigration law precisely for individuals in his position. Despite his adherence to legal pathways, Mr. Campos Jovel was arrested by ICE.

11. Mr. Campos Jovel's arrest and detention lack any perceivable justification other than to pressure him to forego and abandon his pathway to immigration relief by depriving him of freedom and community and family support. The government's interests are decidedly outweighed by the ongoing harm to Petitioner at the expense of his health and liberty.

12. Mr. Campos Jovel remains in ICE custody, upon information and belief detained at the Metropolitan Detention Center in Brooklyn, NY under the jurisdiction of ICE New York Field Office.

13. Petitioner respectfully asks this Court to hold that his detention is unlawful, to order that he not be removed from the jurisdiction, to hold that his continued detention is unlawful, and to order his immediate release from custody.

14. Every day Mr. Campos Jovel spends in detention subjects him to further irreparable harm. Immediate relief is necessary to ensure that Mr. Campos Jovel is no longer subjected to continued violations of his substantive and procedural rights under the Fifth Amendment of the United States Constitution, the Administrative Procedure Act, and the Immigration and Nationality Act. Mr. Campos Jovel should be released.

PARTIES

15. Petitioner, Mr. Joan Campos Jovel is the son of a U.S. citizen and Legal Permanent resident who has resided in the United States for over twenty years who has an approved I-130 petition and is pursuing a provisional unlawful presence waiver while simultaneously pursuing consular processing for his permanent residence.

16. Respondent, Raul Maldonado, Warden of the Metropolitan Detention Center is named in his official capacity as the Warden of the Metropolitan Detention Center, New York Field Office, U.S. Immigration and Customs Enforcement.
17. Respondent William P. Joyce is named in his official capacity as the Acting Director of the New York Field Office, ICE Enforcement and Removal Operations, Respondent is a legal custodian of Joan Campos Jovel.
18. Respondent Todd Lyons is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Joan Campos Jovel.
19. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security. As the head of DHS, the agency responsible for enforcing immigration law, Secretary Noem is Joan Campos Jovel's ultimate legal custodian.
20. Respondent Pamela Bondi is named in her official capacity as the U.S. Attorney General. As the head of the U.S. Justice Department, the agency which oversees the Executive Office of Immigration Review (EOIR), Attorney General Bondi is responsible for determinations of removability.

JURISDICTION

15. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (habeas corpus); Art. 1, § 9, cl. 2 of the United States Constitution (Suspension Clause); and 28 U.S.C. § 2201 (declaratory judgment).
16. Venue is proper because petitioner is being held in the Eastern District of New York at the time the habeas corpus petition was filed. The petitioner lives Nassau County, NY and was detained by ICE agents in Nassau County, NY under the custody and control of ICE

officials in New York City. A substantial part of the events giving rise to the claims and relevant facts occurred within this district.

17. Administrative exhaustion is unnecessary because it would be futile.

LEGAL STANDARD

18. A writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld,* 542 U.S. 507, 525 (2004)(citing U.S. Const., Art I., section 9, cl. (2). Petitioner brings a petition for a writ of habeas corpus under 28 U.S.C. § 2241, which entrusts a district court to court to grant a writ of habeas corpus whenever a petitioner is "in custody in violation of the Constitution or law or treaties of the United States." 28 U.S.C. § 2241(c).

DISCUSSION

19. Section 240 removal proceedings provide non-citizens with an opportunity to be heard in full immigration court hearings before an Immigration Judge. 8 U.S.C. § 1229a outlines the procedures and rights afforded to non-citizen in removal proceedings including: "the privilege of being represented... by counsel of the alien's choosing who is authorized to practice in such proceedings" 8 U.S.C. § 1229a(4)(A) and "a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witness presented by the Government." 8 U.S.C. § 1229a(4)(B).
20. Decisions made by "Immigration Judges may be appealed to the Board of Immigration Appeals." 8 C.F.R. § 1003.38(a). Final orders of removal may be appealed to the Federal Court of Appeals for the judicial circuit in which the respective Section 240 proceedings sit. 8 U.S.C. § 1252.

21. Mr. Campos Jovel's Section 240 removal proceedings were initiated following his arrest. By arresting him and depriving him of his liberty rights, the government is attempting to pressure him to forego his protected rights and coerce him to agree to return to a country where he has not lived in over two decades, or to a third country to which he has no connection. Mr. Campos Jovel's arrest is part of a pattern and practice by the government to thwart non-citizen's access to available relief.

22. Mr. Campos Jovel, with his approved I-130 petition, is pursuing a provisional unlawful presence waiver of inadmissibility for certain immediate relatives. *See.* 78 Fed. Reg. 536 (Jan. 3, 2013). Under 8 U.S.C. § 1182(a)(9)(B)(i)(II), a noncitizen who has been unlawfully present in the United States for at least one year and subsequently leaves the country is inadmissible from reentry for ten years. To alleviate the suffering caused by family separation, Congress gave the Secretary of DHS the authority to waive the unlawful presence ground of inadmissibility if the noncitizen's extended separation would "result in the extreme hardship to the citizen or lawful resident spouse or parent of such [noncitizen]." 8 U.S.C. § 1182(a)(9)(B)(v). The adjudicatory authority of the waiver was delegated to USCIS. See 8 C.F.R. § 212.7(e). Prior to these regulations, a foreign national had to request the waiver from outside the United States. However, recognizing that severe hardship caused by family separation "was incompatible with promoting family unification, [which is] an important objective of the United States immigration laws", the provisional unlawful presence waiver was implemented. *Jimenez v. Nielsen*, 334 F. Supp. 3d 370, 377-378, (D. Mass 2018). Simply, the regulations permit an otherwise eligible spouse or adult child of a U.S. citizen or permanent resident, who lives in the Unites States without status, to obtain a provisional unlawful presence waiver, depart the United States

briefly to attend a permanent resident interview at the U.S. Consulate abroad and quickly rejoin their family. This process was deliberately designed to lessen the time that the applicant is separated from their family. See 78 Fed. Reg. at 536, 565; 81 Fed. Reg. at 50244, 50271.

A. Petitioner is Detained Under 8 U.S.C. § 1226

23. Petitioner, Mr. Campos Jovel's current detention is governed by 8 U.S.C. § 1226(a), as he has been present in the United States for over two years. Detention pending adjudication of removal under Section 1226 is discretionary and affords noncitizens detained thereunder the right to an initial determination as to the eligibility for release and the opportunity for a bond hearing upon detention. 8 C.F.R. § 1236.1(d)(1). There has been no current change in circumstance that would warrant detention. Petitioner is not "seeking admission" as he is "already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez,* 583 U.S. 281, 297 (2018). Under Section 1226, "an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Detention is discretionary and the noncitizen may be released upon application on either bond or "conditional parole." *Id.* § 1226(a)(2)(B); *Johnson v. Guzman Chavez,* 594 U.S. 523, 527 (2021). The government is abusing its discretion, and depriving individuals such as petitioner of their liberty without any procedural safeguards and questionable basis for the arrest.

24. Mr. Campos Jovel is a member of the certified nationwide class in *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order

Granting Petitioners' Motion for Partial Summary Judgment). *Maldonado Bautista v. Santacruz* held that class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11; *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, (C.D. Cal. Feb. 18, 2026).

25. Despite this judicial order, and the basic principles of Federal Rules of Civil Procedure, requiring that officers/tribunals comply with such orders wherever they operate, EOIR and DHS have willfully and blatantly refused to abide by the declaratory relief and have instructed Immigration Judges to ignore it. *See* Fed. R Civ. Proc. 65(d)(2); Practice Alert: EOIR Issues Nationwide Guidance on *Maldonado Bautista,* AILA Doc. No. 26011404 (Jan. 16, 2026). Upon information and belief, a bond hearing before an immigration judge is no longer a non-biased proceeding but rather one where predeterminations of "flight risk" are rampant and not based on evidence. Accordingly, a request for release on bond before an immigration judge is futile.

CAUSES OF ACTION

FIRST CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Substantive Due Process); 5 U.S.C. §§ 702, 706

26. Mr. Campos Jovel repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

27. Mr. Campos Jovel is not a flight risk nor is he a danger to the community. Respondents' detention of Mr. Campos Jovel is therefore unjustified and unlawful. Accordingly, Mr.

Campos Jovel is being detained in violation of his Constitutional right to Due Process under the Fifth Amendment.

SECOND CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); 5 U.S.C. §§ 702, 706

28. Mr. Campos Jovel repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
29. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law."
30. The government permitted Mr. Campos Jovel to pursue available legal relief in the United States with his liberty. The Due Process Clause entitles Mr. Campos Jovel meaningful process assessing whether his detention is justified. The arrest and detention of Mr. Campos Jovel without an opportunity to contest his detention in front of a neutral decisionmaker after he had been living and working in the United States for over twenty years provide insufficient process and violates the Due Process Clause of the Fifth Amendment of the Constitution.

THIRD CLAIM

Violation of the Fourth Amendment to the U.S. Constitution (unlawful arrest); 5 U.S.C. §§ 702, 706

31. Mr. Campos Jovel repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

32. At the time of Mr. Campos Jovel's arrest, the government lacked reliable information of changed or exigent circumstances that would justify his arrest while he pursued his claims for immigration relief at liberty. His arrest based on the fact that he is subject to removal proceedings, is unreasonable and violates the Fourth Amendment.

FOURTH CLAIM

Violation of the INA: Request for Relief Pursuant to *Maldonado Bautista*

33. Mr. Campos Jovel repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein

34. As a member of the *Maldonado Bautista* Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a). The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

35. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

36. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

37. By detaining petitioner under § 1225(b)(2), respondents violate Mr. Campos Jovel's statutory rights under the INA and the Court's judgement in *Maldonado Bautista.*

FIFTH CLAIM

Violation of Administrative Procedure Act, 5 U.S.C. §§ 702, 706

38. Mr. Campos Jovel repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

39. The government's efforts to remove Mr. Campos Jovel while he is pursing regulatory relief in the form of the provisional unlawful presence waiver is arbitrary and capricious under the Administrative Procedures Act (APA); 5 U.S.C. § 702 (2) (A). He has a right to pursue to engage in in the administrative process duly enacted of the provisional unlawful presence waiver and he deserves his liberty during the process and a just and fair adjudication on the merits and actual facts of his case.
40. By detaining the petitioner, respondents have attempted to strip him of his right to engage in a process available to him.
41. Mr. Campos Jovel's arrest pursuant to the government's policy are agency actions that violation the APA.

PRAYER FOR RELIEF

WHEREFORE, the petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;

2) Order the respondents to either release petitioner from detention or enjoin his transfer out of the jurisdiction of this District pending these proceedings;

3) Declare that the petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act, and the Immigration and Nationality Act;

4) Issue a Writ of Habeas Corpus ordering Respondents to immediately release the petitioner from custody;

5) Award the petitioner reasonable attorneys' fees and costs for this action under the Equal Access to Justice Act, 28 U.S.C. § 2414; and

6) Grant the petitioner any other relief this Court deems just and proper.

Dated: February 27, 2026
New York, New York

Respectfully submitted,

/s/ Rafael-Lev Gilbert

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