

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 2241, Article I § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”), and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. The REAL ID Act does not bar habeas jurisdiction over challenges to detention, only over final orders of removal. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *Madu v. U.S. Atty. Gen.*, 470 F.3d 1362, 1365 (11th Cir. 2006).

VENUE

Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because Petitioner is detained within this judicial district at Delaney Hall Detention Facility, 451 Doremus Avenue, Newark, New Jersey 07105.

PARTIES

Petitioner Yuly Manuel Fernandez Marte is a native and citizen of the Dominican Republic, currently detained at Delaney Hall, Newark, NJ. Respondent Kristi Noem is the Secretary of DHS. Respondent Rodney S. Scott is the Commissioner of CBP. Respondent Randi Borgen is the Field Office Director for ICE Newark. Respondent Warden of Delaney Hall has immediate physical custody of Petitioner.

FACTUAL AND PROCEDURAL HISTORY

Petitioner entered the United States on or about December 31, 2022. In May 2025, he was arrested while reporting to ICE as required. He is married to Ruth Esther Rivera, a U.S. citizen, who has filed an I-130 Petition on his behalf, which remains pending. Petitioner has no criminal convictions, steady employment, and the support of his wife and community. On June 10, 2025, Petitioner’s request for bond before the Elizabeth Immigration Court was denied. Importantly, Petitioner was not given an individualized hearing; instead, the Court held that it lacked jurisdiction to redetermine custody based on the BIA’s recent precedential decision in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

LEGAL CLAIMS

COUNT I: Unlawful Detention in Violation of the Due Process Clause

The Fifth Amendment prohibits the government from depriving individuals of liberty without due process of law. Detention must bear a reasonable relation to its purpose—ensuring attendance at hearings and preventing danger. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner’s detention serves neither purpose.

COUNT II: Statutory Violation of INA § 236(a)

Under 8 U.S.C. § 1226(a), the Attorney General has discretionary authority to release noncitizens on bond pending removal proceedings. Petitioner is not subject to mandatory detention under INA § 236(c). By denying bond without adequate justification, Respondents have exceeded their statutory authority.

COUNT III: Denial of Individualized Hearing; Exhaustion Futile

Petitioner was denied bond not after an individualized assessment but because the Immigration Court concluded that it lacked jurisdiction under *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Because *Q. Li* is precedential, exhaustion of remedies is futile. The categorical denial of jurisdiction violates due process and renders administrative remedies inadequate. Federal courts recognize futility as an exception to exhaustion. See, e.g., *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992). Accordingly, this Court should excuse exhaustion and consider Petitioner’s constitutional and statutory claims.

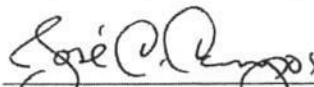
WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus ordering Petitioner’s immediate release from custody;
- c. In the alternative, order Respondents to provide a constitutionally adequate bond hearing with the burden on the Government to justify continued detention by clear and convincing evidence;

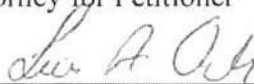
- d. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- e. Grant such other relief as the Court deems just and proper.

Dated: August 27, 2025

Respectfully submitted,



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