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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

ERIK IVAN TORRES VALENCIA

Petitioner,

Vs.

JASON STREEVAL, WARDEN Of THE STEWART DETENTION CENTER IN LUMPKIN, GEORGIA, *in his official capacity* as Warden of the Stewart Detention Center in Lumpkin, Georgia

CORECIVIC, INC., in its official capacity as the private operator of

Civil Action No. 4:26-cv-952

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Stewart Detention Center.

KRISTEN SULLIVAN, who is sued in her *official* capacity as Acting Field Office Director of the ICE Atlanta Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, and Removal Operations (ERO) in Atlanta, GA.

DAVID J. VENTURELLA, *in his official capacity* as Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security

MARKWAYNE MULLIN, in *his official capacity* as Secretary of the U.S. Department of Homeland Security;

TODD BLANCHE, *in his official capacity* as the Acting Attorney General of the United States,

Respondents.

QUESTION PRESENTED

Whether due process permits continued civil immigration detention where no neutral adjudicator has made an individualized determination that detention is necessary, no adjudicator has found danger or flight risk, no adjudicator has considered release conditions or alternatives to detention, and the only substantive custody ruling in the record is "No jurisdiction."

INTRODUCTION

1. Petitioner Erik Ivan Torres Valencia is a twenty-eight-year-old native and citizen of Mexico presently detained at Stewart Detention Center in Lumpkin, Georgia, under A-Number A-[redacted]
2. This Petition presents a narrow, fact-specific constitutional question: even assuming the government's detention classification is correct, may Petitioner remain in civil immigration detention without any meaningful individualized determination that continued detention is necessary?
3. Petitioner does not ask this Court to decide the ultimate merits of his removal proceedings.
4. Petitioner does not ask this Court to review a discretionary bond amount.

5. Petitioner does not ask this Court to invalidate *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025), or to broadly reject the government's immigration detention authority.

6. Petitioner seeks a constitutionally adequate process for determining whether his continued detention is actually necessary.

7. **No adjudicator has determined that Petitioner is a danger to the community.**

8. **No adjudicator has determined that Petitioner is a flight risk.**

9. **No adjudicator has evaluated conditions of release.**

10. **No adjudicator has considered alternatives to detention.**

11. **No adjudicator has applied the traditional custody factors to Petitioner's individual circumstances.**

12. **No adjudicator has weighed Petitioner's United States citizen spouse, his young United States citizen child, his stable family residence in Dalton, Georgia, his family-based immigration filings, his prior dismissal from removal proceedings, or his lack of aggravated felony convictions.**

13. **The only substantive custody ruling in the record is the Immigration Judge's June 11, 2026 order denying custody redetermination for the sole stated reason: "No jurisdiction."**

14. Petitioner's current detention arose from a May 2026 interior encounter in Whitfield County, Georgia, through a local 287(g) program, following a local

traffic-related arrest for Driving Without a Valid License and Operating a Motor Vehicle Without Brake Lights.

15. That encounter was not a border encounter.

16. It was not a port-of-entry encounter.

17. It was not a contemporaneous attempt to enter the United States.

18. Petitioner acknowledges that the government's records reference a historical December 19, 2017 San Ysidro Port of Entry encounter.

19. Petitioner does not ask this Court to disregard that record.

20. Petitioner does not dispute that the government may rely on the 2017 record for purposes of removal proceedings.

21. The question presented here is narrower: whether that historical record may be used to deny Petitioner any meaningful individualized custody determination in 2026.

22. On June 10, 2026, the day before the scheduled bond hearing, DHS filed a Form I-261 amending the allegations against Petitioner and asserting an arriving-alien theory based on the 2017 San Ysidro record.

23. Petitioner does not make this Petition depend upon proving that DHS acted in bad faith.

24. Petitioner does not make this Petition depend upon proving that DHS lacked authority to file the I-261.

25. The Court may assume, solely for purposes of this Petition, that DHS acted in good faith, possessed authority to file the I 261, and relied on *Matter of Yajure Hurtado* in good faith.

26. **Even under those assumptions, the constitutional question remains: no adjudicator has ever determined whether Petitioner's continued civil detention is necessary.**

27. **Even assuming the I-261 was properly filed and legally effective, its practical effect was that no adjudicator evaluated danger, flight risk, release conditions, or alternatives to detention.**

28. **That absence of individualized custody review is the constitutional injury presented in this Petition.**

29. Petitioner is not subject to a final order of removal.

30. Petitioner has a United States citizen spouse, **Marbeya Camila Cendejas**.

31. Petitioner has a young United States citizen child, **C**[redacted], born in Georgia.

32. Petitioner has maintained a stable family residence in Dalton, Georgia.

33. Petitioner has pursued family-based immigration relief, as reflected in I-130 and I-601A filing receipts.

34. Prior removal proceedings against Petitioner were dismissed on DHS's own motion without prejudice, and the Immigration Court entered an order of dismissal.

35. DHS's own records reflect no aggravated felony convictions and no enforcement priority designation.

36. These facts do not require this Court to decide the merits of Petitioner's immigration case.

37. They demonstrate why individualized custody review matters.

38. **Under Respondents' position, DHS asserts the Immigration Judge lacks custody jurisdiction, the Immigration Judge has declined jurisdiction, the BIA cannot grant habeas relief, and no neutral decisionmaker ever determines whether Petitioner's detention is necessary.**

39. **That creates a constitutional void: a system in which liberty is restrained while no tribunal provides meaningful review of whether confinement is necessary.**

40. **The Constitution does not permit civil detention to continue in that void.**

41. Petitioner seeks an order to show cause, expedited habeas review, and a constitutionally adequate individualized custody hearing within seven days.

42. Petitioner seeks release only if Respondents fail to provide such a hearing or fail to justify continued detention through a constitutionally adequate process.

CUSTODY

43. Petitioner Erik Ivan Torres Valencia is in the physical custody of Respondents.

44. Petitioner is currently detained at Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815.

45. Petitioner's Alien Registration Number is A-208-118-391.

46. Petitioner is therefore "in custody" within the meaning of 28 U.S.C. § 2241(c). *See Hensley v. Municipal Court,* 411 U.S. 345, 349 (1973).

47. Respondent Jason Streeval is the Warden of Stewart Detention Center and is Petitioner's immediate custodian.

48. Respondent Streeval is properly named in his official capacity. *See Rumsfeld v. Padilla,* 542 U.S. 426, 435 (2004).

JURISDICTION

49. This Court has jurisdiction under 28 U.S.C. § 2241, which authorizes federal courts to issue writs of habeas corpus to persons held in custody in violation of the Constitution, laws, or treaties of the United States.

50. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States.

51. This Court has jurisdiction under 28 U.S.C. § 2243, which requires the Court to issue the writ or an order to show cause unless it appears from the petition that the petitioner is not entitled to relief.

52. This Court also has jurisdiction under Article I, Section 9, Clause 2 of the United States Constitution, the Suspension Clause. *See Boumediene v. Bush,* 553 U.S. 723, 739 (2008).

53. This Court may grant declaratory relief under 28 U.S.C. § 2201 and injunctive relief under 28 U.S.C. § 2202 and the All Writs Act, 28 U.S.C. § 1651.

54. Petitioner does not ask this Court to review a discretionary bond decision.

55. No discretionary bond decision has been made.

56. Petitioner challenges the complete absence of any constitutionally adequate process for testing the necessity of his continued civil detention.

57. Federal courts retain habeas jurisdiction to review constitutional and legal challenges to immigration detention, including challenges to the absence of individualized custody review. *See INS v. St. Cyr,* 533 U.S. 289, 305 (2001); *Zadvydas v. Davis,* 533 U.S. 678, 688 (2001).

58. This Court has jurisdiction to determine whether Petitioner's continued detention without any individualized custody review violates the Due Process Clause of the Fifth Amendment.

59. The Immigration Court's determination that it lacked jurisdiction does not deprive this Court of habeas jurisdiction.

60. It confirms the propriety and necessity of federal habeas review.

REQUIREMENTS OF 28 U.S.C. §§ 2241 AND 2243

61. Section 2241 authorizes this Court to issue a writ of habeas corpus to any person in custody in violation of the Constitution or laws of the United States.

62. Section 2243 requires the Court to grant the writ or issue an order to show cause "forthwith" unless it appears from the petition that the petitioner is not entitled to relief.

63. If an order to show cause is issued, Respondents must make a return within three days unless additional time is granted for good cause.

64. The Court may then summarily hear and determine the facts and dispose of the matter as law and justice require. 28 U.S.C. § 2243.

65. Petitioner respectfully requests an immediate order to show cause and expedited review because Petitioner remains detained without any individualized custody determination.

VENUE

66. Venue is proper in the Middle District of Georgia, Columbus Division.

67. Petitioner is detained within this District at Stewart Detention Center, Lumpkin, Georgia.

68. Stewart Detention Center is located within the Columbus Division of the Middle District of Georgia.

69. Venue in habeas proceedings lies in the district where the immediate custodian is located. *See Rumsfeld v. Padilla,* 542 U.S. 426, 443 (2004).

70. That requirement is satisfied here.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

71. Petitioner has exhausted available administrative remedies to the extent exhaustion is required.

72. Any further requirement of exhaustion is excused as futile.

73. Petitioner, through counsel, requested custody redetermination before the Immigration Court pursuant to 8 C.F.R. § 1236.1.

74. Petitioner filed a Motion to Set Reasonable Bond requesting bond or release on recognizance.

75. The motion was supported by documentary evidence including identity records, evidence of family ties, I-130 and I-601A filing receipts, a spouse declaration, sponsor documents, prior dismissal records, county bond receipts, and character reference affidavits.

76. On June 11, 2026, the Immigration Judge issued an order denying custody redetermination.

77. The order stated that the request was denied because of "No jurisdiction."

78. The Immigration Judge did not determine whether Petitioner is dangerous.

79. The Immigration Judge did not determine whether Petitioner is a flight risk.

80. The Immigration Judge did not consider conditions of release or alternatives to detention.

81. The Immigration Judge did not apply the custody factors recognized in *Matter of Guerra,* 24 I&N Dec. 37 (BIA 2006).

82. Because the Immigration Court has concluded that it lacks jurisdiction to consider bond under the government's current detention theory, further pursuit of custody redetermination before that tribunal would be futile.

83. **Immigration Judges are bound by BIA precedent and cannot grant habeas relief.**

84. **Immigration Judges cannot declare BIA precedent unconstitutional.**

85. **Immigration Judges cannot supply the constitutional remedy Petitioner seeks.**

86. The question Petitioner presents - whether continued civil detention without any individualized custody review violates due process, even assuming the

government's detention classification is correct is a constitutional question for this Court.

87. Exhaustion is therefore satisfied or excused.

PARTIES

88. Petitioner Erik Ivan Torres Valencia is a native and citizen of Mexico, born on [redacted].

89. Petitioner's Alien Registration Number is A-[redacted].

90. Petitioner is detained at Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815.

91. Respondent Jason Streeval is the Warden of Stewart Detention Center and Petitioner's immediate custodian.

92. Respondent Streeval is sued in his official capacity.

93. Respondent CoreCivic, Inc. is the private correctional corporation that operates Stewart Detention Center under contract with the federal government.

94. Respondent CoreCivic is sued in its official capacity as the entity exercising physical custody over Petitioner.

95. Respondent Kristen Sullivan is the Acting Field Office Director of the ICE Atlanta Field Office of Enforcement and Removal Operations, with operational responsibility for Petitioner's immigration detention.

96. Respondent Sullivan is sued in her official capacity.

97. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement.

98. Respondent Lyons is sued in his official capacity.

99. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security.

100. Respondent Mullin is sued in his official capacity.

101. Respondent Todd Blanche is the Attorney General of the United States.

102. The Department of Justice administers the Executive Office for Immigration Review, including the Immigration Courts and the Board of Immigration Appeals.

103. Respondent Blanche is sued in his official capacity.

FACTUAL BACKGROUND

104. **Petitioner's Family and Community Ties.**

105. Petitioner is a native and citizen of Mexico.

106. Petitioner has lived in the United States for a substantial period and has established family and community ties in Dalton, Georgia.

107. Petitioner is married to **Marbeya Camila Cendejas**, a United States citizen.

108. Petitioner and his wife are the parents of C[redacted] a young United States citizen child born in Georgia.

109. Petitioner has maintained a family residence in Dalton, Georgia.

110. The record includes utility bills, insurance records, and lease documents confirming his residence.

111. Petitioner has provided financial and emotional support to his family throughout his residence in the United States.

112. Petitioner's wife and young child depend on him for family support and daily stability.

113. Petitioner has pursued family-based immigration relief through his United States citizen spouse.

114. The record reflects I-130 and I-601A filing receipts evidencing his commitment to legalizing his status through available channels.

115. Prior removal proceedings against Petitioner were dismissed on DHS's own motion without prejudice.

116. The Immigration Court entered an order of dismissal.

117. The record includes character reference affidavits and sponsor documents from community members attesting to Petitioner's character, stability, and ties to the area.

118. DHS's own internal records reflect no aggravated felony convictions and no enforcement priority designation.

119. These facts are not recited as a freestanding defense to removal.

120. **They are the individualized facts that a custody adjudicator should weigh but never has.**

121. **That failure is the constitutional injury this Petition presents.**

B. The Historical 2017 San Ysidro Record.

122. The government's records reference a December 19, 2017 encounter at the San Ysidro Port of Entry in California.

123. The records reference application-for-admission issues and expedited removal processing connected to that 2017 event.

124. Petitioner does not ask this Court to disregard the 2017 record.

125. Petitioner does not dispute that the government may rely on the 2017 record for purposes of removal proceedings.

126. The question in this habeas action is narrower: whether that historical record may be used to deny Petitioner any meaningful individualized custody determination in 2026.

127. Following the 2017 encounter, Petitioner was not continuously detained or subjected to an executed order of removal.

128. He remained present in the United States.

129. DHS later moved to dismiss removal proceedings without prejudice.

130. The Immigration Court granted that dismissal.

131. In the years that followed, Petitioner married a United States citizen, fathered a United States citizen child, established a stable household, and pursued family-based immigration relief.

C. The May 2026 Interior Encounter in Whitfield County, Georgia.

132. On or about May 9, 2026, Petitioner was encountered at the Whitfield County Correctional Center in Dalton, Georgia, by an ICE 287(g) officer assigned to Whitfield County. Exhibit C.

133. The 287(g) program is a federal-local law enforcement partnership.

134. An encounter through a 287(g) program in an interior county correctional facility is an interior enforcement action.

135. It is not a border encounter.

136. It is not a port-of-entry encounter.

137. Petitioner was not attempting to enter the United States on May 9, 2026.

138. He was already present in the interior of Dalton, Georgia, when the 287(g) encounter occurred.

139. The underlying local arrest was for Driving Without a Valid License and Operating a Motor Vehicle Without Brake Lights.

140. Those are traffic infractions, not violent crimes and not aggravated felonies.

141. DHS records confirm: "No Aggravated Felony Convictions."

142. DHS took Petitioner into immigration custody following the Whitfield County encounter.

143. Petitioner has remained detained continuously since that time.

144. DHS initiated removal proceedings and initially charged Petitioner under INA § 212(a)(6)(A)(i), the charge applicable to persons already present in the United States without admission or parole.

D. The Bond Request and the I-261 Amendment.

145. Petitioner, through counsel, promptly requested custody redetermination.

146. Petitioner filed a Motion to Set Reasonable Bond requesting bond or release on recognizance.

147. The motion presented substantial evidence relevant to custody.

148. That evidence included family ties, residence, Petitioner's United States citizen spouse, Petitioner's young United States citizen child, I-130 and I-601A filing receipts, the prior dismissal order, community support, sponsor documents, county bond receipts, and character affidavits.

149. On June 10, 2026, DHS filed a Form I-261, Additional Charges of Inadmissibility/Deportability. Exhibit D.

150. The I-261 amended the allegations to assert an arriving-alien theory based on the December 19, 2017 San Ysidro record.

151. Petitioner does not ask this Court to hold that the I-261 was void or that DHS lacked authority to file it.

152. **Even assuming the I-261 was properly filed and legally effective, its practical consequence was that no adjudicator evaluated whether continued detention is necessary.**

153. **That is the constitutional problem.**

E. The Immigration Judge's No-Jurisdiction Order.

154. On June 11, 2026, the Immigration Judge issued an order regarding Petitioner's custody redetermination request. Exhibit B.

155. The order noted that Petitioner requested custody redetermination pursuant to 8 C.F.R. § 1236.

156. **The order denied the request with the following and only substantive explanation: "No jurisdiction."**

157. **The order did not find Petitioner dangerous.**

158. **The order did not find Petitioner a flight risk.**

159. **The order did not discuss release conditions.**

160. **The order did not discuss alternatives to detention.**

161. **The order did not analyze Petitioner's family ties, including his United States citizen spouse and young United States citizen child.**

162. **The order did not analyze Petitioner's stable residence in Dalton, Georgia.**

163. **The order did not analyze Petitioner's I-130 and I-601A filing receipts.**

164. **The order did not analyze Petitioner's prior dismissal from removal proceedings.**

165. **The order did not apply the custody factors identified in *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006), including family ties, length of residence, employment, community ties, prior immigration history, and criminal history.**

166. **No neutral decisionmaker has ever determined whether Petitioner's continued civil detention is necessary.**

167. **That is the constitutional injury this Petition presents.**

LEGAL FRAMEWORK

168. **Habeas Review of Immigration Detention.**

169. Habeas corpus is the traditional and constitutional mechanism for testing the legality of executive detention. *See Boumediene v. Bush,* 553 U.S. 723, 739 (2008); *INS v. St. Cyr,* 533 U.S. 289, 301 (2001).

170. Federal courts have authority under 28 U.S.C. § 2241 to review whether immigration detention is lawful and whether the procedures available to a civil detainee satisfy constitutional requirements.

171. Petitioner does not ask this Court to review a discretionary bond amount.

172. Petitioner asks this Court to determine whether any constitutionally adequate mechanism for testing the necessity of his continued civil detention exists or has been provided.

173. That is a legal and constitutional question within this Court's habeas jurisdiction.

174. Although Respondents may rely upon BIA precedent, constitutional questions remain for independent judicial determination by this Court.

175. **Civil Immigration Detention and Due Process.**

176. Immigration detention is civil and regulatory, not punitive. *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). Civil detention must bear a reasonable relation to a legitimate governmental purpose. *Id.*

177. The government's legitimate interests in civil immigration detention are ensuring the detainee's appearance and protecting the community.

178. Those purposes require, at minimum, some meaningful assessment of whether detention is actually necessary in the individual case.

179. In *Demore v. Kim,* 538 U.S. 510 (2003), the Supreme Court upheld mandatory detention under 8 U.S.C. § 1226(c) for a limited period pending removal proceedings, but cabined its holding to a specific statutory category and factual context.

180. *Demore* does not answer the question presented here: whether a person may remain in civil detention when no adjudicator has ever determined that detention is necessary.

181. The prohibition on arbitrary civil detention is a core feature of due process. *See Foucha v. Louisiana,* 504 U.S. 71, 80 (1992).

182. Detention imposed without any individualized assessment of necessity raises serious due process concerns, regardless of the statute under which detention is asserted.

183. **Mathews v. Eldridge Analysis.**

184. The governing procedural due process framework is *Mathews v. Eldridge,* 424 U.S. 319, 335 (1976).

185. Under *Mathews,* courts balance: (1) the private interest affected; (2) the risk of erroneous deprivation and the value of additional safeguards; and (3) the government's interest, including the fiscal and administrative burden of additional procedure.

186. **First, the private interest is substantial.**

187. Petitioner's interest in physical liberty is among the most fundamental recognized by law. *See Zadvydas*, 533 U.S. at 690.

188. That interest is compounded by the direct impact of continued detention on Petitioner's United States citizen wife and young United States citizen child.

189. **Second, the risk of erroneous deprivation is exceptionally high.**

190. No adjudicator has weighed whether Petitioner is actually dangerous.

191. DHS records reflect no aggravated felony convictions, no enforcement priority designation, and a traffic-related local arrest.

192. No adjudicator has weighed whether Petitioner is actually a flight risk.

193. Petitioner has a United States citizen wife, a young United States citizen child, a stable home in Dalton, Georgia, and pending family-based immigration filings.

194. No adjudicator has applied *Matter of Guerra* factors to these specific facts.

195. The categorical "No jurisdiction" ruling means no individualized assessment occurred.

196. The risk that detention is erroneous is inherent in the total absence of any hearing.

197. **Third, the government's legitimate interests can be protected through a custody hearing and conditions of release.**

198. Such conditions may include bond, electronic monitoring, telephonic or in-person reporting, or other reasonable supervision.

199. The administrative burden of conducting a single constitutionally adequate custody hearing is minimal when weighed against physical liberty.

200. The *Mathews* balance favors a meaningful individualized custody determination.

201. **Matter of Yajure Hurtado.**

202. Respondents will rely on *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025), to support the position that Petitioner is not eligible for custody redetermination by an Immigration Judge.

203. Petitioner does not ask this Court to invalidate *Yajure Hurtado* in the abstract or to resolve its full scope.

204. The Court may assume, solely for purposes of analysis, that DHS relied on *Yajure Hurtado* in good faith.

205. The Court may assume that DHS possessed authority to file the I-261.

206. The Court may assume that DHS's detention classification is legally correct.

207. **Even under those assumptions, the constitutional question remains unanswered: has any neutral decisionmaker ever determined whether Petitioner's specific continued detention is necessary?**

208. No administrative precedent can eliminate this Court's habeas jurisdiction. *See INS v. St. Cyr,* 533 U.S. 289, 305 (2001).

209. **No administrative precedent can eliminate the constitutional requirement of meaningful process.**

210. **The BIA interprets statutes; it does not define the floor of due process.**

211. This is an as-applied due process challenge.

212. Even if a mandatory detention statute is constitutional on its face and even if the BIA has correctly interpreted it, the application of that detention framework to this specific person without any individualized assessment of necessity violates due process as applied.

213. **Constitutional Avoidance.**

214. Where a statute is susceptible to more than one interpretation, courts avoid readings that raise serious constitutional doubts. *See Edward J. DeBartolo Corp. v. Florida Gulf Coast Bldg. & Constr. Trades Council,* 485 U.S. 568, 575 (1988).

215. Reading 8 U.S.C. § 1225(b)(2)(A) to permit continued civil detention without any individualized determination of necessity, as applied to Petitioner's specific circumstances, raises grave due process concerns.

216. The Court should adopt the narrower construction: even under § 1225(b)(2)(A), due process requires a meaningful individualized custody determination where no adjudicator has ever determined whether continued detention is necessary.

217. That construction resolves the constitutional question without requiring the Court to invalidate any statutory provision or decide the ultimate classification issue.

218. **The Constitutional Void Created by Respondents' Position.**

219. **Respondents' position creates a constitutional void.**

220. DHS asserts that Petitioner is not eligible for bond review before the Immigration Court.

221. The Immigration Judge accepted that position and denied review for "No jurisdiction."

222. The BIA cannot grant habeas corpus relief.

223. ICE has not provided an adversarial custody hearing before a neutral adjudicator.

224. **Under Respondents' framework, no tribunal ever determines whether Petitioner's continued detention is necessary.**

225. **The Constitution does not permit liberty to be restrained in a system where no neutral decisionmaker has authority to evaluate the necessity of confinement.**

226. **Habeas relief is necessary to close that constitutional void.**

CLAIMS FOR RELIEF

CLAIM ONE

FIFTH AMENDMENT DUE PROCESS

227. Petitioner incorporates all prior paragraphs as if fully set forth herein.

228. The Fifth Amendment prohibits deprivation of liberty without due process of law.

229. That protection extends to persons in civil immigration custody.

230. Petitioner is detained in civil immigration custody.

231. Petitioner has a substantial, constitutionally protected liberty interest in freedom from physical confinement.

232. **Even assuming DHS's detention classification is correct, due process still requires a meaningful individualized determination that continued detention is necessary.**

233. **Petitioner has not received such a determination.**

234. **No adjudicator has determined whether Petitioner is dangerous.**

235. **No adjudicator has determined whether Petitioner is a flight risk.**

236. **No adjudicator has evaluated conditions of release.**

237. **No adjudicator has considered alternatives to detention.**

238. **No adjudicator has applied the traditional custody factors to Petitioner's individual circumstances.**

239. Applying the *Mathews v. Eldridge* framework to Petitioner's specific circumstances, the balance compels a constitutionally adequate individualized hearing.

240. The Immigration Judge denied custody redetermination solely for lack of jurisdiction.

241. **That ruling is not a bond decision.**

242. **It is the absence of one.**

243. **Continued civil detention without any meaningful individualized custody review violates the Due Process Clause of the Fifth Amendment.**

244. **Petitioner is entitled to habeas relief.**

CLAIM TWO

ABSENCE OF MEANINGFUL INDIVIDUALIZED CUSTODY REVIEW

245. Petitioner incorporates all prior paragraphs as if fully set forth herein.

246. Civil immigration detention must be reasonably related to a legitimate governmental purpose. *See Zadvydas,* 533 U.S. at 690.

247. The government's purposes - ensuring appearance and protecting the community - require individualized assessment.

248. They are not self-executing justifications for confinement.

249. No such assessment has occurred in this case.

250. The government has not been required to justify Petitioner's continued detention before a neutral decisionmaker.

251. Petitioner has not had a meaningful opportunity to present evidence of his family ties, stable residence, community support, immigration filings, prior dismissal, or the availability of alternatives to detention.

252. **Even assuming the Form I-261 was properly filed and legally effective, its practical effect was the elimination of any individualized custody review.**

253. The 2017 San Ysidro record may be relevant to removal proceedings.

254. **It cannot, consistent with due process, substitute for a meaningful individualized custody determination regarding Petitioner's present circumstances in 2026.**

255. The only custody ruling is "No jurisdiction."

256. **That is not a constitutionally adequate process.**

257. **It is the absence of one.**

258. **Petitioner is entitled to a constitutionally adequate individualized custody hearing.**

CLAIM THREE

HABEAS REVIEW OF CONTINUED DETENTION

259. Petitioner incorporates all prior paragraphs as if fully set forth herein.

260. Habeas corpus exists to test the legality of executive detention.

261. Petitioner is in Respondents' custody.

262. Petitioner challenges the legality of continued detention without meaningful custody review.

263. This Court has authority to determine whether the procedures available to Petitioner satisfy constitutional requirements.

264. Petitioner does not ask this Court to decide the ultimate merits of his removal proceedings.

265. Petitioner does not ask this Court to act as the Immigration Court.

266. The Immigration Court's jurisdictional denial confirms the necessity of habeas review.

267. Without habeas relief, Petitioner has no effective mechanism to challenge the necessity of his continued confinement.

268. Habeas relief is appropriate.

CLAIM FOUR

CONSTITUTIONAL AVOIDANCE

269. Petitioner incorporates all prior paragraphs as if fully set forth herein.

270. If the detention statutes are read to permit continued civil detention without any individualized determination of necessity, they raise serious constitutional concerns under the Due Process Clause and the Suspension Clause.

271. The Court should adopt the narrower reading that the Constitution requires meaningful individualized custody review even within the § 1225(b)(2)(A) framework.

272. This narrower reading does not require the Court to resolve every statutory classification question.

273. It requires only a holding that due process demands a meaningful process in this specific case.

274. The Court may grant relief on this narrow ground without deciding the full scope of the detention statutes.

CLAIM FIVE

CONSTITUTIONAL VOID AND ABSENCE OF ANY MEANINGFUL FORUM

275. Petitioner incorporates all prior paragraphs as if fully set forth herein.

276. **Respondents' detention theory leaves Petitioner without any meaningful forum to test the necessity of continued detention.**

277. DHS asserts that the Immigration Court lacks jurisdiction.

278. The Immigration Judge agreed and denied review for "No jurisdiction."

279. The BIA cannot grant habeas relief.

280. **No neutral adjudicator has evaluated whether Petitioner is dangerous.**

281. **No neutral adjudicator has evaluated whether Petitioner is a flight risk.**

282. **No neutral adjudicator has evaluated whether release conditions or alternatives to detention would satisfy the government's interests.**

283. **The resulting framework permits continued civil detention without any adjudicator determining whether detention is necessary.**

284. **That constitutional void violates due process.**

285. **Habeas relief is necessary to supply a meaningful constitutional remedy.**

CLAIM SIX

DECLARATORY AND INJUNCTIVE RELIEF

286. Petitioner incorporates all prior paragraphs as if fully set forth herein.

287. An actual and justiciable controversy exists between Petitioner and Respondents.

288. Petitioner contends that continued civil detention without meaningful individualized custody review violates due process.

289. Respondents continue to detain Petitioner without such review.

290. Declaratory relief is appropriate under 28 U.S.C. § 2201.

291. Injunctive relief is appropriate under 28 U.S.C. § 2202.

292. Petitioner has no adequate remedy at law.

293. Each day of continued detention without constitutionally adequate process is a day of irreparable constitutional injury.

294. Each day of continued detention also inflicts irreparable harm on Petitioner's United States citizen spouse and young United States citizen child.

295. Those harms cannot be adequately remedied through monetary damages after the fact.

296. The balance of equities favors requiring meaningful individualized custody review.

297. Respondents face no material prejudice from being required to provide a constitutionally adequate custody hearing.

298. The public interest favors adherence to constitutional process in civil detention cases.

ARGUMENT

299. **This case does not require the Court to invalidate Matter of Yajure Hurtado.**

300. It does not require the Court to reject DHS's detention authority.

301. It does not require the Court to determine whether all similarly situated detainees are entitled to bond hearings.

302. It does not require the Court to decide the merits of Petitioner's removal proceedings.

303. **The Court can grant relief by answering a single, narrow question: has any neutral decisionmaker ever determined whether Petitioner's continued civil detention is necessary?**

304. **The answer is no.**

305. The Immigration Judge issued one custody order.

306. That order states: "No jurisdiction."

307. Nothing in that order addresses danger.

308. Nothing addresses flight risk.

309. Nothing addresses Petitioner's United States citizen wife, **Marbeya Camila Cendejas**.

310. Nothing addresses Petitioner's young United States citizen child, **Carlos Efrain Torres**.

311. Nothing addresses Petitioner's stable Dalton, Georgia residence.

312. Nothing addresses his I-130 and I-601A filings.

313. Nothing addresses alternatives to detention.

314. The order contains no individualized custody analysis of any kind.

315. **That narrow finding - that no individualized determination of necessity has occurred - is sufficient basis for this Court to grant relief.**

316. **The Court need not go further.**

317. Assume, for purposes of this argument, that DHS acted in good faith throughout.

318. Assume that the I-261 was properly filed and legally effective.

319. Assume that *Matter of Yajure Hurtado* correctly interprets the INA.

320. Assume that DHS's arriving alien theory is legally sound.

321. Even under all of those assumptions, Petitioner remains a person in civil immigration detention.

322. Civil detention must be reasonably related to a legitimate governmental purpose. *See Zadvydas,* 533 U.S. at 690.

323. That requires some meaningful determination that detention is actually necessary, not merely that a detention statute exists and has been invoked.

324. The Supreme Court's recognition in *Demore v. Kim,* 538 U.S. 510 (2003), that mandatory detention may be constitutionally permissible for a limited period does not resolve this case.

325. *Demore* involved a distinct statutory category and factual context.

326. Here, the issue is whether due process permits continued detention when no adjudicator has determined whether detention remains necessary.

327. **What occurred here is not a bond hearing with an unfavorable outcome.**

328. **What occurred here is a categorical refusal to hold any hearing at all.**

329. The Immigration Judge did not weigh the evidence and conclude that Petitioner must be detained.

330. The Immigration Judge declined to consider the evidence at all.

331. That distinction matters for due process.

332. **Due process requires more than a jurisdictional dead end.**

333. **It requires a meaningful opportunity to be heard.**

334. **That opportunity has not been provided here.**

335. On June 10, 2026, DHS filed a Form I-261 relying on the December 19, 2017 San Ysidro record.

336. Petitioner does not ask this Court to hold that the I 261 was void or that DHS lacked authority to file it.

337. The Court need not reach those questions.

338. What matters for constitutional purposes is the practical consequence of the I-261.

339. No adjudicator evaluated whether Petitioner is dangerous.

340. No adjudicator evaluated whether Petitioner is a flight risk.

341. No adjudicator evaluated release conditions.

342. No adjudicator evaluated alternatives to detention.

343. No adjudicator weighed the evidence Petitioner submitted in his bond motion.

344. That evidence included a United States citizen spouse, a young United States citizen child, years of stable Georgia residence, family-based immigration filings, a prior dismissal, no aggravated felony convictions, and a traffic-related local arrest.

345. The Immigration Judge's response was "No jurisdiction."

346. Petitioner's evidence was never evaluated.

347. **The constitutional problem is not the I-261 itself.**

348. **The constitutional problem is that the resulting detention framework left Petitioner with no meaningful forum for challenging the necessity of his civil confinement.**

349. **That problem persists today.**

350. **It is the injury this Court is asked to remedy.**

351. Petitioner does not ask this Court to order that he must receive bond.

352. Petitioner does not ask this Court to predetermine the outcome of a custody hearing.

353. Petitioner does not ask this Court to act as the Immigration Court.

354. Petitioner asks for a constitutionally adequate individualized custody hearing before a neutral adjudicator.

355. At such a hearing, Respondents may present evidence in support of continued detention.

356. Petitioner may present evidence regarding his family ties, residence, community support, immigration filings, prior dismissal, and lack of aggravated felony convictions.

357. The adjudicator may impose conditions of release if the evidence warrants.

358. The adjudicator may maintain detention if the evidence demonstrates that continued confinement is necessary.

359. **What Petitioner asks for is not a result.**

360. **It is the process from which a result should flow.**

361. **That process, required by the Fifth Amendment, has never been provided.**

362. This Petition is not about abstract constitutional principles.

363. It is about a specific person with specific circumstances who has received no individualized evaluation of any kind.

364. **The least intrusive remedy is a constitutionally adequate individualized custody hearing within seven days.**

365. In the alternative, if the Court finds seven days impracticable, Petitioner requests such hearing within fourteen days.

366. If Respondents fail to provide such hearing within the time ordered, release under appropriate supervision is warranted.

367. If Respondents provide the hearing but fail to justify continued detention under constitutionally adequate procedures, release is warranted.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Erik Ivan Torres Valencia respectfully requests that this Court:

A. Assume jurisdiction over this Petition;

B. Issue an Order to Show Cause forthwith requiring Respondents to justify Petitioner's continued detention, with a return within three days;

C. Set an expedited briefing schedule and conduct expedited review of this habeas action;

D. Declare that Petitioner's continued civil detention without any meaningful individualized determination that detention is necessary violates the Due Process Clause of the Fifth Amendment to the United States Constitution;

E. Declare that, regardless of DHS's custody classification, Petitioner is entitled to a constitutionally adequate individualized custody determination before a neutral adjudicator;

F. Order Respondents to provide Petitioner with a constitutionally adequate individualized custody hearing within seven (7) days of this Court's Order;

G. In the alternative, order Respondents to provide such hearing within fourteen (14) days if the Court determines that seven days is impracticable;

H. Order that the adjudicator at any such hearing must evaluate whether continued detention is actually necessary based on Petitioner's specific individual circumstances;

I. Order that the adjudicator must make individualized findings regarding whether Petitioner presents a danger to the community and whether Petitioner presents a risk of flight;

J. Order that the adjudicator must consider conditions of release and alternatives to detention, including bond, electronic monitoring, telephonic or in-person reporting requirements, and other supervision;

K. Order that the adjudicator must consider Petitioner's relevant custody evidence, including his United States citizen spouse Marbeya Camila Cendejas, his young United States citizen child C[redacted], his family residence in Dalton, Georgia, his I-130 and I-601A filing receipts, his prior dismissal from removal proceedings, his lack of aggravated felony convictions, and the traffic-related nature of the underlying local arrest;

L. Order that the adjudicator must issue written findings supporting any decision to continue Petitioner's detention;

M. Order Respondents to release Petitioner under appropriate supervision if they fail to conduct a constitutionally adequate individualized custody hearing within the time ordered by this Court;

N. Order Respondents to release Petitioner under appropriate supervision if they fail to justify continued detention under constitutionally adequate procedures;

O. Enjoin Respondents from continuing to detain Petitioner without meaningful individualized custody review;

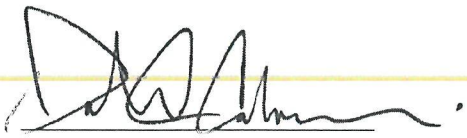
P. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of this Petition without prior Court approval;

Q. Award reasonable attorney's fees and costs to the extent permitted by applicable law; and

R. Grant any other and further relief this Court deems just, equitable, and proper.

Dated: June 19th, 2026

Respectfully Submitted,



Dale Anthony Calomeni
Georgia Bar No. 105311 / EOIR ID DP367083
Attorneys for the Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent the Petitioner, **Erik Ivan Torres Valencia**, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief under 28 U.S.C. § 2242 and under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this 19th day of June 2026.



Dale Anthony Calomeni
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