UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

SANTIAGO NICODEMO VICENTE CHANCHAVAC, **Petitioner,** **v.** **WARDEN, D Ray ICE Processing Center; KRISTEN SULLIVAN, Director/Acting Director, Atlanta Field Office, United States Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary of Homeland Security; PAMELA JO BONDI, United States Attorney General, *in their official capacities*,** **Respondents.**	CASE NO.: CV 526-336

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

1. Petitioner, SANTIAGO NICODEMO VICENTE CHANCHAVAC, by and through undersigned counsel, respectfully petitions this Honorable Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his ongoing civil immigration detention by the United States Department of Homeland Security and its agents. Petitioner is a citizen and national of Guatemala and is currently detained in the custody of Immigration and Customs Enforcement at D Ray ICE Processing Center in Folkston, Georgia.

2. **Petitioner seeks immediate release from immigration detention. While Petitioner is aware that this Court often orders a bond hearing as the appropriate remedy in**

habeas corpus proceedings, immediate release is appropriate here for reasons including those set forth in the "REMEDY" section at pages 9-11, *infra.* In the alternative, Petitioner seeks an order directing Respondents to provide him with a constitutionally adequate custody hearing before a neutral decisionmaker with authority to assess the necessity of detention and to order release on appropriate conditions.

3. Petitioner's continued civil confinement, maintained without any individualized custody determination by a neutral decisionmaker authorized to assess flight risk, danger to the community, or the availability of conditions of release, violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Accordingly, issuance of the writ of habeas corpus is warranted.

JURISDICTION & VENUE

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 2241 because Petitioner is in federal immigration custody and challenges the legality of his ongoing civil immigration detention by the United States Department of Homeland Security and its officers. The relief sought lies at the core of the writ of habeas corpus.

5. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action raises questions of federal law arising under the Constitution and laws of the United States, including the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

6. The Suspension Clause of the United States Constitution independently guarantees Petitioner the right to seek habeas corpus review to test the legality of his physical confinement where no other adequate and effective remedy exists.

7. Venue is proper in this District under 28 U.S.C. 1391 and 28 U.S.C. 2242 because at least one Respondent is in this District, Petitioner is detained in this District, and Petitioner's

immediate physical custodian is located in this District. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) ("the proper respondent to a habeas petition is 'the person who has custody over [the petitioner]'") (quoting 28 U.S.C. 2242).

PARTIES

8. Petitioner SANTIAGO NICODEMO VICENTE CHANCHAVAC is a citizen and national of Guatemala and is currently detained by Respondents at Folkston ICE Processing Center.

9. Respondent WARDEN of Folkston D Ray ICE Processing Center, where Petitioner is currently detained, is the physical custodian of Petitioner and is named in their official capacity.

10. Respondent Kristen Sullivan Director/Acting Director of the Atlanta Field Office is responsible for the Atlanta Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. She is a legal custodian of Petitioner and are named in her official capacity.

11. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

12. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.

13. Respondent Pamela Jo Bondi is the Attorney General of the United States Department of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

FACTUAL BACKGROUND

14. SANTIAGO NICODEMO VICENTE CHANCHAVAC is a citizen and national of Guatemala. On information and belief, he entered the United States without inspection

approximately 12 years ago. He has resided in Millsboro, Delaware for approximately twelve years. He has a son, E.S.V.Z., who is a U.S. citizen and approximately twelve years old. Prior to his arrest, he worked for [redacted]

15. Petitioner is currently detained in the custody of Immigration and Customs Enforcement at D Ray ICE Processing Center. Petitioner has been detained for more than 30 days.

16. As of the filing of this petition, Petitioner has been detained for more than 30 days. **See Exhibit A** (a copy of the Notice to Appear dated February 2, 2026).

17. Petitioner's detention is civil and administrative in nature. His confinement is not based on any criminal conviction or charge. While detained, Petitioner remains physically confined and deprived of his liberty as his immigration case proceeds through the administrative process. Absent judicial intervention, Petitioner will remain detained without any individualized custody determination addressing whether continued confinement is necessary or justified.

STANDARD OF LAW

18. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The "Great Writ" has been referred to by US Courts 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). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 2241(c)(3).

19. The Court must grant a petition for writ of habeas corpus or issue an order to show cause 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.* (emphasis added).

20. "[T]he Due Process Clause applies to all 'persons' within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

21. In July 2025, DHS began ignoring the decades-long consensus of how 8 U.S.C. § 1225(b)(2) should be interpreted; the Board of Immigration Appeals ("BIA") articulated this new policy in a subsequent precedential ruling. *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA Sept. 5, 2025). Respondents now claim that individuals who are arrested while residing within the United States are somehow "seeking admission."

22. However, the overwhelming majority of district courts across the country, including courts within the Eleventh Circuit, have made clear that 8 U.S.C. § 1225(b)(2) only authorizes detention for noncitizens who are at the border seeking physical entry at the time of detention, not those who reside in the United States, whose detention is discretionary and governed by 8 U.S.C. § 1226(a). *See, e.g., Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115, 2025 U.S. Dist. LEXIS 215437 (M.D. Ga. Nov. 1, 2025); *see also Mercado v. Francis*, No. 25-cv-6582 (LAK), ___ F.Supp.3d ___, 2025 WL 3295903, at *4, 2025 U.S. Dist. LEXIS 232876, at *9 (S.D.N.Y. Nov. 26, 2025) (finding that challenges to the new mandatory detention scheme had prevailed in 350 out of 362 cases decided by over 160 different judges). Indeed, this court has held that immigrants in similar postures are entitled to a bond hearing. See *Villa v. Normand,* No. 5:25-cv-89 (LGW-BWC), 2025 WL 3095969 (S.D.Ga. Nov. 4, 2025), *report and recommendations adopted,* 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) *Emphasis Added.*

23. Only under certain circumstances are immigrants subject to ongoing detention without a bond hearing. *See, e.g.*, 8 U.S.C. § 1226(c) (individuals with certain criminal convictions may be detained without a bond hearing for the pendency of removal proceedings[1]) *and* 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) (authorizing mandatory detention of immigrants in expedited removal proceedings).

24. Otherwise, the "default rule" is that detention of immigrants already present in the United States and subject to pending removal proceedings is governed by 8 U.S.C. § 1226(a) and its implementing regulations. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018).

25. Under this default rule, detained immigrants are constitutionally and statutorily entitled to both an initial custody determination by an immigration officer and a bond hearing. *See, e.g.*, *Miranda v. Garland*, 34 F.4th 338, 362 (4th Cir. 2022); *Villa v. Normand*, No. 5:25-CV-89, 2025 WL 3095969, at *5 (S.D. Ga. Nov. 4, 2025), *report and recommendation adopted*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (noting that a bond hearing is an appeal of an arresting immigration officer's initial custody determination); *Tumba v. Francis*, No. 25-CV-8110 (LJL), 2025 WL 3079014, at *7 (S.D.N.Y. Nov. 4, 2025) (holding that the violation of Petitioner's constitutional rights "originated with her detention in the first instance[]" and "a bond hearing could not cure that constitutional violation.").

[1] Even when detained under 1226(c), immigrants retain due process rights and are entitled to a hearing if the period of detention becomes unreasonable. *See, e.g., Portillo v. Hott,* 322 F. Supp. 3d 698, 709 (E.D. Va. 2018).

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Petitioner is being deprived of an adequate and meaningful process to challenge his ongoing confinement.

26. Petitioner realleges and incorporates by reference the allegations contained above.

27. Petitioner has due process rights as a resident of the United States. *Zadvydas*, 533 U.S. at 693.

28. Civil immigration detention is constitutionally permissible only when it is reasonably related to a legitimate governmental purpose and is accompanied by adequate procedural safeguards. Detention that becomes arbitrary or imposed without an individualized determination of necessity violates the Due Process Clause.

29. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

30. Here, all three factors favor the petitioner.

31. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the

liberty that [the Due Process] Clause protects."). Petitioner currently experiences the gambit of deprivations that come with physical detention, including separation from his family and community, barriers to full participation in his pending immigration proceedings, and forced imprisonment under inhumane and overcrowded conditions.

32. Second, Petitioner has already been deprived of this interest and will continue to be deprived of this interest if the current procedure (detaining Petitioner without a legal basis) is followed. With his lack of criminal record, extensive ties to the community, and eligibility for relief in his immigration case, there is no rational explanation for detaining Petitioner. Even if he were detained properly under 8 U.S.C. § 1226(a), he already demonstrated his strong likelihood of meeting the criteria for being released on bond. 8 CFR 236.1(c)(8); *In re Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999).

33. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing him, or holding a hearing to release him on bond, would in fact *save* the government the resources and expense of continuing to imprison him.

34. The placement of Petitioner in months of detention pending the resolution of his ongoing immigration court proceedings violates Petitioner's constitutional right to due process guaranteed by the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

Petitioner's Ongoing Detention, without the Opportunity for an Initial Custody Determination or a Bond Hearing, Violates her Statutory Rights Under 8 U.S.C. § 1226(a)

35. Petitioner realleges and incorporates by reference the allegations contained above.

36. Respondents' attempt to apply mandatory detention through 8 U.S.C. § 1225(b)(2) to Petitioner violates the Immigration and Nationality Act.

37. Petitioner is detained without being afforded an opportunity to advocate for his release back into his community as the law requires.

38. In the absence of an individualized custody determination, Petitioner's continued detention is not meaningfully tethered to the limited statutory purposes authorized by the Immigration and Nationality Act.

REMEDY

39. An available remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be released.

40. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

41. Since § 1225 does not apply to noncitizens who are in Petitioner's situation–who have been detained while residing within the United States—the law that Respondents are using to detain Petitioner simply does not apply to authorize Petitioner's detention.

42. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

43. Petitioner acknowledges that this many courts have ordered bond hearings in response to habeas petitions challenging unlawful detention under § 1225(b).

44. Numerous courts across the country have ordered immediate release in similar circumstances. *See, e.g., Luna Sanchez v. Bondi*, No. 1:25-cv-018888-MSN-IDD, 2025 WL

3191922 (E.D. Va. Nov. 14, 2025); *Kerry-Juma v. Noem*, No. SAG-25-04000, 2025 WL 3537525 (D. Md. Dec. 10, 2025); *Chacon v. Hermosilla*, No. 2:25-cv-022990-TMC, 2025 WL 3562666 (W.D. Wash. Dec. 12, 2025); *Resendiz v. Noem*, No. 4:25-CV-00159-GNS, 2025 WL 3527284 (W.D. Ky. Dec. 9, 2025); *Luna v. Warden*, No. EP-25-CV-00565-DCG, 2025 WL 3787494, (W.D. Tex. Dec. 29, 2025); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110, *4-5 (N.D. Cal. Sept. 3, 2025); *Diego L. v. Bondi*, No. 26-CV-382, 2026 WL 145206, at *3-4 (D. Minn. Jan. 20, 2026); *Tzi v. Jamison*, No. 26-0099, 2026 WL 116486, *3 (E.D. Pa. Jan. 15, 2026) (ordering petitioner's immediate release and noting that "[s]ince Tzi has not had a bond hearing, even if I were to hold that he is detained pursuant to § 1226, his detention without a bond hearing would be unlawful"); *Rodriguez v. Rokosky* No. 25-17419 (CPO), 2025 WL 3485628 (D.N.J. Dec. 3, 2025) ("the Court declines to allow Respondents to transform an unlawful detention into a lawful one through alternative, retrospective, *post hoc* justification").

45. Here, release is the most appropriate remedy. First, detention is unlawfully based on 8 U.S.C. §1225, which does not apply to Petitioner, and Respondents have failed to properly invoke any valid statutory basis for detention. Second, even if 8 U.S.C. §1226 were properly invoked, Petitioner has already suffered a deprivation of the custody determination process which he is due. *See Tumba*, 2025 WL 3079014 at *7; *Miranda*, 34 F.4th at 362.

46. While many of the recent decisions regarding § 1225 and § 1226 focus exclusively on the second opportunity for release under § 1226(a)—i.e., detainees' right to a bond hearing—Petitioner here was not merely entitled to a bond hearing following his arrest (assuming that the government's authority pursuant to § 1226 had been properly invoked at that time). He was also entitled to an *ex ante* release determination by an immigration officer prior to his (as of the time of filing) more than three-month period of incarceration. On information and belief, based on

Respondents' policy of applying § 1225(b) to all "applicants for admission" since July 2025, Petitioner was afforded no such individualized determination by any immigration officer. An Immigration Judge also already declined, based on BIA precedent which has soundly and repeatedly been rejected by this Court, to give any consideration to Petitioner's motion for custody redetermination. These due process violations cannot be remedied by a *post facto* bond hearing following months of incarceration. Immediate release is the only adequate remedy.

47. Further, implicit in any holding that granting a bond hearing before an immigration judge vindicates the rights of immigrants who could be detained under § 1226(a) is the assumption that immigrants will be afforded *fair* hearings in front of *neutral* immigration judges. This assumption is increasingly untenable. *See* **Exhibit B, Declaration of Jorge E. Artieda of January 28, 2026.** In the attached declaration, Mr. Artieda—former legal counsel to ICE in Washington D.C. and Virginia—details evidence of what "appears to be a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus" through the reassignment of Immigration Judges and the use of pretextual and legally insufficient rationales for denying bond. *See id.* at ¶¶ 1-2, 16-20, 26, 32; *Briceno Solano v. Mason*, No. 2:26-CV-00045, 2026 WL 311624, at *20 (S.D.W. Va. Feb. 4, 2026) (quoting same, and ordering immediate release of petitioner).

48. A bond hearing in front of an immigration judge is an inadequate remedy if Respondents cannot establish that the hearing officer will be a genuinely neutral and detached decisionmaker, rather than an agent of the executive branch under circumstances indicating a substantial likelihood of bias. *Id.*; *see also, e.g.*, *Hamdi*, 542 U.S. at 533.

49. To the extent this Court deems a bond hearing the appropriate remedy, given the length and condition of his present detention absent any individualized due process, Petitioner

respectfully requests that the Court order that Petitioner be released unless a bond hearing pursuant to 8 U.S.C. 1226(a) is held within five (5) days of this Court's order.

REQUEST FOR ORDER TO SHOW CAUSE

50. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

51. Petitioner respectfully requests that the Court promptly issue an Order to Show Cause directing Respondents to file a return within three days of the Court's order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

Petitioner therefore respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately, or in the alternative afforded a bond hearing before a neutral judge, at which the government bears the burden to prove by clear and convincing evidence that continued detention is justified based on danger to the community or risk of flight;
3. Declare that Petitioner's continued detention violates the Immigration and Nationality Act, its implementing regulations, and the Due Process Clause of the Fifth Amendment to the United States Constitution;
4. Permanently enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1225 and enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1226 absent notice, a reasonable opportunity to obtain counsel, a hearing before a neutral officer at which

Respondents bear the burden of justifying the detention under a clear and convincing evidence standard, and prior leave of this Court;

5. Order that Petitioner be released with all property seized by Respondents incident to his detention;
6. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted, March 17, 2026



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DECLARATION OF LOCAL COUNSEL REGARDING VERIFICATION

I am local counsel for Petitioner in this matter. I have not yet had direct contact with Petitioner in order to verify this petition. The Petition for writ of habeas corpus is based on information provided by lead counsel and local counsel's review of all available records. Counsel will file a verification from Petitioner as soon as counsel receives it, or in the alternate, lead counsel will file a complete verification once admitted pro hac vice. Due to Petitioner being detained far from his counsel, it will take extra time to obtain verification from Petitioner directly, but because this is an urgent matter, counsel requests leave of the court to file the verification as soon as it is available.

Dated this 16th day of March, 2026.



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