

Margaret W. Wong, Esq. (IK582821)
 Attorney for Petitioner
 Margaret Wong & Associates Co. LPA
 3150 Chester Ave.
 Cleveland, Ohio 44114
 (216) 566-9908
 (216) 566-1125 (fax)
 Attorney for Petitioner

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF OHIO
 EASTERN DIVISION**

MARIO R. MONROY VILLALTA,

Petitioner,

v.

JERRY GREENE, Warden, Mahoning County Jail;
REBECCA ADDUCCI, Director of Detroit Field Office,
 U.S. Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of the U.S. Department of
 Homeland Security; and
PAMELA BONDI, Attorney General of the U.S.,
 in their official capacities,

Respondents.

Case No. 4:25-cv-1389

**PETITION FOR WRIT OF
 HABEAS CORPUS**

**ORAL ARGUMENT
 REQUESTED**

INTRODUCTION

1. Petitioner, Mario Rodolfo Monroy Villalta, is currently under mandatory detention at the Mahoning County Jail in Ohio. He was detained on May 24, 2025, and has remained detained for the 38 days between then and the date of this filing. His detention is unlawful where he was not ordered removed under 8 U.S.C. 1225(b)(1). The United States Department of Homeland Security (“DHS”) improperly placed Petitioner into expedited removal proceedings even though Petitioner was not subject to expedited removal proceedings as he had entered the

United States in 2021 and first encountered U.S. immigration officials in February 2025.

2. Furthermore, circumstances indicate that DHS engaged in ex parte communications with the Immigration Judge to delay Petitioner's bond hearing to allow DHS to initiate expedited removal proceedings that would then remove the bond case from the Immigration Judge's jurisdiction. The Immigration Judge then denied Petitioner bond for lack of jurisdiction due to Petitioner's being (wrongfully) in expedited removal proceedings, making his release not reasonably foreseeable. Accordingly, to vindicate Petitioner's constitutional, statutory, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus.
3. Absent an order from this Court, Petitioner will remain detained and face expedited removal from the United States.
4. Petitioner asks this Court to find that he was not ordered removed under 8 U.S.C. 1225(b)(1) and order his release from detention where no Notice to Appear charging document was filed and he is not properly in expedited removal.

JURISDICTION

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Under 8 U.S.C. § 1252(e)(2), this Court

has habeas authority to determine whether Petitioner was ordered removed under 8 U.S.C. § 1225(b)(1).

7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

8. Venue is proper because Petitioner is detained at the Mahoning County Jail in Youngstown, Ohio, which is within the jurisdiction of this District.
9. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and Respondent resides in this District, a substantial part of the events or omissions giving rise to his claims occurred in this District, and Petitioner resides in this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
11. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England,

affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

12. Petitioner is an asylum seeker. Petitioner is currently detained at the Mahoning County Jail. He is in the custody, and under the direct control, of Respondents and their agents.
13. Respondent Jerry Greene is the Warden of the Mahoning County Jail, and has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Greene is a legal custodian of Petitioner.
14. Respondent Rebecca Adducci is sued in her official capacity as the Director of the Detroit Field Office of U.S. Immigration and Customs Enforcement. Respondent Adducci is a legal custodian of Petitioner and has authority to release him.
15. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner’s detention. Respondent Noem is a legal custodian of Petitioner.
16. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the

immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

17. Petitioner is a 24-year-old citizen of Guatemala. Since 2021, Petitioner has been living in Cleveland, Ohio, with his step-mother—a lawful permanent resident of the U.S. Petitioner is a hardworking part of the community with close friends and regular employment. Petitioner has no criminal record.
18. Petitioner fears persecution should he be returned to Guatemala where his sister was murdered in February 2022. She was enrolled in the Guatemalan Police Academy and was graduating to become a police officer before she was brutally murdered by her wealthy boyfriend with possible gang ties who had tricked her into getting an abortion and then threatened her to not report him. The corrupt police failed to hold anyone accountable for the murder. And, the boyfriend threatened Petitioner's family in Guatemala. Petitioner has suffered severe stress and trauma as a result of the violence and threats against his family in Guatemala.
19. Petitioner arrived in the United States on his first and only entry in August 2021. He has a pending affirmative Form I-589 Application for Asylum and Withholding of Removal filed with the United States Citizenship and Immigration Service ("USCIS") on May 19, 2025.
20. Petitioner was detained by Immigration and Customs Enforcement ("ICE") once prior to his current detention. ICE officers picked up Petitioner while he was turning on a car to warm it up in the morning. On February 9, 2025, more than two years after Petitioner's entry without inspection to the United States, DHS

issued a Notice to Appear to Petitioner. On February 18, 2025, DHS filed a Form I-213 for an unrelated noncitizen irrelevant to Petitioner and his proceedings. On March 17, 2025, an immigration judge in Arizona found Petitioner not to be a flight risk or danger to the community and granted him bond. Petitioner was released from detention on March 20, 2025, after his stepmother (also his bond sponsor) posted his \$15,000 bond with ICE. On March 26, 2025, the immigration judge dismissed the proceedings without prejudice based on an unopposed motion to dismiss filed by DHS.

21. On May 24, 2025, the Saturday of Memorial Day weekend, Petitioner was walking to work with his father when ICE detained his father and then him. Undersigned counsel's colleague, attorney Olaide Oseni, reached out to ICE multiple times to inquire about why Petitioner was detained while released on bond when there had been no change in circumstances to justify the action. ICE officers denied being the arresting agency and ignored all subsequent inquiries from Counsel Oseni. Counsel Oseni then reached out to the Mahoning County Sheriff's office and learned that Petitioner was detained by ICE at the Mahoning County Jail. He also observed Petitioner's inmate profile confirming ICE to be the arresting agency.
22. On June 24, 2025, Counsel Oseni filed Respondent's Motion for Bond Determination Hearing with Exhibits in Support of Bond Request. Therein, he explained that Petitioner remained detained after one month with no charges filed against him and no removal order issued against him. Moreover, he stated Petitioner is not subject to expedited removal.

23. On June 26, 2025, Immigration Judge Jeremy Santoro of the Cleveland Immigration Court held a bond hearing, originally scheduled for 8:00 a.m. via video teleconference. Assistant Chief Counsel Gutridge (“ACC Gutridge”) appeared for DHS. And Counsel Oseni represented Petitioner. Counsel Oseni waited to be allowed into Immigration Judge Santoro’s virtual courtroom for more than four hours, until 12:30 p.m. At that time, Immigration Judge Santoro told Counsel Oseni that the delay was due to the many detained cases on the Immigration Judge’s docket that morning and that he would take a 30-minute break before hearing Petitioner’s case. Immigration Judge Santoro then informed Counsel Oseni that DHS would like to provide him with a notice—clearly indicating that ACC Gutridge had held an ex parte communication with the Court informing the Court of her intentions. During that 30-minute break, ACC Gutridge took advantage of the extensive delay and additional break time to inform Counsel Oseni that DHS would be filing an expedited removal order before Court would resume at 1:00 p.m. When Immigration Judge Santoro went back on the record at 1:07 p.m., he informed Counsel Oseni that DHS had just uploaded an expedited removal order to the online docket and that the Immigration Court, as a result, no longer had jurisdiction to hear the bond request. Counsel Oseni argued the order was unjustly issued and that the Immigration Judge should be able to examine the veracity of the order to which Petitioner is not subject. The Immigration Judge refused to review, for lack of jurisdiction, and stated maybe a federal district court judge could look into the matter.

24. Petitioner reserved appeal.

25. The obviousness of the ex parte communication which provided DHS a clear procedural advantage and violated federal regulations is stark. The bond hearing was delayed for more than 5 hours, including a break during which, the Immigration Judge informed Counsel Oseni, Counsel Oseni would receive notice from DHS. That break allowed DHS to remove the case from the Immigration Judge's jurisdiction before the Immigration Court could hold the bond hearing in a case that merited a grant of bond—as evidenced by the decision of the Arizona Immigration Court just a few months prior. The timing and sequence of events and the Immigration Judge's own words to Counsel Oseni strongly indicate that ACC Gutridge engaged in an ex parte communication with the Immigration Judge requesting a delay to allow DHS to file the very expedited removal order that then removed the whole custodial matter from the Immigration Court's jurisdiction.

LEGAL FRAMEWORK

26. Just as indicated by the Immigration Judge, Petitioner now comes before this Honorable Court for a review of the unlawful actions taken by DHS which have resulted in Petitioner's unmerited mandatory detention.
27. The statutory requirements for expedited removal are in 8 USC § 1225(b)(1). The relevant subsection reads as follows:

(I) In general

The Attorney General may apply clauses (i) and (ii) of this subparagraph to any or all aliens described in subclause (II) as designated by the Attorney General. Such designation shall be in the sole and unreviewable discretion of the Attorney General and may be modified at any time.

(II) Aliens described

An alien described in this clause is an alien who is not described in subparagraph (F), who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period

immediately prior to the date of the determination of inadmissibility under this subparagraph.

8 USC §§ 1225(b)(1)(A)(iii)(I)–(II).

28. The evidence that Petitioner filed in support of his Motion for Bond Redetermination Hearing with Exhibits in Support of Bond Request made a strong affirmative showing that Petitioner was physically present in the United States continuously for more than the 2-year period immediately prior to the date of the determination of inadmissibility under the above-quoted subparagraph—which, in this case, is the date of the expedited removal order on June 26, 2025.
29. Once subject (even unlawfully) to 8 USC § 1225(b), Petitioner also fell subject to mandatory detention wherein he “shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.” *See* 8 USC § 1225(b)(1)(A)(iii)(IV).
30. Because Petitioner has been in the United States for well over two years prior to the expedited removal order and even his first interaction with immigration officials, he is not subject to expedited removal proceedings. The evidence of this was before both the Immigration Judge and DHS who unlawfully proceeded to delay the bond hearing and file an expedited removal order. This placed Petitioner in mandatory detention and denied him a bond hearing, thereby violating his statutory and constitutional rights.
31. DHS’s actions also violated 28 CFR § 68.36, which provides as follows with respect to *ex parte* communications:
 - (a) **General.** Except for other employees of the Executive Office for Immigration Review, the Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate.

Communications by the Office of the Chief Administrative Hearing Officer, the assigned judge, or any party for the sole purpose of scheduling hearings, or requesting extensions of time are not considered *ex parte* communications, except that all other parties shall be notified of such request by the requesting party and be given an opportunity to respond thereto.

(b) ***Sanctions.*** A party or participant who makes a prohibited *ex parte* communication, or who encourages or solicits another to make any such communication, may be subject to any appropriate sanction or sanctions, including but not limited to, exclusion from the proceedings and **adverse ruling on the issue which is the subject of the prohibited communication**.

28 CFR §§ 68.36(a)–(b) (emphasis added).

32. Policy Memo 19-14, Allegations of Misconduct by EOIR Adjudicators and *Ex*

Parte Communications, issued under the authority of 8 C.F.R. § 1003.0(b),

To promote the integrity and professionalism of immigration adjudications, including immigration court proceedings, appellate reviews, and administrative hearings, EOIR expects all of its adjudicators, including immigration judges, members of the Board of Immigration Appeals, and administrative law judges, to adhere to the highest standards of ethical conduct and professionalism and to maintain impartiality in order to ensure public confidence regarding proceedings before the agency.

Such conduct includes the general avoidance of *ex parte* communications, defined as contact between an adjudicator presiding over a proceeding and one party to the proceeding during which the opposing part is not present or included. *See Ethics and Professionalism Guide for Immigration Judges* (Guide); *Ethics and Professionalism Guide for Members of the Board of Immigration Appeals*; 5 C.F.R. Parts 2635 and 3801; and 28 C.F.R. Part 45.

The Guide, which closely tracks the Code of Conduct for U.S. Judges Canon 3(A)(4), provides that immigration judges should not initiate, permit, or consider *ex parte* communications concerning a pending matter - generally, *ex parte* communications are prohibited. If an immigration judge inadvertently receives an unauthorized *ex parte* communication bearing on the substance of the matter, the immigration judge should promptly notify the parties of the substance of that communication and provide the parties with an opportunity to respond. If appropriate, the immigration judge may recuse himself or herself from the case.

Notwithstanding this general prohibition, *ex parte* communications may be permissible in limited circumstances, such as administrative, scheduling, or emergency purposes. **Those *ex parte* communications are permissible if they do not address substantive matters and the adjudicator reasonably believes**

that no party will gain procedural, substantive, or tactical advantage from such communications.

Office of the Director James R. McHenry III, U.S. Dep't of Justice, Allegations of Misconduct by EOIR Adjudicators and *Ex Parte* Communications, PM 19-14, at 2 (Sept. 15, 2004), <https://www.justice.gov/eoir/page/file/1196341/dl> (footnotes omitted) (emphasis added).

33. In this case, the Immigration Judge and DHS communicated without Petitioner's attorney's knowledge or presence, Petitioner had no opportunity to respond as evidenced by the Immigration Judge's simply providing DHS with time to file the expedited removal order and then refusing to hear any challenge to its validity. notified of such request by the requesting party and be given an opportunity to respond thereto. This communication provided DHS a procedural and tactical advantage, removing the case from the Immigration Judge's jurisdiction and placing Petitioner in mandatory detention.
34. Because DHS made a prohibited *ex parte* communication with the Immigration Judge, it is appropriate for this Court to issue sanctions, including but not limited to, an adverse ruling on the validity of the expedited removal proceedings and denial of bond for lack of jurisdiction.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

35. The allegations in the above paragraphs are realleged and incorporated herein.

36. Petitioner has been detained without any option to argue against the unlawful expedited removal order, other than this habeas petition.
37. Petitioner was subjected to mandatory detention via an abuse of procedure by the Department in issuing an arbitrary and capricious expedited removal order in the face of an abundance of evidence that Petitioner was not subject to expedited removal due to being in the United States for more than two years prior to prior to the date of the determination of inadmissibility under the relevant subparagraph.
38. Having the power to make a discretionary determination does not mean that DHS should be able to make that determination while flying in the face of the evidence before it in an arbitrary and capricious manner resulting in Petitioner's mandatory and not reviewable detention.
39. Nor does it mean that DHS can violate procedure to gain a tactical and unethical advantage via *ex parte* communication with the Immigration Court that led to robbing Petitioner of his bond hearing and right to have his detention reviewed.
40. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1225(b) and Implementing Regulations

41. The allegations in the above paragraphs are realleged and incorporated herein.
42. Petitioner has not been detained under 8 U.S.C. 1225(b) where he has affirmatively shown that he has been in the United States for over two years prior to the date of the determination of inadmissibility under the relevant subparagraph.

43. He has not been detained under 8 U.S.C. § 1225(b) where he should have been able to challenge his detention without losing that right based on *ex parte* communications in violation of 28 C.F.R. § 68.36.
44. For these reasons, Petitioner's detention violates 8 U.S.C. § 1225(b) and 28 C.F.R. § 68.36.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1225(b), and/or 28 C.F.R. § 68.36;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Margaret W. Wong
Margaret W. Wong, Esq. (IK582821)
Attorney for Petitioner
Margaret Wong & Associates Co. LPA
3150 Chester Ave.
Cleveland, Ohio 44114
(216) 566-9908
(216) 566-1125 (fax)
Counsel for Petitioner

Dated: July 1, 2025

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

I represent Petitioner, Mario Rodolfo Monroy Villalta, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 1st day of July, 2025.

/s/ Margaret W. Wong
Margaret W. Wong, Esq.