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

ANDRES GUZMAN VARGAS
Proceeding Pro Se,
Petitioner,
v.
_____, WARDEN, STEWART DETENTION CENTER;
_____, FIELD OFFICE DIRECTOR, ICE ATLANTA FIELD OFFICE;
DIRECTOR, UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT;
SECRETARY, DEPARTMENT OF HOMELAND SECURITY;
ATTORNEY GENERAL OF THE UNITED STATES,
Respondents.

Civil Action No.: 4:26-cv-1036-CDL-ALS

PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR A WRIT OF HABEAS CORPUS

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

INTRODUCTION

Petitioner ANDRES GUZMAN-VARGAS 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 seeks immediate release from custody. Petitioner is a 30-year-old native and citizen of Mexico who entered the United States as a child of approximately four years old in February 2000. He has lived in the United States for over 25 years. He was arrested by ICE on May 29, 2026, at the Gwinnett County Jail in Lawrenceville, Georgia, where he was being held on a misdemeanor charge. ICE took custody and transferred

him to Stewart Detention Center in Lumpkin, Georgia, where he has been detained since that date without lawful basis for continued detention. He is the father and primary caregiver of three minor U.S. citizen children.

Petitioner has a pending VAWA petition (I-360) and waiver (I-601) filed on January 3, 2025, both of which are still pending with USCIS. He has an active immigration case before the Immigration Court in Lumpkin, Georgia, with a master calendar hearing scheduled for August 11, 2026, at 2:30 PM before Immigration Judge Steven B. Fuller. His continued detention violates the Due Process Clause of the Fifth Amendment. On June 30, 2026, Immigration Judge Bianca Brown denied bond based on materially incorrect and unproven facts, treating a *nolle prossed* robbery charge as if it were a conviction and presuming guilt on a pending misdemeanor charge that has no final disposition. An appeal of that erroneous decision was timely filed with the Board of Immigration Appeals on July 16, 2026 (tracking number [redacted].

Critically, ICE's own records confirm Petitioner has "No Aggravated Felony Convictions." The Eleventh Circuit's recent decision in *Hernandez Alvarez v. Warden*, Nos. 25-14065 & 25-14075 (11th Cir. May 6, 2026), establishes that his detention is governed by the discretionary standards of 8 U.S.C. § 1226(a), not mandatory border detention under § 1225(b). The immigration judge herself recognized that § 1226 applies and that the court had jurisdiction to consider bond. Petitioner respectfully requests that this Court grant the writ and order his immediate release, or in the alternative, order a new custody hearing where the Government bears the burden of proving by clear and convincing evidence that no conditions of release can address any alleged risk.

CUSTODY

Petitioner is in the physical custody of Respondents at the Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815. He is under the direct control of:

- WARDEN, Stewart Detention Center;
- FIELD OFFICE DIRECTOR, ICE Atlanta Field Office;
- DAVID 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. The Eleventh Circuit has confirmed that 8 U.S.C. § 1252(g) does not strip federal courts of jurisdiction to review claims that detention is unlawful or prolonged beyond what is authorized by statute. *Santiago Alvarez v. U.S. Immigration and Customs Enforcement*, 818 F.3d 1194 (11th Cir. 2016).

VENUE

Venue is proper in this District and Division pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because Petitioner is detained at the Stewart Detention Center in Lumpkin, Georgia, which is located within Stewart County and falls under the jurisdiction of the U.S. District Court for the Middle District of Georgia, Columbus Division. This Court maintains a standing order related to petitions under 28 U.S.C. § 2241 for individuals detained at Stewart Detention Center.

PARTIES

Party	Description
Petitioner	I, Andres Guzman-Vargas, A-Number [redacted], citizen of Mexico, born [redacted], presently detained at the Stewart Detention Center.
Respondent 1	WARDEN, Stewart Detention Center, named in official capacity.
Respondent 2	FIELD OFFICE DIRECTOR, ICE Atlanta Field Office, named in official capacity.
Respondent 3	DAVID 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 ANDRES GUZMAN-VARGAS is a native and citizen of Mexico, born on [redacted]. He is 30 years old.
2. Petitioner entered the United States in approximately February 2000, when he was approximately four years old. He has lived in the United States for over 25 years. The United States is the only country he has known as his home.
3. Petitioner's primary language is Spanish.

4. In 2017, an immigration judge granted Petitioner voluntary departure until May 15, 2017, with an alternative order of removal if he did not depart within the deadline.
5. On January 3, 2025, Petitioner submitted to USCIS a Form I-360 petition related to the Violence Against Women Act (VAWA) and a Form I 601 application for a waiver of inadmissibility. Both applications remain pending as of the date of this petition.
6. On May 4, 2026, Petitioner was arrested in Gwinnett County, Georgia, and charged with battery-family violence, first offense, a misdemeanor (criminal case number 26-DD-01191). According to Petitioner's family, his partner arrived at the residence intoxicated, broke a window to enter, damaged doors and walls, and seized a firearm. Petitioner was able to disarm her and called the police. Both individuals were arrested. Petitioner's family maintains that he acted in self-defense and to control a dangerous situation. No final disposition has been entered in this criminal case.
7. Following his arrest, Petitioner was held at the Gwinnett County Jail, 2900 University Parkway NE, Lawrenceville, Georgia 30043, for approximately three weeks.
8. On May 29, 2026, ICE arrested Petitioner at the Gwinnett County Jail, transferred him to the ERO Atlanta Field Office, and served him with a Notice to Appear. He was subsequently transferred to the Stewart Detention Center in Lumpkin, Georgia, where he remains detained.
9. Petitioner's criminal history is limited and does not include any aggravated felony convictions. ICE's own records expressly state: "No Aggravated Felony Convictions."
10. Petitioner's criminal record consists of the following: (a) A conviction for driving without a license, resulting in an $860 fine in September 2015; (b) Convictions for criminal trespass and disorderly conduct, with sentences entered on February 2, 2017; (c) A robbery charge

that was *nolle prossed*, meaning it was not prosecuted and resulted in no conviction; (d) An alleged probation violation that was not prosecuted and has had no further action since September 5, 2020; (e) The pending misdemeanor battery-family violence charge from May 4, 2026, which has no final disposition.

11. On June 30, 2026, Immigration Judge Bianca Brown denied Petitioner's request for bond. The judge concluded that Petitioner had not met his burden of demonstrating that he was not a danger to the community or a significant flight risk.

12. However, the bond decision relied on materially incorrect and unproven facts, including: (a) Treating the *nolle prossed* robbery charge as though it were a conviction; (b) Relying on the unprosecuted probation violation as an adverse factor; (c) Presuming guilt on the pending 2026 misdemeanor charge, which has no final disposition; (d) Referencing an alleged border entry or detention in 1999, when Petitioner was approximately four years old.

13. Critically, the bond order itself recognized that under recent Eleventh Circuit decisions, Petitioner is detained under INA § 236 / 8 U.S.C. § 1226, and that the Immigration Court had jurisdiction to consider bond.

14. On July 16, 2026, Petitioner's appeal of the bond denial was filed electronically with the Board of Immigration Appeals. The filing includes the EOIR-26, EOIR-27, and the bond appeal brief. The tracking number is [redacted]

15. Petitioner has a removal case pending before the Immigration Court in Lumpkin, Georgia. His next master calendar hearing is scheduled for August 11, 2026, at 2:30 PM, via internet, before Immigration Judge Steven B. Fuller.

16. Petitioner is the father and primary caregiver of three minor U.S. citizen children: A[redacted]

[redacted], A[redacted], and J[redacted]. His family indicates he has four U.S. citizen children in total.

17. Petitioner has strong family ties in the United States. His brother, Alejandro Guzman Vargas, is a U.S. citizen. His sister, Jaqueline Guzman Vargas, is a U.S. citizen and serves in the United States Marines. These family members are prepared to support a release plan, including housing, transportation, and supervision.

18. Prior to his detention, Petitioner worked in construction for approximately seven years, demonstrating stable employment and the ability to support his children.

19. Since his detention, Petitioner has experienced significant emotional deterioration, including anxiety, stress, and worsening mental health.

20. Petitioner's continued detention has caused severe hardship to his minor U.S. citizen children, who have lost their primary caregiver and source of financial support.

21. There exist less restrictive alternatives to detention that can address any concern regarding appearance or safety, including ICE supervision, periodic reporting, electronic monitoring, surrender of passport, travel restrictions, and fixed residence with a U.S. citizen family member.

22. Petitioner's active engagement with immigration proceedings—filing VAWA and waiver applications, attending hearings, and filing a timely bond appeal—demonstrates that he has every incentive to appear and is not a flight risk.

LEGAL FRAMEWORK

1. **Statutory Basis for Detention.** Petitioner's detention is governed by 8 U.S.C. § 1226(a), which grants the Attorney General discretionary authority to release individuals on bond or conditional parole. Petitioner is not subject to mandatory detention under § 1226(c)

because he has no aggravated felony convictions and was not taken into custody immediately upon release from criminal confinement. ICE's own records confirm "No Aggravated Felony Convictions." Furthermore, the Eleventh Circuit's consolidated decision in *Hernandez Alvarez v. Warden*, Nos. 25-14065 & 25-14075 (11th Cir. May 6, 2026), held that § 1226(a), not § 1225(b)(2)(A), governs the detention of unadmitted noncitizens already living inside the United States. The court held that mandatory detention under § 1225(b)(2)(A) applies only to applicants for admission who are "seeking admission" at the border — not to those arrested in the interior of the country years after entry. Because Petitioner was arrested by ICE inside the United States, in a local jail in Georgia, more than 25 years after his entry, his detention falls squarely under § 1226(a).

2. **Mandatory Detention Under § 1226(c) Does Not Apply.** Section 1226(c) mandates detention only for certain aliens with qualifying criminal convictions who are taken into custody "when released" from criminal custody. *Cruz v. Shanahan*, 84 F. Supp. 3d 267 (S.D.N.Y. 2015) (holding that § 1226(c) mandatory detention applies only to aliens taken into custody immediately after release from criminal confinement). Petitioner was not taken into ICE custody when released from criminal custody; he was arrested by ICE approximately three weeks after his initial criminal arrest, while still in jail, and his only pending criminal charge is a misdemeanor with no final disposition. His prior convictions (criminal trespass, disorderly conduct, driving without a license) do not qualify as offenses triggering mandatory detention under § 1226(c). Therefore, his detention is governed by the discretionary standard of § 1226(a).

3. **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. The Due Process Clause requires that any deprivation of liberty be accompanied by fair procedures, including a hearing before a neutral decision-maker. Detaining Petitioner based on materially incorrect facts—treating a *nolle prossed* charge as a conviction and presuming guilt on a pending charge constitutes arbitrary and unconstitutional detention.

4 ***Mathews v. Eldridge* Balancing.** Applying the test from *Mathews v Eldridge*, 424 U.S. 319 (1976), confirms that Petitioner's continued detention is unconstitutional First, Petitioner has a profound private interest in his liberty and in the care and custody of his minor U.S. citizen children. Second, the risk of erroneous deprivation is extremely high, as the bond decision relied on materially incorrect facts and placed the burden on Petitioner rather than the Government. The Constitution requires placing the burden of proof on the government in § 1226(a) custody hearings. *Alvarez Figueroa v. Warden, Plymouth Correctional Facility* (D. Mass. 2018) (holding that requiring a non-criminal alien to prove he is not dangerous and not a flight risk at a bond hearing violates the Due Process Clause). Third, the governmental burden of providing a constitutionally adequate hearing is minimal compared to the severe harm caused by Petitioner's prolonged and arbitrary detention. The three *Mathews* factors weigh in Petitioner's favor. *Diep v. Andrews* (E.D. Cal. 2025) (holding that prolonged detention without a bond hearing violates Fifth Amendment due process rights based on *Mathews* balancing).

5. **Prolonged Detention Without Adequate Process.** It is well settled that an alien's due process rights include the right to challenge prolonged detention, and that detention for more than twelve months without a constitutionally adequate hearing raises significant

constitutional concerns. *Kader v. Barr* (W.D.N.Y. 2019). Continued detention without a bond hearing is unreasonable where, as here, the Government has not justified the necessity of continued confinement. *Cabral v. Decker*, 331 F. Supp. 3d 255 (S.D. Ill. 2018) (holding that due process requires the petitioner's release or a bond hearing). When a petitioner is entitled to a hearing because detention has become unreasonable, the hearing requires a neutral decisionmaker to address whether alternatives to detention might ameliorate risk of danger as well as risk of flight. *Cantor v. Freden* (W.D.N.Y. 2025). The Government must prove by clear and convincing evidence that the detainee poses a flight risk or danger to the community. *M.T.B. v. Byers* (E.D. Ky. 2024); *Brito v. Barr* (D. Mass. 2019) (holding that the government must prove dangerousness by clear and convincing evidence or risk of flight by a preponderance of the evidence). The decisionmaker must meaningfully consider alternatives to detention such as release on recognizance, parole, or electronic monitoring. *Sophia v. Decker* (S.D.N.Y. 2020); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227 (W.D.N.Y. 2019).

6. **Impact on U.S. Citizen Children.** The detention of a parent and primary caregiver of minor U.S. citizen children implicates fundamental liberty interests in family integrity. The government's separation of a parent from children, absent a showing of unfitness or danger, shocks the conscience and violates the Due Process Clause. *Ms. L. v. Immigration*, 302 F. Supp. 3d 1149 (S.D. Cal. 2018). Petitioner's detention has deprived his minor U.S. citizen children of their primary caregiver, financial support, and emotional stability.

7. **Pending VAWA Petition.** Petitioner has a pending VAWA petition (Form I-360) and waiver application (Form I-601) filed with USCIS on January 3, 2025. A habeas petition seeking release pending the adjudication of a VAWA claim is not meritless. *Garcia*

Alvarez v. U.S. Department of Homeland Security (D.N.H. 2020). Courts have recognized the due process implications of prolonged detention while a VAWA application is pending. *Rosas Rosas v. Becerra* (N.D. Cal. 2023) (granting habeas relief where prolonged detention without individualized bond hearing violated procedural due process, in a case involving VAWA related relief).

CLAIMS FOR RELIEF

COUNT ONE – UNLAWFUL DETENTION IN VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT

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). He has no aggravated felony convictions, and his prior convictions do not qualify as offenses triggering mandatory detention. ICE's own records confirm "No Aggravated Felony Convictions."
3. Under the Eleventh Circuit's decision in *Hernandez Alvarez v. Warden*, Nos. 25-14065 & 25-14075 (11th Cir. May 6, 2026), Petitioner's detention is governed by § 1226(a), not § 1225(b)(2)(A), because he was arrested in the interior of the United States years after his entry.
4. Respondents have detained Petitioner since May 29, 2026, under a legal framework that does not authorize mandatory detention. The immigration judge herself recognized that § 1226 applies and that the court had jurisdiction to consider bond.
5. Accordingly, Petitioner is entitled to an order requiring his immediate release from custody.

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 of 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).
3. Petitioner's continued detention violates due process because it is based on materially incorrect and unproven facts. The bond decision treated a *nolle prossed* robbery charge as though it were a conviction, relied on an unprosecuted probation violation, presumed guilt on a pending misdemeanor charge with no final disposition, and referenced an alleged border entry when Petitioner was approximately four years old.
4. A *nolle prossed* charge is not a conviction and cannot be treated as one. The continued detention of a person based on a characterization of their criminal record that is materially inaccurate or exaggerated violates due process.
5. The bond decision improperly placed the burden on Petitioner to prove he was not a danger or a flight risk, when the Constitution requires the government to bear that burden in § 1226(a) custody proceedings. *Alvarez Figueroa v. Warden* (D. Mass. 2018).
6. Petitioner's detention, which has lasted nearly two months and is based on a legally incorrect framework and materially incorrect facts, is arbitrary and unconstitutional.

COUNT THREE – VIOLATION OF THE RIGHT TO FAMILY INTEGRITY

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. Petitioner is the father and primary caregiver of three minor U.S. citizen children. His continued detention deprives these children of their primary caregiver, financial support, and emotional stability.

3. The government's separation of a parent from minor children, absent a showing of unfitness or danger, violates the fundamental liberty interest in family integrity protected by the Due Process Clause. *Ms. L. v. Immigration*, 302 F. Supp. 3d 1149 (S.D. Cal. 2018).
4. Petitioner's detention produces loss of financial support, loss of the primary caregiver, family instability, emotional harm, and difficulty covering housing, food, and childcare for his U.S. citizen children.
5. Continued detention under these circumstances is unconstitutional

COUNT FOUR – FAILURE TO CONSIDER LESS RESTRICTIVE ALTERNATIVES

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. Due process requires that a decisionmaker meaningfully consider alternatives to detention, including release on recognizance, parole, electronic monitoring, and stringent conditions of supervision. *Sophia v. Decker* (S.D.N.Y. 2020); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227 (W.D.N.Y. 2019).
3. Civil detention must be the last resort, particularly when concrete measures exist to address any concern regarding appearance or safety.
4. The Government can guarantee Petitioner's appearance through ICE supervision, periodic reporting, electronic monitoring, surrender of passport, travel restrictions, fixed residence with a U.S. citizen family member, and the obligation to attend all hearings.
5. Respondents have failed to demonstrate why any of these less restrictive alternatives are insufficient to address any concern regarding Petitioner's appearance or safety.

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 petition.

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 Stewart Detention Center, under conditions of supervision that this Court deems reasonable, including but not limited to ICE supervision, electronic monitoring, periodic reporting, and residence with a U.S. citizen family member.
6. Order Respondents to produce the complete record of Petitioner's custody, including all documents supporting the basis for detention.
7. Order the Government to identify the exact legal authority for Petitioner's continued detention and to justify why no less restrictive alternative is sufficient.
8. Enjoin Respondents from detaining Petitioner again on the same grounds without a new legal basis and due process.
9. In the alternative, and without abandoning the request for immediate release, order Respondents to provide Petitioner with a new constitutionally adequate custody hearing before a neutral decisionmaker within five (5) days, at which the Government shall bear the burden of proving by clear and convincing evidence that no condition of release can address a real danger or a concrete risk of flight, and at which the decisionmaker must meaningfully consider less restrictive alternatives to detention.

10. Grant such further relief as this Court deems just and proper.

VERIFICATION

I, Andres Guzman-Vargas, 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: July 20, 2026.

/s/ Andres Guzman Vargas
Andres Guzman Vargas
Pro Se