JUDGE DAVID BRIONES

FILED
AUG 31 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTY CLERK

1. PETITION FOR WRIT OF HABEAS CORPUS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ELIEZER JOSE YANEZ MARCANO,
A# [redacted]
Petitioner,

EP26CV2253

v.

WARDEN, CAMP EAST MONTANA DETENTION FACILITY;
FIELD OFFICE DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, EL PASO;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;
U.S. DEPARTMENT OF HOMELAND SECURITY;
ATTORNEY GENERAL OF THE UNITED STATES,
Respondents.

Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND REQUEST FOR IMMEDIATE RELEASE, BOND, OR RELEASE UNDER ATD

Petitioner, **Eliezer Jose Yanez Marcano**, A# [redacted] respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and respectfully requests immediate judicial review of his continued immigration detention.

I. JURISDICTION

1. Petitioner is a citizen and national of Venezuela.
2. Petitioner is presently detained by U.S. Immigration and Customs Enforcement ("ICE") at:

ERO El Paso Camp East Montana
6920 Digital Road
El Paso, Texas 79936.

3. Petitioner is therefore physically confined within El Paso County, Texas.
4. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal immigration custody and challenges the legality and continued duration of that custody. Section 2241 permits a federal district court to consider whether a person is in custody in violation of the Constitution or laws of the United States.
5. The Western District of Texas provides that a § 2241 petition must be filed in the division encompassing the county where the petitioner is in custody. El Paso County is within the El Paso Division. (Western District Court TX)

II. PETITIONER'S DETENTION

6. Petitioner was taken into custody on or about **March 5, 2026.**
7. Petitioner had appeared before a court concerning a matter involving the disposal of garbage in an area where such disposal was prohibited.
8. Petitioner was required to perform community service/hours as a consequence of that matter.
9. After appearing before the court and complying with the requirements imposed upon him, Petitioner was taken into ICE custody.
10. Petitioner was initially detained at the **North Florida Detention Facility in Sanderson, Florida.**
11. Petitioner was subsequently transferred to an ICE detention facility in Mississippi.
12. Petitioner has now been transferred to **ERO El Paso Camp East Montana in El Paso, Texas.**
13. Petitioner has remained detained since March 5, 2026.
14. Petitioner has no previous criminal convictions, according to the facts presented to the Court.
15. The underlying matter that led to his court appearance involved disposal of garbage in a prohibited area and resulted in community service rather than incarceration.
16. Petitioner respectfully submits that this history does not demonstrate that he presents a danger to the community.

III. PETITIONER'S FAMILY AND IMMIGRATION CIRCUMSTANCES

17. Petitioner is married to a **United States citizen.**
18. Petitioner's United States-citizen spouse previously submitted an **I-130 Petition for Alien Relative** on Petitioner's behalf.
19. The I-130 petition remains pending.
20. Petitioner's marriage and pending family-based immigration petition demonstrate substantial family ties to the United States.
21. Petitioner has every reason to comply with immigration proceedings and any conditions of release imposed by ICE or this Court.

22. Petitioner is willing to comply with all requirements imposed by ICE, including reporting requirements, electronic monitoring, GPS monitoring, check-ins, curfews, travel restrictions, or other reasonable conditions.

IV. LEGAL BASIS FOR RELEASE

23. Federal law recognizes that, in circumstances governed by 8 U.S.C. § 1226(a), an immigration detainee may be detained pending removal proceedings but may also be released on bond or conditional parole. (Legal Information Institute)
24. Petitioner respectfully requests that the Court require Respondents to identify the statutory authority under which Petitioner is being detained.
25. If Petitioner is detained pursuant to discretionary detention authority under § 1226(a), Petitioner requests release on reasonable bond or conditional parole.
26. Petitioner alternatively requests that ICE be ordered to consider release under its **Alternatives to Detention ("ATD")** program.
27. Petitioner is willing to accept electronic monitoring and any other reasonable supervision.
28. Petitioner's lack of criminal convictions, family ties, United States-citizen spouse, pending I-130 petition, and willingness to comply with supervision weigh strongly in favor of release.

V. DUE PROCESS

29. The Fifth Amendment protects persons within the United States from deprivation of liberty without due process of law.
30. Immigration detention is civil in nature and should not function as punishment.
31. Petitioner respectfully submits that continued detention must have a lawful statutory and constitutional basis.
32. Petitioner requests that Respondents be required to explain the legal basis for his continued detention and provide the Court with the records supporting that detention.
33. Petitioner further requests a prompt judicial determination concerning whether his continued detention is lawful and whether he should be released under appropriate conditions.

VI. PETITIONER DOES NOT PRESENT A DANGER TO THE COMMUNITY

34. Petitioner has no previous criminal convictions.
35. The matter resulting in his March 5, 2026 court appearance concerned disposal of garbage in a prohibited location.
36. Petitioner received community-service obligations rather than a term of incarceration.
37. Petitioner has a United States-citizen spouse.
38. Petitioner has a pending family-based immigration petition.
39. Petitioner is willing to live at a fixed residence, report to ICE, comply with electronic monitoring, and comply with every condition imposed upon him.
40. Petitioner therefore respectfully submits that detention is unnecessary to protect the community.

VII. PETITIONER IS NOT A FLIGHT RISK

41. Petitioner's marriage to a United States citizen provides him with substantial family ties in this country.
42. His pending I-130 petition provides an additional reason for Petitioner to remain available for immigration proceedings.
43. Petitioner agrees to appear for all immigration hearings and comply with all ICE reporting requirements.
44. Petitioner will accept GPS/electronic monitoring through ATD if required.
45. Petitioner will not change his address without providing the required notification.
46. Petitioner will comply with any reasonable restrictions imposed as a condition of release.

VIII. REQUEST FOR IMMEDIATE RELIEF

47. Petitioner has been detained since March 5, 2026.
48. Continued detention causes substantial hardship to Petitioner and his United States-citizen spouse.
49. Each additional day of unnecessary incarceration results in the continued loss of Petitioner's liberty and separation from his family.
50. Petitioner therefore respectfully requests that this Court expedite consideration of this Petition.
51. Petitioner asks the Court to order Respondents to show cause why Petitioner should not be released.
52. Petitioner further requests immediate release, or alternatively release on reasonable bond or under ATD supervision.

IX. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Accept and docket this Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241;

B. Order Respondents to show cause why Petitioner's detention should continue;

C. Order Respondents to provide the Court with the complete records supporting Petitioner's detention;

D. Expedite consideration of this Petition;

E. Find that Petitioner is entitled to a prompt individualized determination concerning release;

F. Order Petitioner's immediate release from ICE custody;

G. Alternatively, order release upon reasonable bond;

JUDGE DAVID BRIONES

H. Alternatively, order ICE to release Petitioner through Alternatives to Detention, including electronic monitoring or other reasonable supervision;

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

Respectfully submitted,
Eliezer Jose Yanez Marcano
ELIEZER JOSE YANEZ MARCANO
A# [redacted]
ERO El Paso Camp East Montana
6920 Digital Road
El Paso, Texas 79936

Date: 8/27/26

Signature: Eliezer Jose Yanez Marcano
Eliezer Jose Yanez Marcano, Pro Se

FILED
AUG 31 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

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2. EMERGENCY MOTION FOR TRO EXPEDITED RELEASE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ELIEZER JOSE YANEZ MARCANO,
Petitioner,

v.

WARDEN, CAMP EAST MONTANA DETENTION FACILITY, et al.,
Respondents.

Civil Action No. EP26CV2253

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER, EXPEDITED CONSIDERATION, AND IMMEDIATE RELEASE

Petitioner Eliezer Jose Yanez Marcano respectfully moves this Court for emergency relief concerning his continued immigration detention.

1. Emergency Nature of Motion

Petitioner has been detained since approximately **March 5, 2026.**

He has been transferred through multiple detention facilities and is presently confined at Camp East Montana in El Paso, Texas.

Petitioner respectfully asks the Court to consider the matter on an expedited basis because continued detention results in an ongoing deprivation of liberty.

2. Petitioner Has Strong Reasons Supporting Release

Petitioner:

- has no previous criminal convictions;
- has a United States-citizen spouse;
- has a pending I-130 family petition;
- has substantial family ties in the United States;
- is willing to comply with immigration proceedings;
- is willing to accept electronic monitoring;
- is willing to report regularly to ICE; and
- is willing to comply with any reasonable conditions of release.

3. Underlying Criminal Matter Was Minor

The event preceding ICE detention involved disposal of garbage in an area where such disposal was prohibited.

Petitioner was required to complete community-service hours.

He was not sentenced to a term of incarceration based upon the facts provided to the Court.

Petitioner respectfully submits that this circumstance does not establish that he is dangerous or that detention is necessary.

4. Requested Relief

Petitioner asks this Court to:

1. Expedite consideration of his habeas petition;
2. Order Respondents to respond immediately;
3. Order Respondents to disclose the statutory basis for Petitioner's detention;
4. Conduct an expedited hearing;
5. Order Petitioner's immediate release;
6. Alternatively, order release on reasonable bond;
7. Alternatively, order release through ICE's Alternatives to Detention program;

JUDGE DAVID BRIONES

8. Permit electronic/GPS monitoring as an alternative to incarceration; and
9. Grant any other relief necessary to protect Petitioner's constitutional rights.

Federal Rule of Civil Procedure 65 governs temporary restraining orders and preliminary injunctions.

Petitioner understands that emergency injunctive relief is extraordinary and respectfully requests it because his liberty is presently restrained and every additional day of detention causes continuing harm.

Respectfully submitted,

ELIEZER JOSE YANEZ MARCANO
A# [redacted]
Pro Se

Date: 8/21/26

Signature: Eliezer Jose Yanez Marcano

FILED
AUG 31 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

3. EMERGENCY MOTION TO EXPEDITE

EMERGENCY MOTION TO EXPEDITE CONSIDERATION OF PETITION FOR WRIT OF HABEAS CORPUS

EP26CV2253

Petitioner respectfully requests that the Court expedite consideration of his § 2241 Petition.

Petitioner has been detained since **March 5, 2026,** and is currently confined at ERO El Paso Camp East Montana.

Petitioner has been transferred between detention facilities in Florida, Mississippi, and Texas.

Petitioner respectfully submits that these transfers have prolonged his detention and made it difficult for his family to assist him.

Petitioner has no previous criminal convictions, is married to a United States citizen, and has a pending I-130 petition.

Petitioner is willing to comply with electronic monitoring, ICE reporting, ATD supervision, and all immigration proceedings.

The Western District of Texas recognizes § 2241 immigration detention cases as habeas matters, and recent Camp East Montana detainees have filed such petitions in the El Paso Division. (Justia Law)

Petitioner therefore respectfully requests that the Court:

1. Expedite the case;
2. Issue an Order to Show Cause;
3. Require Respondents to respond within a shortened period;
4. Schedule an expedited hearing if necessary; and
5. Grant immediate release, bond, or ATD supervision if the Court determines that continued detention is unlawful or unnecessary.

Respectfully submitted,

ELIEZER JOSE YANEZ MARCANO
A# [redacted]
Pro Se

Date: 8/27/26

Signature: Eliezer Jose Yanez Marcano

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4. DECLARATION OF ELIEZER JOSE YANEZ MARCANO

DECLARATION UNDER PENALTY OF PERJURY

I, **Eliezer Jose Yanez Marcano**, A# [redacted] declare under penalty of perjury as follows:

1. I am a citizen and national of Venezuela.
2. I am currently detained by ICE at ERO El Paso Camp East Montana, 6920 Digital Road, El Paso, Texas 79936.
3. I have been detained since approximately March 5, 2026.
4. On or about March 5, 2026, I appeared in court concerning a matter involving disposal of garbage in an area where disposal was prohibited.
5. I was required to perform community-service hours.
6. After appearing in court, I was taken into ICE custody.
7. I was initially detained at the North Florida Detention Facility in Sanderson, Florida.
8. I was later transferred to an ICE detention facility in Mississippi.
9. I was subsequently transferred to Camp East Montana in El Paso, Texas.
10. I have no previous criminal convictions.

11. I am married to a United States citizen.
12. My spouse submitted an I-130 petition for me last year.
13. That I-130 petition remains pending.
14. I want to remain available for my immigration proceedings and comply with all requirements imposed by the government.
15. I am willing to participate in ICE's Alternatives to Detention program.
16. I am willing to wear an electronic or GPS monitoring device.
17. I am willing to report to ICE as frequently as required.
18. I am willing to comply with a curfew and any other reasonable condition of release.
19. I am not asking the Court to excuse me from immigration proceedings.
20. I am asking only that I be permitted to defend my immigration case while living outside of detention under reasonable supervision.
21. I respectfully ask the Court to consider my lack of criminal convictions, my United States-citizen spouse, my pending I-130 petition, my willingness to comply with supervision, and the circumstances of my detention.
22. I respectfully request immediate release, release on bond, or release under ATD.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on 8/27/26, 2026.

Eliezer Jose Yanez Marcano
ELIEZER JOSE YANEZ MARCANO
[redacted]

RECEIVED
AUG 31
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

5. PROPOSED ORDER

JUDGE DAVID BRIONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ELIEZER JOSE YANEZ MARCANO,
Petitioner,

v.

WARDEN, CAMP EAST MONTANA DETENTION FACILITY, et al.,
Respondents.

EP26CV2253

Civil Action No. _____

ORDER

Upon consideration of Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, Emergency Motion for Temporary Restraining Order, Motion to Expedite, and request for immediate release, it is hereby ORDERED:

1. Petitioner's request for expedited consideration is GRANTED;
2. Respondents shall respond to the Petition within the time established by the Court;
3. Respondents shall identify the statutory and factual basis for Petitioner's continued detention;
4. Respondents shall provide the Court with the records relevant to Petitioner's custody and release eligibility;
5. The Court shall consider whether Petitioner is entitled to release, bond, conditional parole, or Alternatives to Detention supervision; and
6. The Court may schedule an expedited hearing concerning Petitioner's continued detention.

IT IS SO ORDERED.

DATED: 8/27/, 2026.

UNITED STATES DISTRICT JUDGE

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6. CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I certify that on 8/27, 2026, I served a true and correct copy of the Petition for Writ of Habeas Corpus, Emergency Motion for Temporary Restraining Order, Motion to Expedite, Declaration, and Proposed Order upon the appropriate Respondents and/or the United States Attorney's Office for the Western District of Texas as required by the Federal Rules of Civil Procedure and the orders of this Court.

Respectfully submitted,

Eliezer Jose Yanez Marcano

ELIEZER JOSE YANEZ MARCANO
A#[redacted]
Pro Se

Exhibits I recommend attaching

Exhibit A: Proof of pending I-130 / USCIS receipt notice
Exhibit B: Marriage certificate showing marriage to U.S. citizen
Exhibit C: Proof of spouse's U.S. citizenship
Exhibit D: Affidavit of Spouse Supporting his release
Exhibit E: Childs birth Certificate
Exhibit F: I-864

EXHIBIT D

AFFIDAVIT OF SPOUSE

State of Florida
County of Polk

Affidavit of Judiann Velez

I, Judiann Velez, being duly sworn, hereby declare under penalty of perjury under the laws of the United States that the following is true and correct, to the best of my knowledge and belief, as follows:

That my address and phone number are as follows:

Address: [redacted]

Phone number: [redacted]

That I am Eliezer Jose Yanez Marcano's wife and have known him since 2021.

1) My name is Judiann Velez. I am a United States citizen, born in Puerto Rico. I currently reside in Davenport, Florida. (my government-issued identification and proof of residence is attached).

2) I am the lawful wife of Eliezer Jose Yanez Marcano, and we have been legally married since April 7, 2022. Our marriage is genuine and based on trust, respect, and mutual support. (a copy of our marriage certificate attached).

3) We have a child together, and Eliezer is a very present, loving, and responsible father. He is actively involved in our child's daily life, including providing care, spending time with our child, and ensuring that our child feels safe, loved, and supported. He plays an essential role in maintaining stability in our home and family.

4) Eliezer is an honest, hardworking, and respectful man. He takes pride in providing for our family and doing the right thing. He treats me, our child, and others with kindness and patience. I have never known him to be violent, aggressive, or dangerous in any way. Based on my experience with him, I do not believe he poses any danger to the

community. He is a peaceful person who contributes positively to those around him.

5) Regarding the incident that led to his arrest, Eliezer explained to me that the situation occurred when the truck he was using became stuck near a hospital. In an effort to free the vehicle, he began removing items from the truck, including furniture and bags, to reduce its weight. He did not intend to dispose of these items. When the truck still did not move, he began placing the items back into the vehicle. This was already happening before law enforcement arrived. When officers arrived, they observed the items outside of the truck and believed he was dumping them. Based on what he explained to me; this was a misunderstanding of the situation. This incident was not intentional and does not reflect his character. He has expressed remorse, has taken responsibility, and understands the seriousness of what occurred.

6) To my knowledge, Eliezer has complied with all legal requirements and has taken his responsibilities seriously. He respects the law and understands the importance of following it.

7) Eliezer has consistently worked to support our family. He previously worked in landscaping and construction and recently began working as an electrician, which he was proud of and committed to growing in. (proof of my husband's employment and/or work history is attached). He has been a primary source of financial support for our household, helping to cover rent, food, and daily expenses. Since his detention, we have experienced significant financial hardship.

8) I am currently dealing with medical issues that affect my daily life and my ability to work consistently. Due to my condition, I have been placed on FMLA leave from my employment. Because of this, I rely heavily on Eliezer for physical, emotional, and financial support. Since his detention, my condition has worsened due to stress and the

absence of his support. (my medical records and documentation supporting my condition and FMLA status is attached).

9) His detention has caused serious hardship on our family. I am now caring for our child while managing my health condition without his help. This has been overwhelming both emotionally and physically. Our child also deeply misses him.

10) If Eliezer is released, he will reside with me at our home in Davenport, Florida. He will immediately return to work and continue supporting our family. I will ensure that he attends all immigration hearings and complies with any conditions imposed by the Court.

11) Eliezer is not a flight risk. His entire life is here in the United States—his wife, child, home, and responsibilities. He understands the seriousness of his situation and is committed to complying with all legal requirements. I am confident that he will appear at all required hearings.

I respectfully ask that Eliezer be granted bond and allowed to return home to his family. He is a devoted husband and father, and his presence is essential to our family's emotional stability, financial survival, and my medical well-being.

FURTHER AFFIANT SAYETH NAUGHT.

Judiann Velez
Affiant

Sworn to and subscribed before me on this 1 day of April, 2026.

Notary Public Arelys Estrada

ARELYS ESTRADA
Notary Public
State of Florida
Comm# HH394404
Expires 5/3/2027

My Commission Expires 05/03/2027

EXHIBIT C

PROOF OF SPOUSE US CITINSHIP

EXHIBIT A

I-130

ELIEZER JOSE YANEZ MARCANO
A-Number: [redacted]
ERO El Paso Camp East Montana
6920 Digital Road
El Paso, TX 79936

Date: August 27, 2026

VIA EMAIL / FAX / DELIVERY

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)
Enforcement and Removal Operations (ERO)
El Paso, Texas

U.S. DEPARTMENT OF HOMELAND SECURITY (DHS)

RE: NOTICE OF FEDERAL HABEAS CORPUS PETITION AND REQUEST TO DEFER REMOVAL PENDING JUDICIAL REVIEW
Name: Eliezer Jose Yanez Marcano
A-Number: [redacted]
Country of Citizenship: Venezuela

Dear ICE/ERO Officer and Department of Homeland Security:

I, **Eliezer Jose Yanez Marcano**, A-Number [redacted], respectfully provide this written notice that I have filed, or am submitting for filing, a **Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241** in the **United States District Court for the Western District of Texas, El Paso Division**, challenging my continued immigration detention and requesting judicial review of my custody.

The federal habeas petition requests, among other relief, that the Court consider my immediate release from detention, release on reasonable bond, or release under the **ICE Alternatives to Detention (ATD)** program or another appropriate form of supervision.

I have been detained since approximately **March 5, 2026.** I was initially detained at the North Florida Detention Facility in Sanderson, Florida, later transferred to an ICE detention facility in Mississippi, and have now been transferred to **ERO El Paso Camp East Montana in El Paso, Texas.**

I respectfully ask ICE and DHS to take notice of the pending federal habeas proceeding and to **refrain from removing or deporting me while the federal court has an opportunity to consider my habeas petition and my request for emergency relief,** particularly if the Court issues an order requiring a response or otherwise assumes jurisdiction over the matter.

I respectfully request that ICE place a notation in my detention and removal records reflecting that a federal habeas corpus proceeding concerning my detention is pending.

I further respectfully request that, before taking any action to remove me from the United States, ICE consider the federal judicial proceedings and any order subsequently issued by the United States District Court.

I have significant ties to the United States. I am **married to a United States citizen**, and my spouse filed an **I-130 Petition for Alien Relative** on my behalf. That petition remains pending.

I also respectfully emphasize that I have **no previous criminal convictions**. The matter that preceded my ICE detention involved disposal of garbage in an area where disposal was not permitted, and I was required to perform community-service hours.

I am willing to comply with all immigration requirements and any conditions imposed by ICE or the federal court, including:

- ICE reporting requirements;
- Electronic monitoring;
- GPS monitoring;
- Curfew requirements;
- Regular check-ins;
- Restrictions on travel; and
- Any other reasonable conditions of release.

I am not requesting that my immigration proceedings be terminated or that I be excused from appearing before the immigration authorities. I am respectfully requesting an opportunity to remain available for those proceedings while the federal court reviews the legality and circumstances of my continued detention.

REQUEST

For these reasons, I respectfully request that ICE and DHS:

1. Take notice of my pending federal habeas corpus proceeding;
2. Place notice of the federal habeas proceeding in my detention and removal records;
3. Refrain from removing me while the federal court considers my request for emergency relief, to the extent permitted by law;
4. Notify the appropriate ERO personnel and removal unit of the pending federal proceeding;
5. Consider my release on bond, conditional release, parole, or through the Alternatives to Detention program;
6. Consider my United States-citizen spouse and pending I-130 petition as significant family ties;
7. Consider my lack of previous criminal convictions and my willingness to comply with supervision; and
8. Provide reasonable notice before any removal action so that I may seek appropriate relief from the federal court if necessary.

I respectfully ask ICE to exercise appropriate discretion and allow the federal court an opportunity to review my habeas corpus petition before any removal is carried out.

Thank you for your consideration of this urgent matter.

Respectfully,
ELIEZER JOSE YANEZ MARCANO
A-Number: [redacted]
ERO El Paso Camp East Montana
6920 Digital Road
El Paso, TX 79936