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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ANGEL DAVID GARCES ZAVALA A# [redacted] Petitioner, v. **TODD BLANCHE,** in his official capacity as Deputy Attorney General of the United States; **MARCOS CHARLES,** in his official capacity as Acting Executive Associate Director, Enforcement and Removal Operations, ICE; **TODD M. LYONS,** in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; **KRISTI NOEM,** in her official capacity as Secretary of Homeland Security; **LUIS SOTO,** in his official capacity as Colonel, Corrections Division, Delaney Hall Detention Facility, Respondents.	Civil Action No.: 26-4541 **PETITION FOR WRIT OF HABEAS CORPUS** **28 U.S.C. § 2241** **DETAINED** **Delaney Hall Detention Facility** **Newark, New Jersey**

PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Angel David Garces Zavala (A[redacted] brings this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to challenge his unlawful civil immigration detention by Respondents. Petitioner is currently held at the Delaney Hall Detention Facility in Newark, New Jersey. Although a Notice to Appear ("NTA") was served on April 18, 2026, initiating removal proceedings before the Elizabeth Immigration Court, Petitioner has been detained without any bond hearing or individualized custody determination -- in violation of the Constitution, the Immigration and Nationality Act ("INA"), and controlling Third Circuit and District of New Jersey precedent. Petitioner is entitled to an immediate bond hearing at which the Government bears the burden of demonstrating by clear and convincing evidence that his continued detention is justified.

2. Petitioner is a 31-year-old national of Ecuador (DOB: September 29, 1994) who has resided continuously in the United States for approximately fourteen (14) years since on or about 2012. He is the father of two daughters who are entirely dependent upon him: **A.G.** (DOB: [redacted] 2016, age 9), a United States citizen; and **M.G.** (DOB: [redacted] 2012, age 13), a national of Ecuador whose petition for Special Immigrant Juvenile ("SIJ") status is pending before USCIS. M[redacted] was released from federal Office of Refugee Resettlement ("ORR") custody on July 15, 2021, to Petitioner's care as her father and federally designated sponsor -- a placement that required a rigorous federal suitability assessment by the U.S. Department of Health and Human Services. Petitioner

is his daughters' primary caregiver and the sole anchor of their household. His continued detention causes irreparable harm to both children.

3. Petitioner has been continuously present in the Newark, New Jersey area since on or about 2012 -- a period of approximately fourteen (14) years. He is employed full-time as a construction worker at All Bricklayers Construction LLC in Carteret, New Jersey, has filed federal income tax returns for multiple years, and has been an active, registered parishioner of Immaculate Heart of Mary Church in Newark for years. He has no criminal record of any kind -- no arrests, no convictions, no pending charges. He is prima facie eligible for Cancellation of Removal under INA § 240A(b), 8 U.S.C. § 1229b(b), based on his fourteen-plus years of continuous physical presence and the exceptional and extremely unusual hardship his removal would impose on his U.S. citizen daughter, Alison.

4. On April 18, 2026, ICE arrested Petitioner while he was driving to work. DHS served an NTA that same day, charging Petitioner under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) and initiating removal proceedings before the Elizabeth Immigration Court (File No. 200-603-121). A master calendar hearing is scheduled for May 7, 2026, before Immigration Judge Chen. Petitioner has been held in immigration detention since April 18, 2026, without any bond hearing or individualized custody determination.

5. Under *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. Sept. 1, 2011), and this Court's decisions in *Soto v. Soto*, 807 F. Supp. 3d 397, 2025 WL 2976572 (D.N.J. Oct. 22, 2025), and *Chen v. Bondi*, No. 2:25-cv-16901 (D.N.J. 2025), Petitioner -- a fourteen-year interior resident with no criminal history -- is detained under 8 U.S.C. § 1226(a) and is

entitled to an individualized bond hearing at which the Government must demonstrate by clear and convincing evidence that detention is justified. No such hearing has occurred.

6. This Court should grant this Petition and order Petitioner's immediate release, or in the alternative, an immediate bond hearing within seven (7) days at which the Government bears the burden of proof.

CUSTODY

7. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). As confirmed by the ICE Online Detainee Locator System, Angel David Garces Zavala (A#200-603-121), a national of Ecuador, is listed as "In ICE Custody" at the **Delaney Hall Detention Facility**, Newark, New Jersey. The immediate custodian is Respondent Luis Soto, Colonel of the Corrections Division.

JURISDICTION

8. This action arises under the Constitution of the United States, the INA, 8 U.S.C. § 1101 et seq., as amended by IIRIRA, Pub. L. No. 104-208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 2241(c)(3) and (c)(5); 28 U.S.C. § 1331; Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause); and the Fifth Amendment of the United States Constitution. Habeas corpus jurisdiction is not stripped by 8 U.S.C. § 1252(b)(9) because this Petition challenges Petitioner's ongoing detention and the absence of any individualized bond hearing, not a final order of removal. *INS v. St. Cyr*, 533 U.S. 289 (2001); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

10. Relief is additionally available pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02; the All Writs Act, 28 U.S.C. § 1651; and 5 U.S.C. § 702.

VENUE

11. Venue lies in this District pursuant to *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 493-500 (1973), as Petitioner is detained within the District of New Jersey and the immediate custodian is present here. Venue is further proper under 28 U.S.C. § 1391(e) and 28 U.S.C. § 2241(d).

PARTIES

12. **Petitioner Angel David Garces Zavala** (A[redacted]) is a national of Ecuador, born [redacted], who has continuously resided in the United States for approximately fourteen (14) years, most recently at [redacted] He was apprehended by ICE agents on April 18, 2026, while driving to work in Newark, New Jersey. He is currently detained at the Delaney Hall Detention Facility, Newark, New Jersey. He has no criminal record of any kind. He is the father of A.G. (DOB [redacted] 2016, U.S. Passport No. [redacted], a U.S. citizen, and M.G.DOB [redacted], 2012), whose SIJ petition is pending before USCIS and who was released from ORR custody to Petitioner's sponsorship on July 15, 2021. Petitioner is prima facie eligible for Cancellation of Removal under INA § 240A(b). No bond hearing or individualized custody determination has been conducted.

13. **Respondent Todd Blanche** is the Deputy Attorney General of the United States, responsible for overseeing the operations of the Department of Justice, including the Executive Office for Immigration Review and ICE enforcement policies. Sued in his official capacity.

14. **Respondent Marcos Charles** is the Acting Executive Associate Director for Enforcement and Removal Operations of ICE, responsible for the enforcement and removal operations that led to Petitioner's detention. Sued in his official capacity.

15. **Respondent Todd M. Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement. Sued in his official capacity.

16. **Respondent Kristi Noem** is the Secretary of the Department of Homeland Security. Sued in her official capacity.

17. **Respondent Luis Soto** is the Colonel of the Corrections Division at the Delaney Hall Detention Facility, Newark, New Jersey, and is the immediate physical custodian of Petitioner. Sued in his official capacity.

STATEMENT OF FACTS

A. Petitioner's Long-Term Residence, Community Ties, and Family

18. Petitioner entered the United States without inspection on or about 2012 and has resided continuously in Newark, New Jersey, for approximately fourteen (14) years. He is a native and citizen of Ecuador, born [redacted] and has most recently resided in [redacted]

19. Petitioner has been a person of good moral character throughout his entire residence in the United States, maintaining consistent full-time employment, paying federal income taxes, and fulfilling all civic obligations.

20. Petitioner is the father of **A.G.**, a United States citizen born [redacted] 2016 (U.S. Passport No. [redacted]), currently nine (9) years of age. A[redacted] lives with her mother, Cyntia Estefania Simba Silva, a lawful permanent resident, who has affirmed her willingness to serve as Petitioner's bond sponsor and to ensure his compliance with all

immigration court requirements. A[redacted] depends on her father for emotional support, paternal guidance, and regular involvement in her life.

21. Petitioner is also the father of **M.G.**, born [redacted], 2012, age thirteen (13), a national of Ecuador. M[redacted] arrived in the United States as an unaccompanied minor and was released from federal ORR custody on **July 15, 2021**, to Petitioner's care as her father and federally designated sponsor -- a placement that required a rigorous suitability assessment by the U.S. Department of Health and Human Services. M[redacted] has resided with Petitioner in newark since that time and is currently enrolled as a seventh-grade student at [redacted] in Newark, New Jersey. A petition for Special Immigrant Juvenile status is pending before USCIS on Melany's behalf. M[redacted] has submitted a letter to this Court describing the devastating impact of her father's detention on her well-being, expressing that since his arrest she has felt entirely alone. The Principal of [redacted] has confirmed M[redacted] enrollment in writing and identified Mr. Garces as her parent of record.

22. Petitioner's removal or continued detention would cause **exceptional and extremely unusual hardship** to both of his daughters. A[redacted] a U.S. citizen, would lose her primary paternal figure; M[redacted] whose legal status depends on ongoing SIJ proceedings with Petitioner as her designated sponsor, faces irreparable prejudice to that pending federal process.

23. Petitioner is a registered and practicing parishioner at **Immaculate Heart of Mary Church**, 202 Lafayette Street, Newark, New Jersey 07105 (Parish Member No. [redacted]. As confirmed in a letter dated April 22, 2026, from the church's pastor, Fr. Luis Alberto Vargas, T.O.R., Petitioner regularly attends Holy Mass with his daughters, actively

collaborates with the parish, and is in good standing. Six community members -- each a United States citizen or lawful permanent resident, including a former employer and the mother of his U.S. citizen daughter -- have submitted sworn, notarized letters attesting to Petitioner's good moral character, dedication as a father, and positive contributions to the Newark community.

B. Employment and Financial Responsibility

24. Petitioner has been employed full-time as a construction worker with **All Bricklayers Construction LLC** in Carteret, New Jersey, since at least October 2025. His employer has confirmed in writing that he performs bricklaying, masonry work, and general labor, and has described him as responsible, reliable, and possessed of a strong work ethic.

25. Petitioner has consistently complied with United States tax obligations. IRS Form 1040 records reflect that Petitioner filed federal income tax returns.These records confirm both Petitioner's sustained physical presence in the United States and his uninterrupted fulfillment of civic obligations spanning nearly a decade.

C. Immigration History, Pending Removal Proceedings, and Absence of Any Bond Hearing

26. Petitioner entered the United States without inspection on or about 2012. He has never been formally ordered removed from the United States. He has resided continuously in the Newark, New Jersey area since that time -- a period of approximately fourteen (14) years.

27. On **April 18, 2026**, ICE agents arrested Petitioner while he was driving to his job site. Petitioner had no prior notice of any enforcement action against him. His detention

separated him from his two daughters without warning and without any opportunity to make arrangements for their care.

28. That same day, the Department of Homeland Security served a **Notice to Appear ("NTA")** on Petitioner, initiating removal proceedings before the Elizabeth Immigration Court (File No. [redacted]), charging Petitioner under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). This NTA is the first removal proceeding ever initiated against Petitioner. A master calendar hearing is scheduled for **May 7, 2026**, before Immigration Judge Chen, via internet-based hearing.

29. Petitioner has been detained continuously since April 18, 2026. **No bond hearing or individualized custody determination of any kind has been conducted.** No immigration judge has reviewed, authorized, or approved Petitioner's detention. No neutral adjudicator has assessed whether Petitioner poses a flight risk or a danger to the community. Petitioner is confined without any procedural safeguard.

30. Petitioner's continuous physical presence since on or about 2012 -- approximately fourteen (14) years -- satisfies the ten-year requirement for Cancellation of Removal under INA § 240A(b). The Government's failure to serve an NTA until April 18, 2026, preserved the entirety of that continuous-presence period. Petitioner's U.S. citizen daughter A[redacted] exceptional and extremely unusual hardship provides a compelling and independently sufficient basis for that relief. His release is necessary to permit him to pursue this meritorious defense in the pending removal proceedings.

EXHAUSTION OF REMEDIES

31. Because no bond hearing has been conducted, there is no administrative decision to exhaust or appeal. Any motion for bond filed with the immigration court would be

governed by the same statutory and constitutional requirements that Petitioner asserts here -- namely, that the Government must bear the burden of demonstrating by clear and convincing evidence that detention is justified. The government has not provided that hearing. Resort to this Court under 28 U.S.C. § 2241 is the appropriate mechanism to compel compliance with Petitioner's constitutional and statutory rights. Courts in this Circuit have recognized that exhaustion may be excused where the constitutional violation is clear and the harm from continued detention is immediate and severe. *Guerrero-Sanchez v. Warden York County Prison*, 905 F.3d 208 (3d Cir. 2018).

LEGAL CLAIMS

COUNT I: Unlawful Detention Without Bond Hearing -- Violation of Due Process (8 U.S.C. § 1226(a); U.S. Const. amend. V; Diop v. ICE/Homeland Sec., 656 F.3d 221 (3d Cir. 2011); Soto v. Soto, 807 F. Supp. 3d 397 (D.N.J. 2025))

32. Petitioner incorporates all preceding paragraphs by reference as if fully set forth herein.

33. Petitioner entered the United States in or about 2012 and has resided as an interior resident for approximately fourteen years. He was arrested in the interior of the country, not at a port of entry. He is therefore detained under 8 U.S.C. § 1226(a) -- the general, discretionary detention provision -- not under § 1225(b), which applies only to arriving aliens and recent entrants. *Soto v. Soto*, 807 F. Supp. 3d 397 (D.N.J. Oct. 22, 2025); *Chen v. Bondi*, No. 2:25-cv-16901 (D.N.J. 2025).

34. Mandatory detention under § 1226(c) does not apply because Petitioner has absolutely no criminal history -- no arrests, no convictions, and no pending charges of any kind. He does not fall within any of the criminal or national security categories that trigger mandatory detention under § 1226(c).

35. The Third Circuit held in *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. Sept. 1, 2011), that noncitizens detained under § 1226(a) are entitled to individualized bond hearings at which the Government must demonstrate by **clear and convincing evidence** that continued detention is necessary to prevent flight or danger to the community. No such hearing has been provided here.

36. The government's authority to detain noncitizens derives exclusively from statutory grants by Congress. *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). Section 1226(a) authorizes only discretionary detention pending removal proceedings and requires an individualized determination that the detainee poses a danger to the community or a flight risk. Petitioner has been held without any such determination. This wholesale denial of process violates the Fifth Amendment.

37. The Government cannot satisfy its burden. Petitioner has lived in Newark for approximately fourteen years. He is the primary caregiver for a U.S. citizen daughter and for an ORR-designated minor daughter with a pending SIJ petition. He has an unblemished criminal record, consistent full-time employment, deep community and church ties, and a documented history of tax compliance. He has every incentive to attend future immigration court proceedings to pursue Cancellation of Removal. He is neither a flight risk nor a danger to the community.

COUNT II: Denial of Due Process -- Deprivation of Liberty Without Any Hearing (U.S. Const. amend. V; Mathews v. Eldridge, 424 U.S. 319 (1976))

38. Petitioner incorporates all preceding paragraphs by reference as if fully set forth herein.

39. The Fifth Amendment prohibits the deprivation of liberty without due process of law -- a guarantee that extends to all persons within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

40. Application of the *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing framework demonstrates that Petitioner's constitutional rights have been violated. (1) **Private interest:** Petitioner's interest in freedom from detention and in being present for his daughters is fundamental and weighty. (2) **Risk of erroneous deprivation:** The risk is extreme -- no bond hearing has been held, no neutral adjudicator has reviewed the detention, and yet Petitioner remains confined based solely on executive action. (3) **Government's interest:** The Government's interest in continued detention without any hearing is minimal to nonexistent, given Petitioner's clean record, strong family ties, consistent employment, and compelling claim for cancellation of removal.

41. Petitioner has received no bond hearing and no individualized custody determination of any kind. This wholesale denial of process violates the Fifth Amendment.

COUNT III: Irreparable Harm to U.S. Citizen Child and Jeopardy to Pending SIJ Proceedings (U.S. Const. amend. V; Troxel v. Granville, 530 U.S. 57 (2000); INA § 101(a)(27)(J))

42. Petitioner incorporates all preceding paragraphs by reference as if fully set forth herein.

43. A.S. is a nine-year-old United States citizen. The Supreme Court has recognized that the liberty interest of parents and children to live together is a fundamental right protected by the Due Process Clause. *Troxel v. Granville*, 530 U.S. 57 (2000); *Stanley v. Illinois*, 405 U.S. 645 (1972). Petitioner's continued detention without any hearing deprives A[redacted] of paternal guidance, financial support, and emotional stability.

44. M.G., age thirteen, has a petition for Special Immigrant Juvenile status currently pending before USCIS. She was released from ORR custody specifically to Petitioner's care as her father and federally designated sponsor. The federal government's own determination that Mr. Garces was an appropriate sponsor for an unaccompanied minor is compelling evidence of his fitness as a parent. Petitioner's continued detention disrupts the ORR-approved placement and may irreparably prejudice M[redacted] pending SIJ petition.

COUNT IV: Prima Facie Eligibility for Cancellation of Removal (INA § 240A(b)(1), 8 U.S.C. § 1229b(b)(1))

45. Petitioner incorporates all preceding paragraphs by reference as if fully set forth herein.

46. Petitioner is prima facie eligible for Cancellation of Removal under INA § 240A(b)(1). All four statutory elements are satisfied:

* **Continuous physical presence of 10+ years:** Petitioner has resided continuously in the United States for approximately fourteen (14) years since on or about 2012. The Government's failure to serve an NTA until April 18, 2026, preserved the entirety of that qualifying period.

* **Good moral character:** Petitioner has filed federal income taxes for multiple years, and has been a law-abiding, productive resident for over a decade.

* **No disqualifying convictions:** Petitioner has not been convicted of any offense under INA §§ 212(a)(2), 237(a)(2), or 237(a)(3).

* **Exceptional and extremely unusual hardship:** Petitioner's removal would impose exceptional and extremely unusual hardship on his U.S. citizen daughter, A[redacted], age 9, who depends on Petitioner's daily care,

financial support, and paternal presence. *In re Andazola-Rivas*, 23 I. & N. Dec. 319 (BIA Apr. 3, 2002); *In re Recinas*, 23 I. & N. Dec. 467 (BIA Sept. 19, 2002).

47. Petitioner's prima facie eligibility for this statutory relief weighs heavily in favor of his release pending adjudication before an immigration judge. Continued detention without any bond hearing denies him the practical ability to gather evidence, consult with counsel, and present this meritorious defense.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Angel David Garces Zavala respectfully prays that this Honorable Court grant the following relief:

FIRST, assume jurisdiction over this matter;

SECOND, issue a **Writ of Habeas Corpus** pursuant to 28 U.S.C. § 2241 directing Respondents to immediately release Petitioner from unlawful custody, subject to appropriate conditions of supervision;

THIRD, in the alternative, issue a **Writ of Habeas Corpus** directing Respondents to release Petitioner unless they provide an individualized bond hearing under 8 U.S.C. § 1226(a) within seven (7) days of this Order, at which: (a) the Government bears the burden of demonstrating by clear and convincing evidence that Petitioner poses a flight risk or danger to the community; and (b) the Immigration Judge gives express consideration to the impact of detention on Petitioner's U.S. citizen daughter and on his daughter's pending SIJ proceedings;

FOURTH, issue a temporary restraining order and/or preliminary injunction maintaining the status quo and prohibiting Petitioner's removal from the United States during the pendency of these proceedings;

FIFTH, order Respondents to show cause within 72 hours of service of this Petition why the Writ should not issue;

SIXTH, order that Respondents provide Petitioner's counsel with at least 48 hours' written notice before any transfer of Petitioner outside the District of New Jersey or initiation of any removal action;

SEVENTH, award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

EIGHTH, grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

s/ Franklin S. Montero
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Dated: April 24, 2026

VERIFICATION BY COUNSEL

I, Franklin S. Montero, Esq., declare under penalty of perjury in accordance with 28 U.S.C. § 1746 as follows:

48. I am the attorney for Petitioner in this matter and am personally familiar with the facts of this case;

49. I have read the allegations contained in the foregoing Petition and to the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief;

50. Due to Petitioner's detention and the lack of availability of certain information, certain facts are stated upon information and belief. Respondents have the burden of providing accurate information regarding Petitioner's location and the basis for their detention.

Respectfully submitted,

s/ Franklin S. Montero
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Dated: April 24, 2026

CERTIFICATE OF SERVICE

I, Franklin S. Montero, Esq., hereby certify that on this 20th Day of April, 2026, I electronically filed the foregoing **PETITION FOR WRIT OF HABEAS CORPUS AND EMERGENCY MOTION FOR IMMEDIATE RELEASE** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all registered counsel of record.

Respectfully submitted,

s/ Franklin S. Montero
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Dated: April 24, 2026

INDEX OF EXHIBITS

The following exhibits are submitted in support of this Petition:

Exhibit A -- ICE Online Detainee Locator System result confirming "In ICE Custody" at Delaney Hall Detention Facility for Angel David Garces Zavala, A[redacted]

Exhibit B -- EOIR/Elizabeth Immigration Court case information for File No.[redacted] confirming pending removal proceedings and May 7, 2026 master calendar hearing before IJ Chen.

Exhibit C -- NTA served on Petitioner by DHS on April 18, 2026 (File No.[redacted]), charging Petitioner under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I).

Exhibit D -- All Bricklayers Construction LLC employer verification letter confirming Petitioner's full-time employment in Carteret, New Jersey

Exhibit E -- Six sworn notarized character letters from: Jorge Costa Agostinho (U.S. Citizen/LPR, Elizabeth, NJ); Eric Guevara (U.S. Citizen, Madison, NJ); Cyntia Estefania Simba Silva (LPR, bond sponsor, mother of A[redacted]; Alexis Pulla Montoya (U.S. Citizen); Moises E. Brito (U.S. Citizen, former employer, owner of All Bricklayers Construction); and Jose Wilman Jumbo Sarango (U.S. Resident, Newark, NJ).

Exhibit F -- Letter from M.G. to the Court describing the impact of her father's detention.