UNITED STATES DISTRICT

COURT SOUTHERN DISTRICT OF GEORGIA

HALLAN JOSUE LOPEZ LOPEZ Proceeding Pro Se, *Petitioner,* v. _____, Warden, Folkston D. Ray ICE Processing Center; _____, Field Office Director, ICE Atlanta Field Office; DAVID J. VENTURELLA, Acting Director, United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of Homeland Security; TODD BLANCHE, United States Attorney General, *Respondents.*	Civil Action No.: PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR A WRIT OF HABEAS CORPUS

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

INTRODUCTION

Petitioner HALLAN JOSUE LOPEZ LOPEZ 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. Petitioner does not request a bond hearing, bond redetermination, or release conditioned upon the payment of bond. He requests immediate and unconditional release from unlawful civil immigration detention.

Petitioner is a 24-year-old native and citizen of Guatemala, born on [redacted] He entered the United States in June 2019 as an unaccompanied alien child (UAC) through Harlingen, Texas, at

the age of seventeen. He was released by the Office of Refugee Resettlement (ORR) to the care of his uncle, Adelson Rene Lopez Ardeano, in Apopka, Florida. He has lived in the United States for approximately seven years and worked in the construction industry for approximately five years. Petitioner has a pending asylum case before the Orlando Immigration Court. He filed his Form I-589, the fee for which was processed on February 11, 2026, and the application was received by the Court on February 13, 2026. He has no final order of removal.

On March 9, 2026, Petitioner was arrested in St. Johns, Florida, while driving on Interstate 95 on his way to work. A sheriff stopped him for driving without a valid driver's license. He was subsequently transferred to ICE custody, initially detained in Jacksonville, Florida, and then transferred to the Folkston D. Ray ICE Processing Center in Folkston, Georgia. As of July 10, 2026, he has been in civil immigration detention for approximately four months.

Petitioner has no serious criminal history. He has no history of violent crimes, weapons, drugs, domestic violence, DUI, theft, or felonies. He has a three-year-old U.S. citizen son, Derek Josue Lopez Velasquez, born in Orlando, Florida, and a stable partner, Delmy Nisbet Velasquez Lopez, who depends on him emotionally and financially. He has strong community ties, including support from his church, friends, and lawful permanent residents. His continued detention is arbitrary, excessive, and unconstitutional.

CUSTODY

Petitioner is in the physical custody of Respondents at the Folkston D. Ray ICE Processing Center, 3262 Highway 252 East, Folkston, Georgia 31537.

JURISDICTION

This Court has jurisdiction over this action pursuant to:

1. 28 U.S.C. § 2241, which grants federal courts the authority to issue writs of habeas corpus for persons in custody in violation of the Constitution or laws of the United States. Specifically, 28 U.S.C. § 2241(c)(3) provides that the writ extends to a prisoner who "is in custody in violation of the Constitution or laws or treaties of the United States."
2. 28 U.S.C. § 1331, because Petitioner's claims arise under the Constitution and laws of the United States.
3. The Due Process Clause of the Fifth Amendment to the United States Constitution, because Petitioner's continued detention deprives him of liberty without due process of law.
4. 28 U.S.C. §§ 2201 and 2202, which authorize this Court to issue declaratory relief.
5. The All Writs Act, 28 U.S.C. § 1651, which empowers this Court to issue all writs necessary or appropriate in aid of its jurisdiction.

VENUE

Venue is proper in the Southern District of Georgia, Waycross Division, because Petitioner is physically detained at the Folkston D. Ray ICE Processing Center in Folkston, Charlton County, Georgia, and his immediate custodian is located here. Charlton County falls within the jurisdiction of the Waycross Division of this Court.

PARTIES

1. **Petitioner:** Hallan Josue Lopez Lopez, A# [redacted] a native and citizen of Guatemala, presently detained at the Folkston D. Ray ICE Processing Center, 3262

Highway 252 East, Folkston, Georgia 31537.

2. **Respondent 1:** Warden, Folkston D. Ray ICE Processing Center, 3262 Highway 252 East, Folkston, Georgia 31537, sued in his or her official capacity. The Warden is Petitioner's immediate physical custodian.
3. **Respondent 2:** LaDeon Francis, Field Office Director, Enforcement and Removal Operations, ICE Atlanta Field Office, 180 Ted Turner Drive SW, Suite 522, Atlanta, Georgia 30303, sued in his official capacity.
4. **Respondent 3:** David J. Venturella, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536, sued in his official capacity.
5. **Respondent 4:** Markwayne Mullin, Secretary of the United States Department of Homeland Security, Washington, DC 20528, sued in his official capacity.
6. **Respondent 5:** Todd Blanche, Acting Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530-0001, sued in his official capacity.

STATEMENT OF FACTS

1. Petitioner is a native and citizen of Guatemala, born on [redacted]
2. Petitioner entered the United States in June 2019 through Harlingen, Texas, as an unaccompanied alien child (UAC) at the age of seventeen.
3. Upon entry, Petitioner was placed under the custody of the Office of Refugee Resettlement (ORR) and subsequently released to the care of his uncle, Adelson Rene Lopez Ardeano, in Apopka, Florida.

4. Since his release by ORR, Petitioner has resided continuously in the United States, primarily in Florida, developing strong family, community, and employment ties.
5. Petitioner has a pending asylum case before the Orlando Immigration Court. He formally filed his Application for Asylum (Form I-589), and the filing fee was processed on February 11, 2026. The form was received by the Orlando Immigration Court on February 13, 2026. He does not have a final order of removal.
6. On March 9, 2026, Petitioner was arrested in St. Johns, Florida, while driving on Interstate 95 on his way to work. He was stopped by a sheriff for driving without a valid driver's license and was subsequently transferred to ICE custody.
7. Following his arrest, Petitioner was first detained in Jacksonville, Florida, where he became ill and did not receive adequate medical attention. He was later transferred to the Folkston D. Ray ICE Processing Center in Folkston, Georgia, where he currently remains detained.
8. Petitioner has no serious criminal history. He has never been convicted of any violent crime, weapons offense, drug offense, domestic violence, DUI, theft, or any felony. His only reported criminal matter is the pending nonviolent charge of driving without a valid license.
9. While detained, Petitioner was unable to appear at the traffic court hearing for the driving-without-a-license charge. From the detention center, he sent communication to the traffic court requesting to resolve the matter and expressing his intention to comply with any pending obligations.
10. Prior to his detention, Petitioner worked for approximately five years in the construction industry, demonstrating stable employment, economic self-sufficiency, and integration into the community.

11. Petitioner is the father of D[redacted] a three-year-old United States citizen born in Orlando, Florida. The birth certificate identifies Hallan as the biological father.

12. Petitioner maintains a stable relationship with his partner, Delmy Nisbet Velasquez Lopez, who has submitted a declaration describing the severe emotional and economic impact that the detention has had on the family.

13. Petitioner has strong community ties. Multiple notarized letters of support have been submitted from community members, friends, lawful permanent residents, and members of his church, all describing him as a hardworking, respectful, responsible, and non-violent person. These letters also confirm that Petitioner has housing and economic support available upon release.

14. On June 8, 2026, Petitioner's request for bond was denied by the Immigration Judge.

15. Petitioner subsequently requested a custody redetermination, presenting additional evidence, including: (a) the birth certificate of his U.S. citizen son; (b) notarized letters of support from community members; (c) evidence of strong community ties; (d) a letter from his church; (e) evidence that he attempted to resolve the pending driving-without-a-license case while detained; and (f) evidence of the economic and emotional harm suffered by his family.

16. On July 2, 2026, Immigration Judge Daniel Pelletier denied the custody redetermination, stating: "Bond previously denied June 8, 2026. No changed circumstances shown. Court finds flight risk."

17. Notably, the IJ's order does not conclude that Petitioner is a danger to the community. The sole basis for the denial is an unsubstantiated finding of "flight risk" and a dismissive

conclusion that "no changed circumstances" were shown—despite the additional evidence presented in support of custody redetermination.

18. Petitioner timely reserved his right to appeal the IJ's decision and prepared an appeal to the Board of Immigration Appeals. On July 9, 2026, Petitioner signed documents related to the administrative appeal.

19. During his detention, Petitioner has experienced significant physical and mental health deterioration. While detained in Jacksonville, he became ill and did not receive adequate medical attention. He has experienced depression, anxiety, stress, loss of appetite, and episodes of not eating.

20. The continued separation from his three-year-old son and his partner has significantly aggravated his emotional state. His health—physical and mental—continues to deteriorate.

21. The Government has not demonstrated that Petitioner's continued civil immigration detention serves any legitimate governmental interest that cannot be served by less restrictive alternatives, such as supervised release, electronic monitoring, or periodic reporting.

LEGAL FRAMEWORK

1. **Statutory Basis for Detention.** Petitioner's detention is governed by 8 U.S.C. § 1226. Because Petitioner has not been convicted of any qualifying criminal offense, he is not subject to mandatory detention under § 1226(c). Instead, his custody is governed by § 1226(a), which provides for discretionary release. Under § 1226(a), the Attorney General may continue to detain the arrested alien or may release the alien on bond or conditional parole. The Attorney General's discretionary judgment regarding the application of this

section is not itself subject to review, but the constitutional authority for detention remains subject to judicial scrutiny through habeas corpus.

2. **Due Process Clause.** The Fifth Amendment prohibits the government from depriving any "person" within the United States of liberty without due process of law. Federal immigration detention is a form of civil detention and must comply with the Due Process Clause of the Fifth Amendment. Under the Fifth Amendment, civil detention must be "nonpunitive in purpose and effect." A detainee can prevail on a Due Process claim by showing that the restriction appears excessive in relation to a legitimate nonpunitive governmental purpose. The Supreme Court has held that "[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem" under the Fifth Amendment's Due Process Clause. See Zadvydas v. Davis, 533 U.S. 678 (2001).

3. **Habeas Corpus as the Proper Vehicle.** Federal courts have jurisdiction under 28 U.S.C. § 2241 to review the legality of immigration detention. Habeas corpus is the proper vehicle for challenging the fact and duration of confinement. While the Supreme Court in Demore v. Kim, 538 U.S. 510 (2003), found that detention during removal proceedings is a constitutionally permissible part of that process, Justice Kennedy's concurrence recognized that "since the Due Process Clause prohibits arbitrary deprivations of liberty, a lawful permanent resident alien such as respondent could be entitled to an individualized determination as to his risk of flight and dangerousness if the continued detention became unreasonable or unjustified." Id. at 532 (Kennedy, J., concurring). Justice Souter's dissent further argued that the Due Process Clause requires an individualized determination of necessity before detention, and that blanket mandatory detention without a hearing is unconstitutional when the government concedes there is no specific risk. Id. at 536 (Souter,

J., dissenting). The clear import of Demore is not that an alien can be detained indefinitely while proceedings are pending, but merely that detention is permissible so long as it is reasonable and of limited duration. See Bourguignon v. MacDonald, 667 F. Supp. 2d 175, 184 (D. Mass. 2009) (interpreting Demore to include an implicit reasonableness limitation on detention). In this case, Petitioner has been detained for approximately four months based solely on a nonviolent driving-without-a-license charge, without any finding of dangerousness, and with strong family, community, and employment ties. This detention has become unreasonable and unjustified.

4. ***Mathews v. Eldridge* Balancing.** Applying the three-part test from Mathews v. Eldridge, 424 U.S. 319 (1976), confirms that Petitioner's continued civil immigration detention violates due process. First, Petitioner has a fundamental private interest in his liberty and in maintaining his relationship with his U.S. citizen son. Second, the risk of erroneous deprivation is extremely high, as the IJ failed to properly consider additional evidence including the birth certificate of a U.S. citizen child, community support letters, and evidence of stable employment. Third, the governmental interest in continued detention is minimal given the availability of less restrictive alternatives. See Black v. Decker, No. 22-1842 (2d Cir. May 31, 2024) (Mathews supplies the proper framework for determining when additional procedural protections are due in prolonged immigration detention); Darko v. Sessions, 342 F. Supp. 3d 429 (S.D. Ill. 2018) (the balance of Mathews factors supports imposing the greater risk of error on the Government by allocating the burden of proof to it); M.T.B. v. Byers, No. 3:24-cv-139 (E.D. Ky. Aug. 20, 2024) (when Mathews factors favor the detainee, relief is appropriate).

5. **Civil Detention Must Not Be Punitive.** Civil detention violates the Fifth Amendment

when conditions of confinement amount to punishment. As the Supreme Court held in Kingsley v. Hendrickson, 576 U.S. 389 (2015), a pretrial detainee can prevail by providing only objective evidence that the challenged governmental action was not rationally related to a legitimate governmental objective or that it was excessive in relation to that purpose. This objective standard applies to civil detainees. Petitioner's detention—based solely on a nonviolent driving-without-a-license charge, with no finding of dangerousness, and causing depression, anxiety, illness, and family separation—is excessive in relation to any legitimate civil immigration purpose.

6. **Detention Must Bear a Reasonable Relation to Its Purpose.** Supreme Court precedent provides that "detention incidental to removal must bear a reasonable relation to its purpose." See Rodriguez v. Robbins, 804 F.3d 1060, 1086 (9th Cir. 2015) (citing Demore, 538 U.S. at 527; Zadvydas, 533 U.S. at 690). At some point, the length of detention becomes "so egregious that it can no longer be said to be 'reasonably related' to an alien's removal." Id. The critical inquiry is whether the detention is excessive in relation to the government's interests. See Sengchanh v. Lanier, 89 F. Supp. 2d 1356, 1364 (N.D. Ga. 2000); In re Indefinite Detention Cases, 82 F. Supp. 2d 1098, 1104 (C.D. Cal. 2000). Dangerousness and flight risk are permissible considerations, but detention must not be excessive in relation to those interests. See Rosales-Garcia v. Holland, 238 F.3d 704, 717 (6th Cir. 2001) (concluding that confinement had "crossed the line from permissive regulatory confinement to impermissible punishment" and ordering release). Substantive due process requires a close nexus between the government's goals and the deprivation of liberty. See Patel v. Zemski, 275 F.3d 299, 316 (3d Cir. 2001) (the goals of preventing absconding or endangering the community "only justify detention of those individuals who

present such a risk").

7. **Government's Burden.** Due process requires a meaningful custody procedure appropriate to the circumstances, including a fair allocation of the burden of proof. Under the circumstances of Petitioner's continued detention, the Government should be required to justify it by clear and convincing evidence. See Darko v. Sessions, 342 F. Supp. 3d 429, 452 (S.D. Ill. 2018) (the balance of interests supports imposing the greater risk of error on the Government).

8. **Persuasive Authority Supporting Immediate Release.** Multiple federal district courts have granted habeas relief and ordered immediate release where the petitioner had no final removal order, lacked a serious criminal history, and presented significant family and medical circumstances. In Rafaela Neri Angel v. Warden, et al., No. 5:26-cv-03269-MWC-JDE (C.D. Cal. June 18, 2026), the court granted habeas relief and ordered immediate release where the petitioner had no final removal order, lacked a criminal history, and presented significant medical and family circumstances. This case is the closest factual analogy to Petitioner's situation because Hallan has a pending asylum case, no violent or serious criminal history, a U.S. citizen child, substantial family hardship, and deteriorating health in detention. In Anyelimar Del Valle Gonzalez Gomez v. Warden, et al., No. 5:26-cv-03530-SSS-MBK (C.D. Cal. July 2, 2026), the court granted habeas relief to a detained asylum applicant whose removal proceedings remained pending, demonstrating that § 2241 permits immediate release during ongoing removal proceedings when continued detention is constitutionally unjustified. In Anderson Ruben G.L. v. Warden, et al., No. 1:26-cv-02828-TLN-DMC (E.D. Cal. May 1, 2026), the court recognized habeas as the proper vehicle to challenge the legality of immigration detention and ordered immediate

release, establishing that a petitioner challenging detention is not challenging the merits of immigration proceedings. In Zhou Xaixuan v. Warden, et al., No. 5:26-cv-02431-HDV-PD (C.D. Cal. June 4, 2026), the court granted habeas and preliminary injunctive relief, ordered release, and entered protections designed to prevent the Government from frustrating the court's jurisdiction. In Zhang Zhiming v. D. Martin, et al., No. ED CV 26-01234-DMG-DTB (C.D. Cal. June 5, 2026), the court accepted a recommendation for immediate release and recognized the court's authority to provide effective protection against unlawful detention and improper future re-detention. In Mario Benito Quichimbo-Jimenez v. Warden, No. 2:26-cv-00739-DAD-EFB (E.D. Cal. Mar. 10, 2026), the court granted habeas and ordered immediate release, confirming the general principles that physical liberty is constitutionally protected and that a habeas court can order release and preserve the effectiveness of its judgment. In Chengyue Wu v. Warden, et al., No. 5:26-cv-02404-CV-DSR (C.D. Cal. June 1, 2026), the court addressed the Government's attempt to introduce new detention theories after the initial response, providing authority for situations where the Government later introduces a new detention theory, alleged final removal order, or other factual basis that it failed to raise in its original response.

CLAIMS FOR RELIEF

COUNT ONE — CONTINUED DETENTION VIOLATES SUBSTANTIVE DUE PROCESS

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. The Due Process Clause of the Fifth Amendment prohibits the government from depriving any person of liberty without due process of law.
3. Petitioner's continued civil immigration detention violates substantive due process

because: (a) he has no serious criminal history and is not a danger to the community; (b) the Immigration Judge did not find him dangerous; (c) his only reported incident is driving without a license—a nonviolent traffic offense; (d) he has a pending asylum case, a U.S. citizen child, a stable partner, family and community support, and a five-year employment history; and (e) the detention has caused severe harm to his physical and mental health and to his U.S. citizen son.

4. Maintaining Petitioner detained for a nonviolent driving-without-a-license incident constitutes a restriction of liberty that is disproportionate and punitive, although his detention is formally civil.
5. The detention has become excessive in relation to any legitimate civil immigration purpose. The government's interest in detaining Petitioner is minimal given the absence of dangerousness, the availability of less restrictive alternatives, and his strong incentives to appear for proceedings, including a pending asylum case and a U.S. citizen child.
6. Petitioner is therefore entitled to immediate and unconditional release from custody.

COUNT TWO — CONTINUED DETENTION VIOLATES PROCEDURAL DUE PROCESS

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. The continued civil immigration detention of Petitioner without constitutionally adequate procedural protections violates the Due Process Clause of the Fifth Amendment.
3. The July 2, 2026 custody determination did not afford Petitioner a constitutionally adequate procedure. The Immigration Judge's conclusion that "no changed circumstances" were shown, despite the additional evidence—including the birth certificate of a U.S. citizen child, community support letters, evidence of stable employment, and evidence of efforts

to resolve the pending driving charge—reflects a process that did not meaningfully consider the totality of Petitioner's circumstances.

4. Applying the *Mathews v. Eldridge* balancing test, each factor weighs in Petitioner's favor: (a) Petitioner's liberty interest is fundamental; (b) the risk of erroneous deprivation is high given the IJ's failure to meaningfully consider key evidence; and (c) the government's interest is minimal given the availability of less restrictive alternatives.
5. The Government has not demonstrated that Petitioner's continued physical confinement remains necessary or constitutionally justified. The Government should bear the burden of justifying continued detention by clear and convincing evidence.
6. The deprivation of liberty without sufficient constitutional justification violates the Fifth Amendment, and Petitioner is entitled to immediate and unconditional release.

COUNT THREE — DETENTION IS EXCESSIVE IN RELATION TO ITS CIVIL PURPOSE

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. Civil immigration detention cannot be used as punishment. Petitioner is not serving a criminal sentence. His custody is exclusively civil.
3. However, the conditions and consequences of the detention—illness, depression, anxiety, stress, loss of appetite, episodes of not eating, separation from his three-year-old U.S. citizen son, and inability to support his family—make the detention excessive and punitive.
4. The severity of these consequences, weighed against the nonviolent nature of the only reported incident (driving without a valid license), renders the detention excessive in relation to any legitimate civil immigration purpose.
5. The detention has crossed the line from permissive regulatory confinement to

impermissible punishment without trial.

6. Petitioner is entitled to immediate and unconditional release.

COUNT FOUR — IMMEDIATE RELEASE IS THE NECESSARY AND EFFECTIVE REMEDY

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. A new administrative hearing would not fully remedy the deprivation of liberty that Petitioner has already suffered.
3. The remedy requested must be a federal order that: (a) declares Petitioner's continued detention unlawful or unconstitutional; (b) orders his immediate and unconditional release; (c) prevents Respondents from prolonging his custody through a new administrative decision based on the same facts; and (d) preserves the Court's jurisdiction until release is completed.
4. Petitioner does not request a bond hearing, bond redetermination, or release conditioned upon payment of bond. He requests immediate and unconditional release from unlawful civil immigration detention.
5. Petitioner is entitled to immediate, unconditional release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Hallan Josue Lopez Lopez respectfully requests that this Court:

A. Assume jurisdiction over this action;

B. Issue the writ of habeas corpus pursuant to 28 U.S.C. § 2241;

C. Declare that Petitioner's continued civil immigration detention violates the Due Process Clause of the Fifth Amendment;

D. Order Respondents to immediately release Petitioner from immigration custody;

E. Issue a Temporary Restraining Order and preliminary injunction requiring Petitioner's immediate release while this action remains pending;

F. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court before the Court resolves the petition and completes the relief ordered;

G. Enjoin Respondents from taking any action designed to frustrate or defeat this Court's jurisdiction;

H. Retain jurisdiction until Respondents confirm that Petitioner has been physically released from custody; and

I. Grant such other and further relief as the Court deems just and proper.

VERIFICATION

I, Hallan Josue Lopez Lopez, being the petitioner, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed on July 10, 2026, at Folkston, Georgia.

Respectfully submitted,

/s/ Hallan Lopez

Hallan Josue Lopez Lopez
Pro Se