UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

ANYELO CANATE GALLARDO, Petitioner(s), v. RAUL MALDONADO, Warden, Metropolitan Detention Center; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; and PAMELA BONDI, U.S. Attorney General, Respondents(s).	)	Case No. 1:26-cv-1685

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

1. In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception. *U.S. v. Salerno*, 481 U.S. 739, 755 (1987).
2. For over a century, noncitizens whose presence in this country is unlawful have been recognized as "persons" guaranteed Due Process by the 5th Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001), *Plyer v. Doe*, 457 U.S. 202, 209 (1982), *Matthews v. Diaz*, 426 U.S. 67, 77 (1956), *and Yick Wo v. Hopkins*, 118 U.S. 356, 368 (1886).
3. In the United States Code, Title 8, four distinct clauses authorize detention of noncitizens during removal proceedings. *See generally* 8 U.S.C. §§ 1225, 1226.
4. Three of these clauses incorporate the verb "shall" mandating detention of the categories of the noncitizens described. *See* 8 U.S.C. §§ 1225(b)(1)(B)(IV), 1225(b)(2)(A), 1226(c)(1).

5. On the contrary, one clause incorporates "may" indicating judicial discretion, availability of bond hearings, and release on bond or parole. *See* 8 U.S.C. § 1226(a). ("[P]ending [a decision whether or not to remove a noncitizen from the United States], the Attorney general *may* continue to detain the arrested [noncitizen]; and *may* release the [noncitizen] on bond…or conditional parole") (emphasis added).
6. For the past three decades, 8 U.S.C. § 1226(a) has applied to noncriminal noncitizens that are present in the United States without admission or parole. *See Rodriguez v. Bostock,* 779 F. Supp. 3d 1239, 1260-1 (W.D. Wash. 2025) (discussing legislative history and longstanding agency practice behind 8 U.S.C. § 1226(a)) *quoting* H.R. Rep. No. 104-469, pt. 1, at 229 *and* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
7. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued a decision entitled *Matter of Yajure Hurtado.* In that decision, the BIA concluded any noncitizen present in the United States who has not been admitted or paroled, is subject to detention under 8 U.S.C. § 1225(b) and may not be released from ICE custody except through humanitarian parole. *See Yajure Hurtado*, 29 I&N Dec. 216, 219-220 (BIA 2025) *quoting* 8 U.S.C § 1225(b)(2)(A).
8. In 2025 alone, over 350 cases decided by more than 160 different District Court judges across the United States have concluded this position from *Yajure Hurtado* is incorrect. *See Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903 at *4 fn. 22 & 23 (S.D.N.Y. Nov. 26, 2025).
9. The BIA's decision in *Yajure Hurtado* disregards basic tenets of statutory construction, legislative history, government practice, and Supreme Court precedent.
10. The BIA's decision in *Yajure Hurtado* violates constitutional law.

11. Petitioner's detention constitutes a deprivation of his right to Due Process under the 5th Amendment.

12. 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").

13. Therefore, as law and justice require, the Court should order Petitioner's release pursuant to the Court's broad discretionary power under 28 U.S.C. § 2243.

STATEMENT OF FACTS

14. Petitioner Anyelo Canate Gallardo ([redacted]) is a male currently detained by Immigration and Customs Enforcement ("ICE").

15. On February 14, 2026, Petitioner was detained by ICE in Valley Stream, Long Island. Petitioner was pulled over by ICE agents. Upon information and belief, the ICE agents had run Petitioner's license plate.

16. Petitioner was arrested by ICE. Petitioner has been detained by ICE since February 14, 2026.

17. Petitioner was served a Notice to Appear ("NTA") in removal proceedings. The NTA alleges that Petitioner is a native and citizen of Venezuela.

18. The NTA charged Petitioner as removable as "an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General." *See* INA 212(a)(6)(A)(i); 8 U.S.C. § 1182(a)(6)(A)(i).

19. Petitioner is unable to seek bond in his immigration court proceedings because of the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

20. Petitioner is currently detained in Metropolitan Detention Center at 80 29th St., Brooklyn, NY 11232.

21. Petitioner lives in Queens with his partner Olga and her two daughters. Olga's daughters are 4-year-old twins. Petitioner is a father figure to these girls, and they have been distressed at his absence.

22. Petitioner has never been arrested for, charged with, or convicted of a crime in the United States or any other country.

PARTIES

23. Petitioner Anyelo Canate Gallardo ([redacted]) is a male currently detained by Immigration and Customs Enforcement ("ICE"). Petitioner is currently detained in Metropolitan Detention Center at 80 29th St., Brooklyn, NY 11232.

24. Defendant Raul Maldonado is the Warden of Metropolitan Detention Center in Brooklyn, NY. 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 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

27. 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).

28. 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.

29. 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

30. Venue is proper in the Eastern District of New York because, upon information and belief, Petitioner is confined in this district at 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

31. 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).

32. 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 32 are realleged 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 32 are realleged 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 decision to detain 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 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 20th Day of March, 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 20th day of March, 2026.

/s/ Edward J. Cuccia
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