UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK **26-cv-03467-OEM**

Merchant

JOSE MARCELO PACA DAQUILEMA, Case No.

Petitioners, FINDINGS AND RECOMMENDATION TO

V. GRANT PETITION FOR WRIT OF

GOLOVNIN, MOTHER HABEAS CORPUS AND DIRECT

Respondent. **Respondents to immediately**

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RELEASE PETITIONER

A# [redacted]

Petitioner,

v.

WARDEN, METROPOLITAN DETENTION CENTER BROOKLYN (MDC BROOKLYN),

FIELD OFFICE DIRECTOR, US IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE),

SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY,

Respondents.

CASE NO. _____

PETITION FOR HABEAS CORPUS
(28 USC § 2241)

I. INTRODUCTION

The Petitioner, JOSE MARCELO PACA DAQUILEMA, currently detained in the Metropolitan, respectfully appears before this court. Detention Center Brooklyn (MDC Brooklyn), located at 80 29th Street, Brooklyn, New York 11232, and requests this Honorable Court to issue a Writ of Habeas Corpus pursuant to 28 USC § 2241, because his continued detention constitutes an unjustified deprivation of his liberty and a violation of the rights guaranteed by the Fifth Amendment of the United States Constitution.

This petition is filed because the Petitioner remains deprived of liberty while maintaining pending immigration proceedings, active legal remedies, and strong family and community ties within the United States.

II. JURISDICTION

1. This Court has jurisdiction pursuant to 28 USC § 2241.
2. This Court has additional jurisdiction pursuant to 28 USC § 1331 because this action arises under the Constitution and laws of the United States.
3. Territorial jurisdiction is appropriate in the Eastern District of New York because the Petitioner is currently detained within this jurisdiction.

III. IDENTIFICATION OF THE PETITIONER

4. Full name: **JOSE MARCELO DACA DAQUILEMA**
5. Number A: [redacted]
6. Country of origin: ECUADOR [redacted]
7. Date of birth: [redacted]
8. Date of entry into the United States: 08/12/2023

Residence address prior to arrest: [redacted]

IV. BACKGROUND

10. The Petitioner entered the United States on approximately the date of 08/12/2023
11. Since then, he has resided continuously in this country.
12. The Petitioner has maintained stable employment and has contributed to the financial support of his family.
13. He was arrested by ICE agents on May 21 at 6:30 in Monroe as he was about to go to work
14. He is currently being held at MDC Brooklyn.
15. The Petitioner has the following pending immigration procedure: if
16. Date of filing of appeal or recourse: 05/14/2025
17. Case number:

18. Current status of the case:

THE STATUS OF THE DOCUMENT OF THE APPEARING PARTY

A deadline for submitting legal documents has not yet been set.

THE STATUS OF THE DHS DOCUMENT

A deadline for the filing of legal documents has not yet been set.

V. FAMILY AND COMMUNITY TIES

19. The Petitioner has the following relatives in the United States:

[redacted] (daughter)

Maria Cislema (wife)

20. His family depends on him emotionally and financially.

21. The Petitioner actively participates in his community.

22. It has a fixed address. [redacted]

23. He has a stable work history. If moving to [redacted]

24. They have significant family and community support.

VI. LEGAL ARGUMENTS

A. CONSTITUTIONAL RIGHT TO FREEDOM

25. The Fifth Amendment to the United States Constitution protects all persons against deprivation of liberty without due process of law.

26. The Supreme Court recognized in Zadvydas v. Davis, 533 US 678 (2001), that physical liberty constitutes one of the fundamental rights protected by the Constitution.

27. Civil immigration detention cannot become a form of punishment or extend beyond what is reasonably necessary to accomplish the legitimate purposes of government.

B. PROTECTED INTEREST OF FREEDOM

28. In Morrissey v. Brewer, 408 US 471 (1972), the Supreme Court held that a person who enjoys liberty has a constitutionally protected interest that cannot be arbitrarily revoked.

29. The loss of liberty constitutes a serious injury to both the Petitioner and his family.

30. The Petitioner maintains a substantial and legitimate interest in remaining at liberty while his legal proceedings continue.

C. ABSENCE OF DANGER AND RISK OF ESCAPE

31. The Petitioner does not pose a danger to the community.

32. There is no evidence to show that it constitutes a threat to public safety.

33. The Petitioner maintains family and community ties.

34. He has a permanent address where he lives.

35. He has family members willing to receive and supervise him.

36. He intends to continue appearing before immigration and judicial authorities.

VII. IRREPARABLE DAMAGE

37. The Petitioner's detention has caused serious emotional and psychological harm.

38. The Petitioner's family is experiencing financial hardship due to the loss of income.

39. Family separation has caused significant suffering.

40. Continued detention affects the Petitioner's ability to adequately prepare his legal defense.

VIII. MEDICAL CONDITIONS (IF APPLICABLE)

41. The Petitioner suffers from the following medical conditions: No

42. These conditions require ongoing medical treatment.

43. Being detained makes it difficult to access adequate treatment.

X. LEGAL ARGUMENTS IN SUPPORT OF IMMEDIATE RELEASE

A. THE PETITIONER'S DETENTION VIOLATES DUE PROCESS GUARANTEED BY THE FIFTH AMENDMENT

44. The Fifth Amendment to the United States Constitution states that no person shall be deprived of his liberty without due process of law.

45. The Supreme Court has repeatedly recognized that physical liberty constitutes one of the fundamental interests protected by the Constitution.

46. The Petitioner argues that his continued detention constitutes a substantial deprivation of liberty that requires immediate judicial review.

47. The Petitioner has been deprived of his liberty while pending legal proceedings and without an individualized determination justifying the continued need for his imprisonment.

48. Freedom is one of the most important values protected by the American constitutional system.

B. MORRISSEY v. BREWER AND THE PROTECTED INTEREST OF LIBERTY

49. In Morrissey v. Brewer, 408 US 471 (1972), the Supreme Court held that once a person has been released, a constitutionally protected interest arises that cannot be arbitrarily revoked.

50. The Court explained that freedom allows a person to work, maintain family relationships, support their children, and participate fully in society.

51. The Court concluded that the loss of such freedom constitutes a serious injury to both the detained person and their family.

52. According to Morrissey, when the government intends to deprive a person of their liberty again, it must provide adequate procedures and minimum guarantees of due process.

53. The Petitioner argues that the continuation of his detention without an adequate custody review violates fundamental principles recognized by the Supreme Court.

54. The Petitioner's loss of liberty has severely affected his ability to financially support his family, participate in his community, and adequately prepare his legal defense.

C. ZADVYDAS v. DAVIS AND THE CONSTITUTIONAL PROTECTION OF LIBERTY

55. In Zadvydas v. Davis, 533 US 678 (2001), the Supreme Court declared that liberty from government detention is at the heart of the protections guaranteed by the Fifth Amendment.

56. The Court explained that civil immigration detention cannot be transformed into a form of punishment or extend beyond what is reasonably necessary.

57. The Petitioner argues that the continuation of his detention is excessive, unnecessary, and disproportionate.

D. THE PETITIONER DOES NOT POSE A DANGER TO THE COMMUNITY

58. The Petitioner has demonstrated throughout his stay in the United States that he is a hardworking and law-abiding person.

59. The Petitioner has a fixed address.

60. The Petitioner maintains strong family and community ties.

61. The Petitioner has family members who are willing to receive and support him immediately after his release.

62. There is no clear and convincing evidence to show that the Petitioner poses a threat to the community.

E. THE PETITIONER DOES NOT REPRESENT A RISK OF FLIGHT

63. The Petitioner has a direct interest in continuing to defend his immigration case.

64. The Petitioner wishes to appear at all future hearings.

65. The Petitioner has a permanent address where he resides.

66. He has family and friends who guarantee his appearance before the authorities.

67. There is not enough evidence to conclude that he would try to evade future proceedings.

F. IRREPARABLE DAMAGE

68. Each additional day of detention causes irreparable damage.

69. The Petitioner's family continues to suffer serious economic hardship.

70. The Petitioner's children and other relatives experience emotional distress due to the separation.

71. The detention severely limits the Petitioner's ability to collaborate with his legal defense.

72. The continuation of the detention produces consequences that cannot be subsequently repaired through financial compensation.

XI. FINAL APPLICATION

For the reasons stated above, the Petitioner respectfully requests that this Honorable Court:

A. Grant the present Habeas Corpus Petition.

B. Order the immediate release of the Petitioner from MDC Brooklyn.

C. Alternatively, order an individualized custody hearing before a neutral authority.

D. Order any other measures that this Court deems just and appropriate to protect the Petitioner's constitutional rights.

XII. REQUEST FOR RELIEF

FOR ALL THE FOREGOING REASONS, the Petitioner respectfully requests that this Honorable Court:

A. Admit this Habeas Corpus Petition.

B. Order the Respondents to justify the legality of the continued detention.

C. Order the immediate release of the Petitioner under reasonable conditions of supervision.

D. Alternatively, order an individualized custody hearing before a neutral authority.

E. Grant any other remedy that this Court deems fair and appropriate.

STATEMENT UNDER PENALTY OF PERJURY

I, JOSE MARCELO PACA DAQUILEMA, declare under penalty of perjury according to the laws of the United States that the facts contained in this petition are true and correct to the best of my knowledge and belief.

Date: 06-04-2026

Petitioner's Signature

A# [redacted]

MDC BROOKLYN
80 29th Street Brooklyn, NY 11232

State of: New York
County of: Queens
The foregoing document was acknowledged before me 4 day of June, 2026

Christian F. Cueto, Notary Public
My Commission Expires: June 13, 2026

Christian F. Cueto
Notary Public, State of New York
Reg. No. 01CU6434677
Qualified in Queens County
Commission Expires 06/13/2026

STATEMENT OF GOOD CONDUCT AND GOOD FAITH
TO BE SUBMITTED IN SUPPORT OF A HABEAS CORPUS PETITION

June 3 , 2026

TO WHOM IT MAY CONCERN:

My name is **Andre Robinson** , residing at [redacted] telephone [redacted]. Through this letter, I wish to express my support and testify to the good moral character of **José Marcelo Paca Daquilema** .

I have had the opportunity to meet José Marcelo Paca Daquilema and I can attest that he is an honest, respectful, responsible, and hardworking person. During the time I have known him, he has always demonstrated a commitment to the well-being of his family and those around him. His behavior has been exemplary, showing values of respect, integrity, and solidarity towards others.

José Marcelo is a kind-hearted person who is always willing to help those in need. He is known for his peaceful conduct, respect for the law, and positive contributions to his community. Furthermore, he has proven to be a reliable person, dedicated to his work, and committed to his personal and family responsibilities.

I believe that José Marcelo does not pose a risk to the community and that his presence is of great importance to the emotional and economic well-being of his loved ones. His family and friends depend on him, and his absence has caused great hardship for those who know and care about him.

For all the foregoing reasons, I respectfully request that this statement be taken into consideration when evaluating any application submitted on his behalf. I am convinced that José Marcelo Paca Daquilema is a person of good faith, with strong moral principles, and deserving of favorable consideration.

I declare under penalty of perjury, according to the laws of the United States of America, that the information contained in this declaration is true and correct to the best of my knowledge and belief.

Sincerely,

Andre Robinson
[redacted]

Signature:

Date: 06-04-2026

Christian F. Cueto
Notary Public, State of New York
Reg. No. 01CU6434677
Qualified in Queens County
Commission Expires 06/13/2026

State of: New York
County of: Queens
The foregoing document was acknowledged before me 4 day of June, 2026
Christian F. Cueto, Notary Public
My Commission Expires: June 13, 2026