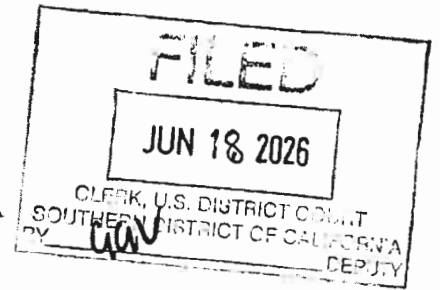


UNITED STATES DISTRICT
COURT SOTHERN DISTRICT OF CALIFORNIA



LUTDAY JESUS GARRILLO VICTORA
Proceeding Pro Se,
Petitioner,

v.

_____, WARDEN, Imperial Regional Detention Facility;
_____, FIELD OFFICE DIRECTOR, ICE San Diego Field
Office; DAVID J. VENTURELLA, Acting Director, United
States Immigration and Customs
Enforcement; MARKWAYNE MULLIN, Secretary of
Homeland Security; TODD BLANCHE, Acting Attorney
General, United States,

Respondents.

Civil Action No.: '26CV3604 JO JLB

PETITION FOR WRIT OF HABEAS
CORPUS

PETITION FOR A WRIT OF HABEAS CORPUS

(Verified Petition Pursuant to 28 U.S.C. § 2241)

INTRODUCTION

Petitioner LUTDAY JESUS GARRILLO VICTORA respectfully petitions this Honorable Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his unlawful and unconstitutional civil immigration detention by the United States Department of Homeland Security and Immigration and Customs Enforcement (ICE).

Petitioner is a 39-year-old asylum seeker from Venezuela with zero criminal history. He entered the United States on or about June 30, 2023, near Eagle Pass, Texas, and was processed by U.S. Customs and Border Protection. On July 2, 2023, the Department of Homeland Security (DHS)

determined that Petitioner was not a flight risk or a danger to the community and released him on his own recognizance (Form I-220A), with conditions to report to ICE. For nearly three years, Petitioner fully complied with all conditions of release, maintained the same residence, and reported to ICE as required.

In recognition of his eligibility for protection, DHS granted Petitioner Temporary Protected Status (TPS) on January 9, 2025, along with an Employment Authorization Document (EAD). With this lawful status, he obtained a Florida driver's license and continued to support his family. His TPS, EAD, and license all expired on April 2, 2025. On May 27, 2026, Petitioner was detained while walking to the job he had held for two years. The sole basis for his arrest was that his driver's license had expired when his temporary status lapsed—a direct consequence of his expired TPS, not any criminal conduct. This minor, non-criminal traffic-related stop has been transformed into prolonged, indefinite detention.

The urgency of this petition is acute. Petitioner has a pending asylum application before the Orlando Immigration Court, with a Master Hearing scheduled for September 23, 2027. He formally initiated this process by filing Form I-589 on April 13, 2026, and paying the required fee on April 30, 2026. Any attempt by Respondents to transfer or deport him now would unlawfully extinguish his right to pursue his asylum claim, causing irreparable harm.

Since his arrest, Respondents have subjected Petitioner to a series of unannounced, cross-country transfers through three different states: from Florida (Broward Transitional Center) to Louisiana (Winn Correctional Center), and finally to his current detention in California. This pattern not only obstructs his ability to prepare his asylum case but also demonstrates an imminent risk that he will be removed before this Court can act.

Petitioner's detention is a profound injustice. He is the sole financial support for his two 8-year-

old children and his elderly, 62-year-old mother in Venezuela. The Government has failed to provide any individualized justification for his continued detention, which violates the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment. Because Petitioner's detention is statutorily and constitutionally infirm, and because his right to seek asylum is in jeopardy, habeas relief is necessary. Petitioner respectfully requests that this Court grant the writ, order his immediate release to allow him to pursue his asylum claim, or, in the alternative, order an immediate bond hearing.

CUSTODY

Petitioner is in the physical custody of Respondents at the Imperial Regional Detention Facility, 1572 Gateway Road, Calexico, CA 92231. He is under the direct control of:

- WARDEN, Imperial Regional Detention Facility;
- FIELD OFFICE DIRECTOR, ICE San Diego Field Office;
- DAVID J. VENTURELLA, Acting Director, United States Immigration and Customs Enforcement;
- MARKWAYNE MULLIN, Secretary, Department of Homeland Security;
- TODD BLANCHE, Acting Attorney General, United States.

JURISDICTION

This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 2241 (writ of habeas corpus). Personal jurisdiction attaches to the named respondents in their official capacities. The Court's jurisdiction is further supported by the Due Process Clause of the Fifth Amendment.

VENUE

Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because Petitioner is detained in Calexico, California, which is located within Imperial County and falls under the jurisdiction of the U.S. District Court for the Southern District of California.

PARTIES

Party	Description
Petitioner	I, Lutday Jesus Garrillo Victora, A-Number  citizen of Venezuela, presently detained at the Imperial Regional Detention Facility.
Respondent 1	WARDEN, Imperial Regional Detention Facility, named in official capacity.
Respondent 2	FIELD OFFICE DIRECTOR, ICE San Diego Field Office, named in official capacity.
Respondent 3	DAVID J. VENTURELLA, Acting Director, United States Immigration and Customs Enforcement, named in official capacity.
Respondent 4	MARKWAYNE MULLIN, Secretary, Department of Homeland Security, named in official capacity.
Respondent 5	TODD BLANCHE, Acting Attorney General, United States, named in official capacity.

STATEMENT OF FACTS

1. Petitioner is a native and citizen of Venezuela, [REDACTED] He is 39 years old.
2. He entered the United States on or about June 30, 2023, at or near Eagle Pass, Texas, to seek protection from widespread violence in Venezuela. He was processed by U.S. Customs and Border Protection.
3. On July 2, 2023, DHS issued a Notice of Custody Determination (Form I-286) finding that Petitioner was NOT a danger to the community or a flight risk. DHS released him on his own recognizance under Form I-220A with conditions to report to ICE and maintain his address.
4. For nearly three years, Petitioner fully complied with all conditions of his release. He maintained the same residence at [REDACTED] and reported to ICE as required.
5. On November 22, 2024, Petitioner applied for Temporary Protected Status (TPS). USCIS approved his application on January 9, 2025 (Receipt Number [REDACTED]) granting TPS valid from January 9, 2025, until April 2, 2025.
6. Concurrent with his TPS approval, USCIS granted Petitioner employment authorization (EAD Category C19, Card Number [REDACTED]) valid from January 2, 2025, until April 2, 2025. Petitioner was assigned Social Security Number [REDACTED] valid for work only with DHS authorization.
7. On January 31, 2025, Petitioner lawfully obtained a Florida Class E Driver's License [REDACTED], valid until April 2, 2025, tied to his TPS and EAD status.
8. Petitioner's TPS, EAD, and Florida driver's license all expired on April 2, 2025, when the TPS designation period ended. He had no criminal history and posed no danger to the

community during the entire period he was on TPS.

9. He established a stable life in Florida, working diligently at a golf course for two years, demonstrating stable work history and community ties.
10. He is the sole financial provider for his two 8-year-old children and his 62-year-old mother in Venezuela, who depend entirely on his support.
11. On May 27, 2026, Petitioner was walking to his job in Vero Beach, Florida, when he was stopped and detained for not possessing a valid driver's license. His license had expired solely because his TPS status — the legal basis for his license — had expired.
12. Petitioner has absolutely no criminal history, has never been convicted of any crime, and has no history of violence. The sole incident leading to his detention was a non-criminal, traffic-related matter caused by the expiration of his temporary legal status.
13. Petitioner has a pending asylum application before the Orlando Immigration Court. He filed Form I-589, Application for Asylum and for Withholding of Removal, with DHS via overnight courier on April 13, 2026. He paid the required I-589 application fee to EOIR on April 30, 2026 (Payment Tracking ID: [REDACTED], Amount: \$100.00). His Master Hearing is scheduled for September 23, 2027, at 8:30 AM ET in Courtroom 15, Orlando Immigration Court, 500 N. Orange Avenue, Suite 1100, Orlando, FL 32801.
14. His dependents — including his children with A-Numbers [REDACTED]
[REDACTED] — are also in removal proceedings before the same Immigration Court, underscoring the family-based nature of his asylum claim.
15. Following his arrest, Respondents subjected Petitioner to a series of disorienting, unannounced transfers across the country: first to Broward Transitional Center in Florida, then to Winn Correctional Center in Louisiana, and finally to Imperial Regional

Detention Facility in Calexico, California.

16. These three-state transfers have severed him from his community in Florida, isolated him from potential support networks, and severely hindered his ability to gather evidence and prepare for his pending asylum case, including his Master Hearing scheduled for September 23, 2027.
17. The stress of indefinite detention and separation from his family has caused Petitioner to suffer from depression and anxiety.
18. The Government has not provided Petitioner with any individualized custody determination or bond hearing since his arrest on May 27, 2026, despite his lack of criminal history, his pending asylum claim, his nearly three years of prior compliance with release conditions, and his prior DHS determination that he was not a flight risk or danger.

LEGAL FRAMEWORK

1. Prior Compliance and DHS Determination of No Risk. In July 2023, DHS independently determined that Petitioner was not a flight risk or danger to the community and released him on his own recognizance. For nearly three years, he fully complied with all reporting requirements, maintained the same residence, and was never charged with any criminal offense. This prior compliance and DHS's own prior custody determination are powerful evidence that he is not a flight risk or danger. *See Velesaca v. Wolf*, No. 1:19-cv-02841 (S.D.N.Y. 2020) (ICE required to conduct individualized custody determinations under 8 U.S.C. § 1226(a)).
2. Temporary Protected Status (TPS). Petitioner was granted TPS under section 244 of the

Immigration and Nationality Act. 8 U.S.C. § 1254a. While TPS does not eliminate the underlying charge of removability, it demonstrates that DHS previously found him eligible for temporary lawful status and employment authorization. His detention is now based solely on the expiration of that temporary status — a status that Congress, not Petitioner, controls.

3. Pending Asylum Claim. A noncitizen with a pending application for asylum is pursuing a statutory right to protection. 8 U.S.C. § 1158. Respondents cannot lawfully remove Petitioner while he is pursuing this claim. His Master Hearing is scheduled for September 23, 2027. Any attempt to remove him before then would violate his statutory and due process rights by rendering his claim moot and permanently denying him the opportunity for a hearing on the merits.
4. Statutory Basis for Detention. Petitioner's detention is governed by 8 U.S.C. § 1226. Because Petitioner has not been convicted of any crime, he is not subject to mandatory detention under § 1226(c). His custody is governed by § 1226(a), which grants the Attorney General discretionary authority to release individuals on bond. This discretion is not unfettered and must be exercised in a manner consistent with the Constitution. *See Velesaca v. Wolf*, No. 1:19-cv-02841 (S.D.N.Y. 2020).
5. Due Process Clause. The Fifth Amendment prohibits the government from depriving any “person” of liberty without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This protection applies to all individuals within the United States, regardless of immigration status. Detaining an individual with a pending asylum claim, no criminal history, who was arrested for a minor, non-criminal reason, and who was previously determined by DHS to be neither a flight risk nor a danger, without an individualized

bond hearing, is a fundamental violation of due process.

6. *Mathews v. Eldridge* Balancing. Applying the test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), confirms that Petitioner's detention is unconstitutional. *See Black v. Decker*, No. 23-CV-4128, 2024 WL 9509323 (2d Cir. May 31, 2024) (adopting *Mathews* framework for immigration detention and holding that due process requires bond hearing for prolonged detention under § 1226(c)); *Padilla v. U.S. Immigration & Customs Enforcement*, 387 F. Supp. 3d 1219 (W.D. Wash. 2019) (applying *Mathews* test to immigration detention); *Hernandez Gomez v. Becerra*, No. 22-cv-02560, 2023 WL 9608221 (N.D. Cal. Apr. 4, 2023) (same). First, Petitioner has a profound private interest in his liberty and in his right to pursue his asylum claim. Second, the risk of erroneous deprivation is extremely high, as his continued detention is based on a minor incident caused by expired TPS and he has been given no opportunity to demonstrate he is not a flight risk or danger, despite DHS's own prior determination to the contrary. Third, the governmental interest in providing a proper hearing is minimal compared to the severe harm caused by his prolonged and arbitrary detention.

CLAIMS FOR RELIEF

COUNT ONE – VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT (INA)

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c). His detention is governed by the discretionary standard of § 1226(a).
3. Respondents have detained Petitioner since May 27, 2026, without an individualized bond hearing to assess whether his detention is necessary, in violation of the INA and its

implementing regulations.

4. DHS's own prior custody determination in July 2023 — releasing Petitioner on his own recognizance based on a finding that he was not a flight risk or danger — further undermines any purported justification for his current detention.
5. Accordingly, Petitioner is entitled to an order requiring his release or, in the alternative, an immediate bond hearing.

COUNT TWO – VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. The Due Process Clause requires that any deprivation of liberty be accompanied by fair procedures, including a hearing before a neutral decision-maker.
3. Detaining Petitioner indefinitely while his asylum claim is pending, without demonstrating that he poses a flight risk or a danger, and based on a non-criminal encounter arising solely from the expiration of his congressionally controlled TPS status, constitutes arbitrary and unconstitutional detention.
4. The Government must bear the burden of proof by clear and convincing evidence to justify continued detention. *See Brito v. Barr*, No. 19-10554, 2019 WL 9731322 (D. Mass. Aug. 6, 2019); *Aparicio Jimenez v. Decker*, No. 20-CV-1609, 2021 WL 9863654 (S.D.N.Y. Mar. 3, 2021).
5. The Government has failed to meet this burden.

COUNT THREE – VIOLATION OF THE RIGHT TO A MEANINGFUL OPPORTUNITY TO SEEK ASYLUM

1. Petitioner realleges and incorporates by reference each allegation set forth above.

2. Petitioner has a statutory right to apply for asylum and withholding of removal. His application is currently pending with the Immigration Court, with a Master Hearing scheduled for September 23, 2027.
3. Respondents' pattern of cross-country transfers and the imminent threat of removal unconstitutionally interfere with this right by obstructing his ability to prepare his case, communicate with his family members who are also in removal proceedings, and threatening to render his claim moot before his hearing date. This constitutes irreparable harm to his right to seek protection.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Issue an immediate Temporary Restraining Order enjoining Respondents from transferring, removing, or deporting Petitioner pending resolution of this application.
2. Assume jurisdiction over this matter.
3. Order Respondents to show cause why a writ of habeas corpus should not be granted, within three (3) days, and set a hearing on this petition within five (5) days of the return, as required by 28 U.S.C. § 2243.
4. Declare that Petitioner's continued detention violates 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment.
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from the Imperial Regional Detention Facility to allow him to pursue his pending asylum claim and attend his Master Hearing on September 23, 2027.
6. In the alternative, order Respondents to provide Petitioner with an immediate bond

hearing before an Immigration Judge, at which the Government must prove by clear and convincing evidence that his continued detention is necessary.

7. Enjoin Respondents from removing Petitioner from the United States while his asylum claim remains pending, including until after his Master Hearing scheduled for September 23, 2027.
8. Award reasonable attorney's fees and costs.
9. Grant such further relief as this Court deems just and proper.

VERIFICATION

I, Lutday Jesus Garrillo Victora, being the petitioner, hereby certify under penalty of perjury that the statements set forth herein are true and correct to the best of my knowledge and belief.

Date: June 16, 2026.

/s/ Lutday Jesus Garrillo Victora
Lutday Jesus Garrillo Victora
Pro Se