UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Jose Maria CAJBON CHIAC, *Petitioner*, v. Kenneth GENALO, in his official capacity as Acting Field Office Director of New York, Immigration and Customs Enforcement; Markwayne MULLIN, in his official capacity as Secretary of Homeland Security; Todd BLANCHE, in his official capacity as Attorney General. *Respondents*.	Case No. **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

Petitioner Jose Maria Cajbon Chiac is 59-year-old resident of Brentwood, New York who has resided in New York for over 17 years. On March 1, 2026, he vanished. After leaving his home to go to the grocery store five minutes away, he did not return. Hours later, his son found Mr. Cajbon Chiac's car abandoned—and dented—on the side of the road. His son asked neighbors on the street where he found the car what had happened and learned masked men had taken his father from the car. That afternoon, Mr. Cajbon's son received a single brief call from his father, saying he was detained by masked men and did not know where he was except that he was underground. He asked his son to send a photo of his medications. His son immediately texted a photo to Mr. Cajbon Chiac's phone but the message remained unread. He has not heard from his father since.

Mr. Cajbon Chiac's family and now his attorney have tried by every available means to locate him. They have contacted the Guatemalan consulate repeatedly. The consulate recently confirmed Mr. Cajbon Chiac is in immigration custody but stated it cannot share any more

information. In early April, Mr. Cajbon Chiac's son was able to retain a pro bono attorney for his father who has repeatedly asked ICE for his location, but to no avail.

Mr. Cajbon Chiac now brings this petition in the jurisdiction in which he was initially detained to challenge his unlawful detention. **He asks this Court to immediately order Respondents to provide the Court and Petitioner's counsel with his location and A number.** He further asks for transport back to New York and release, either through the grant of his petition or an order of interim release pending the adjudication thereof so as to allow him to resume medical treatment and communicate with counsel.

PARTIES

1. Petitioner Jose Maria Cajbon Chiac is a resident of Brentwood, New York. He was detained by Respondents on March 1, 2026 and on information and belief remains in their custody.

2. Kenneth Genalo is named in his official capacity as the Acting Field Office Director of the New York Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. The ICE New York Field Office is responsible for detentions in the greater New York City area. In this capacity, Mr. Genalo is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Genalo's address is New York ICE Field Office Director, 26 Federal Plaza, 7th Floor, New York, New York 10278.

3. Respondent Markwayne Mullin is named in his official capacity as the Acting Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, he is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Southern District of New York; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner.

Respondent Noem's address is U.S. Department of Homeland Security, 2707 Martin Luther King Jr Ave SE, Washington, District of Columbia 20528.

4. Respondent Todd Blanche is named in his official capacity as the Acting Attorney General of the United States. In this capacity, he is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). He routinely transacts business in the Southern District of New York and is legally responsible for administering Petitioner's removal and custody proceedings and for the standards used in those proceedings. As such, he is the custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

JURISDICTION

5. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioner was detained by Respondents on March 1, 2026.

6. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

VENUE

7. Venue is appropriate in this Court under the traditional venue statute, 28 U.S.C. § 1391(b), as a substantial part of the events giving rise to the claim occurred in Suffolk County, New York, where Petitioner was detained by Respondents on March 1, 2026.

8. Petitioner's location is currently unknown. It is not listed on the ICE locator under any plausible spelling of his name and date of birth, nor has it been in over a month, and in response to counsel's inquiries ICE has refused to provide any location information. Because Petitioner "is held in an undisclosed location by an unknown custodian, it is impossible to apply the immediate custodian and district of confinement rules." *Rumsfeld v. Padilla*, 542 U.S. 426, 450 n. 18 (2004). When the location of detention is unknown, "it is essential that petitioner not be denied the right to petition for a writ of habeas corpus." *Demjanjuk v. Meese*, 784 F.2d 1114, 1116 (D.C. Cir. 1986).

SPECIFIC FACTS ABOUT PETITIONER

9. Mr. Cajbon Chiac is a resident of Brentwood, New York. On information and belief, he has resided in New York since at least 2009 and never been arrested for a criminal offense.

10. Mr. Cajbon Chiac suffers from severe allergies and for the past decade has taken a once or twice-weekly cortisteriod injection to treat them. Without his regular injections, he can suffer from outbreaks of painful and bleeding rashes on his skin. He also uses medication for other allergic reactions that can result from food and environment as needed.

11. Mr. Cajbon Chiac also takes medication for a recent gallbladder surgery. He suffers from intermittent stomach pain and from a knee injury several years ago.

12. On the morning of March 1, 2026, Mr. Cajbon Chiac left his home in Brentwood to go to a grocery store approximately five minutes away. He drove a car which is registered to him and

properly insured. When he failed to return as expected, his son called him but Mr. Cajbon Chiac did not answer. In the course of the morning, his son saw a photo on Facebook of an abandoned car on the side of the road that looked similar to his father's. Around 12:30 pm, his son went to look for the car and identified it as Mr. Cajbon Chiac's based on the license plates. His son asked people who lived on the street if they saw what happened. Neighbors informed him that masked men had taken the person in the car.

13. Mr. Cajbon Chiac called his son from his own cell phone at approximately 2:30 p.m. The call lasted approximately a minute. Mr. Cajbon Chiac said he had been detained by masked men. He did not know where he had been taken, except that he was in an underground location. Mr. Cajbon Chiac asked that his son to retrieve his car and send photos of his medication. He did not provide an A number and hung up after a minute or less. His son immediately texted photos of the medication to his father's phone but could see that the messages were not read.

14. Mr. Cajbon Chiac's family have not heard from him since that phone call. They have not changed their phone numbers.

15. To his family's knowledge, Mr. Cajbon Chiac was not in removal proceedings at the time of his detention.

16. Mr. Cajbon Chiac's family has not had any contact with him since his detention on March 1, 2026.

17. The family has contacted the Guatemalan consulate repeatedly for help. Shortly after Mr. Cajbon Chiac was detained, the consulate advised his family to call 911 and file a missing persons report. On April 8, after the family again reached out several times, the Guatemalan consulate confirmed to Mr. Cajbon Chiac's family that it had spoken with Mr. Cajbon Chiac in immigration custody but would not provide a phone number, A number or facility name.

18. On April 9, a paralegal at Make the Road New York contacted the Delaney Hall Detention Facility to try to locate Petitioner but was informed by the person who answered that he was not listed among those detained at the facility under either of his last names.

19. On April 7 and April 9, an attorney with Make the Road New York emailed ICE with a G28 notice of appearance form and requested Petitioner's location or A number. An ICE supervisor has responded twice, the first time to say detention facilities provide phones and the second to say they would "not share any subject's information without their permission."

20. His family are extremely worried about him and concerned for Mr. Cajbon Chiac's health and wellbeing.

LEGAL FRAMEWORK

21. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). For individuals who are "arriving" in the U.S. or who are subject to expedited removal because they have been present under two years and meet certain other requirements, mandatory detention is authorized by 8 U.S.C. § 1225(b). For individuals who are in removal proceedings following entry without inspection and who are not subject to mandatory detention based on criminal history, detention is normally authorized by 8 U.S.C. § 1226(a). Individuals with a final order of removal may be subject to mandatory or discretionary detention pursuant to 8 U.S.C. § 1231(a).

22. Detention serves only two legitimate purposes: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

23. In May 2025, the Board of Immigration Appeals held that "an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)." *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025).

24. On July 8, Respondents promulgated an internal memo directing ICE attorneys to argue for an even more expansive interpretation of who is subject to mandatory detention. This memo, now leaked to the public, states that "effective immediately, it is the position of DHS that [any noncitizens who have not been admitted to the country] are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)] parole. These [noncitizens] are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration just and may not be released for the duration of their removal proceedings absent a parole by DHS."

25. In September 2025, the Board of Immigration Appeals adopted this legal interpretation as well. *See Matter of Yajure Furtado,* 29 I&N Dec. 216 (BIA 2025). As a result, immigration judges stopped granting release on bond pursuant to 8 U.S.C. § 1226(a) for individuals who entered the country without inspection.

26. Respondents' position on their own detention authority contradicts decades of settled precedent, which holds that individuals who entered the U.S. without inspection are governed by 8 U.S.C. § 1226(a). Regulations promulgated nearly thirty years ago provide that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination" under Section 1226. 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Until

recently, Respondents consistently adhered to this interpretation. *See, e.g., Matter of Garcia-Garcia*, 25 I&N. Dec. 93 (BIA 2009); *Matter of D-J-*, 23 I&N. Dec. 572 (A.G. 2003); *see also* Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954) ([Solicitor General]: "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.").

27. Since this shift, "hundreds of district court decisions have rejected Respondents' expansive interpretation of Section 1225." *Molina v. DelLeon,* No. 25-CV-06526 (JMA), 2025 WL 3718728, at *3 (E.D.N.Y. Dec. 23, 2025) (collecting cases); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025) ("Every district court to address this question has concluded that the government's position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice.").

28. In November, a district court in California also held in a series of decisions that DHS's position on bond eligibility is unlawful with respect to "all noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *1 (C.D. Cal. Nov. 25, 2025); *see also Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *1, *32 (C.D. Cal. Dec. 18, 2025), *judgment entered sub nom. Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). That judgement should be binding on Respondents nationwide, but instead Respondents have directed immigration judges to ignore the decision.

29. Respondents' actions in detaining individuals like Petitioner without an individualized custody determination violates the right to due process. A person's liberty cannot be infringed upon without "adequate procedural protections." *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Matthews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). This test requires process sufficient to mitigate the risk of erroneous deprivation of a liberty interest.

30. Numerous courts in this circuit and across the country have held that these detentions violate not only the Immigration and Nationality Act but also the due-process clause. *See Padilla Molina v. Deleon*, No. 25-CV-06526 (JMA), 2025 WL 3718728, at *5 (E.D.N.Y. Dec. 23, 2025); *Hyppolite v. Noem*, No. 25-cv-4304, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025); *Artiga v. Genalo*, No. 25-cv-5208, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *J.U. v. Maldonado*, No. 25-cv-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Guerrero v. Noem*, No. 25-cv-5881, 2025 WL 3214787 (E.D.N.Y. Nov. 18, 2025)); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, (S.D.N.Y. August 13, 2025); *Cuy Comes v. DeLeon*, No. 25 CIV. 9283 (AT), 2025 WL 3206491, at *5 (S.D.N.Y. Nov. 14, 2025); *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 at *4 (S.D.N.Y. June 18, 2025).

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

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

32. Petitioner's detention violates both the substantive and procedural components of the Due Process Clause. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

33. Because "[i]n this country liberty is the norm and detention 'is the carefully limited exception,'" *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (*quoting United States v. Salerno*, 481 U.S. 739, 755 (1987)), a reasoned, individualized determination is essential to ensure that detention is not an unnecessary—and thus erroneous—deprivation. Petitioner was not accorded sufficient process prior to his sudden detention by ICE. On information and belief, he received neither notice nor an opportunity to be heard as to whether detention was warranted. *See Padilla Molina*, 2025 WL 3718728, at *5; *Hyppolite*, 2025 WL 2829511, at *13; *see also Cuy Comes*, 2025 WL 3206491, at *5 (ordering immediate release where "ICE summarily detained Cuy Comes without making an individualized determination as to his risk of flight or his danger to the community, let alone affording him notice or opportunity to be heard").

34. Respondents are likely to now contend that Petitioner is ineligible for bond under *Matter of Yajure Furtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner's mandatory detention, following a summary apprehension that failed to consider his individualized circumstances, violates his right to due process.

35. Petitioner's detention also violates his right to substantive due process. Substantive due process "prevents the government from engaging in conduct that 'shocks the conscience.'" *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 356 (S.D.N.Y. 2019) (quoting *Rochin v. California*, 342 U.S. 165, 172, 72 S.Ct. 205, 209, 96 L.Ed. 183 (1952)). Petitioner was detained blocks from

his home and has since made only one brief phone call to his family. His family have no way to know whether he is receiving adequate or indeed any medical care or to assist him in addressing removal proceedings, should such proceedings have commenced. He does not appear to have received any information on his current medications.

36. Respondents' actions violate Petitioner's right to due process.

COUNT TWO
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

37. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

38. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious; contrary to constitutional right; not authorized by statute; or taken "without observance of procedure required by law." 5 U.S.C. § 706(2).

39. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

40. Respondents' current construction of its detention authority, including the treatment of Petitioner as subject to mandatory detention, violates the Immigration and Nationality Act and therefore the Administrative Procedure Act. Their decision to detain Petitioner and to maintain him in mandatory ICE detention, and to do so without affording without access to his phone or any means to contact his family, also violates the Administrative Procedure Act.

COUNT THREE
RELEASE PENDING ADJUDICATION

41. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

42. Pursuant to *Mapp v. Reno*, this Court has the "inherent authority" to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) extraordinary circumstances that (3) "make the grant of bail necessary to make the habeas remedy effective." 241 F.3d 221, 226 (2d Cir. 2001).

43. Ongoing medical needs are a quintessential basis for release under *Mapp. See Vasquez Salgado v. Francis,* No. 25-CV-6524 (VEC), 2025 WL 2806757, at *6 (S.D.N.Y. Oct. 1, 2025) ("When it is reasonable to conclude that detention would worsen a petitioner's health, extraordinary circumstances are present.") (citing *S.N.C. v. Sessions*, No. 18 Civ. 7680 (LGS), 2018 WL 6175902, at *6 (S.D.N.Y. Nov. 26, 2018)); *Kiadii v. Decker*, 423 F. Supp. 3d 18, 21 (S.D.N.Y. 2018) (ordering release under *Mapp* and noting "Petitioner has presented evidence that her health has detoriorated while in ICE's custody"); *D'Alessandro v. Mukasey*, No. 08-CV-914 (RJA) (VEB), 2009 WL 799957, at *3 (W.D.N.Y. Mar. 25, 2009) (finding extraordinary circumstances when petitioner had "a number of serious, potentially debilitating health problems"). Mr. Cajbon Chiac has chronic medical needs and requires regular medication to prevent worsening of his serious allergies and other conditions.

44. Inability to communicate with counsel is also an extraordinary circumstance that justifies release under *Mapp. See Barco Mercado v. Francis et al.,* 1:25-cv-6582 at *27 (S.D.N.Y. Oct. 9, 2025) (ECF 26) (ordering immediate release on *Mapp* for a petitioner whose access to counsel was obstructed by his sudden move to a new facility just days before his merits hearing); *Salgado v. Francis*, No. 25-CV-6524 (VEC), 2025 WL 2806757, at *7 (S.D.N.Y. Oct. 1, 2025) (ordering

interim release and noting such release "promotes Petitioner's access to her counsel" so as to help her to prepare her claims). Counsel currently has no means to communicate with Petitioner.

45. He requests immediate release pending adjudication of the instant petition.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Enjoin Petitioner's removal from the United States pending adjudication of the instant petition;
3. Order Respondents to immediately disclose to the Court and to counsel where Petitioner is detained, and what his A number is;
4. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
5. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and the Administrative Procedure Act;
6. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody without restraints on his liberty beyond those that existed prior to his detention on March 1, 2026;
7. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
8. Grant such further relief as this Court deems just and proper.

Dated: April 10, 2026

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