IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINA
ALEXANDRIA DIVISION

HENRI WALKER PALACIOS ZEPEDA,

Petitioner,

v.

JEFFREY CRAWFORD, Warden, Farmville Detention Center; MATTHEW ELLISTON, Deputy Assistant Director for Field Operations, Eastern Division, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; and PAMELA BONDI, Attorney General of the United States, in their official capacities,

Respondents.

Case No: 1:25-cv-1561

PETITION FOR WRIT OF HABEAS CORPUS

This is a petition for a Writ of Habeas Corpus filed on behalf of Mr. Henri Walker Palacios Zepeda seeking relief to remedy his unlawful detention. Respondents are detaining the Petitioner in violation of his Fifth Amendment due process rights, effectively depriving him of fundamental fairness in his immigration proceedings and exceeding the limits of the Department of Homeland Security's statutory authority. Respondents' continued detention of Petitioner also violates his Eighth Amendment Right to Protection from Cruel and Unusual Punishments.

Petitioner fully cooperated with Respondents in their pursuit of his arrest and detention.

On or about August 21, 2025, two individuals purporting to be working with or for the United States government stopped the Petitioner in Washington, D.C. These individuals, one of whom was wearing a vest with only "POLICE" written on it, and the other wearing jeans and a black shirt with no badges or other identification, arrested the Petitioner without a warrant and forced him into an unmarked SUV. They placed him in the custody of the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), later transporting him to the Farmville Detention Center in Farmville, Virginia. Petitioner's detention was for the purpose of placing him in removal proceedings and possible deportation. Petitioner has been in the United States since 2004 and had no contact with immigration officials before the date of his detention.

Subsequently, Petitioner, through counsel, filed a bond motion with the Annandale Immigration Court. On September 9, 2025, Immigration Judge John Barnes determined that the Immigration Court did not have jurisdiction to issue a bond in Petitioner's case considering a decision from the Board of Immigration Appeals (BIA), *Matter of Yajure-Hurtado*. The BIA held that any noncitizen present in the United States without having been inspected and admitted is subject to detention under 8 U.S.C. § 1225(b)(2), rather than 8 U.S.C. § 1226(a), regardless of how long they have resided in the United States and where they were encountered by immigration authorities. 29 I&N Dec. 216 (BIA 2025). Section VI, *infra,* contains an explanation of the statutory framework leading to Petitioner's detention and the BIA's decision in *Yajure-Hurtado.*

Prior to Petitioner's detention, he was not in removal proceedings, and he does not have a criminal record. Petitioner's detention is no longer justified under the Constitution or the Immigration and Nationality Act ("INA"), and this Court owes no deference to the authority under which Petitioner is detained. Petitioner seeks an order from this Court declaring his continued detention unlawful and ordering Respondents to release him from their custody.

Petitioner's next Master Calendar Hearing before the Annandale Immigration Court is on September 25, 2025. At his previous Master Calendar Hearing, Immigration Judge Barnes informed Petitioner that he would be ordered removed at this hearing unless he can obtain counsel. Urgent intervention is needed from the Court to prevent Petitioner from being deported before he is able to apply for relief from removal.

I. CUSTODY

1. Petitioner is in the physical custody of Respondent Matt Elliston, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement ("U.S. ICE"), the Department of Homeland Security ("DHS"), and Respondent Jeffrey Crawford, Warden of the Farmville Detention Center located in Farmville, Virginia. At the time of the filing of this petition, the Petitioner is detained at the Farmville Detention Center in Farmville, Virginia. The Farmville Detention Center contracts with the DHS to detain noncitizens such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

II. JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et. seq.*, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570.

3. 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), as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

4. 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.

III. VENUE

5. Venue is proper in the United States District Court for the Eastern District of Virginia, the judicial district in which Respondents, Matthew Elliston and Jeffrey Crawford reside and where Petitioner is detained. 28 U.S.C. § 1391(e).

IV. PARTIES

6. Petitioner is a national and citizen of El Salvador. He is detained by Respondents pursuant to 8 U.S.C. § 1226.

7. Respondent Crawford is the Warden of Farmville Detention Center, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. ICE to detain noncitizens and is a legal custodian of Petitioner.

8. Respondent Elliston is sued in his official capacity as the Deputy Assistant Director for Field Operations, Eastern Division, for Enforcement and Removal Operations within U.S. ICE. Respondent Ellis is a legal custodian of Petitioner and has authority to release him.

9. Respondent Kristi Noem is sued in her official capacity as the Secretary of the DHS. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. ICE, the component agency responsible for Petitioner's detention.

10. Respondent Pamela 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 Board of Immigration Appeals ("BIA").

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

11. The administrative exhaustion requirement should be excused in Petitioner's case because his claim involves serious constitutional concerns, nor is there a section in the INA requiring exhaustion of administrative remedies. *See Aguilar v. Lewis*, 50 F. Supp. 2d 539, 541 (E.D. Va. 1999) ("[T]here is no federal statute that imposes an exhaustion requirement on [noncitizens] taken into custody pending their removal."); *see also Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022) ("[W]here Congress had not clearly required exhaustion, sound judicial discretion governs") (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); *see also Guitard v. U.S. Secretary of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when … a plaintiff has raised a 'substantial constitutional question'").

12. Petitioner requested, and was granted, a Custody Redetermination Hearing at the Annandale Immigration Court on September 9, 2025. On that date, the Immigration Judge denied bond, determining that the Immigration Court lacked jurisdiction to issue a bond in his case.

13. The decision and Respondents' prolonged and legally unjustifiable detention of Petitioner implicate serious Due Process concerns. Petitioner fully cooperated with Respondents throughout the process of his detention and did not delay or obstruct his detention.

14. The U.S. Supreme Court in *McCarthy v. Madigan* explains, "an administrative remedy may be inadequate where the administrative body is shown to be biased or has otherwise predetermined the issue before it." 503 U.S. 140, 148 (1992). In issuing its decision in *Yajure-Hurtado*, the BIA clearly determined the issue in the present case.

15. The exhaustion requirement serves to "[protect] administrative agency authority and [promote] judicial efficiency." *Kurfees v. INS*, 275 F.3d 332, 336 (4th Cir. 2001). These purposes would not be served by requiring Petitioner to file a potentially frivolous appeal concerning an

issue on which the BIA already ruled less than one month prior.

16. Finally, Petitioner would be required to remain in detention during the pendency of his appeal, which would create an intolerable delay and exacerbate the harm he and his family are facing while detained.

17. There are over 186,000 cases pending at the BIA with just 17 members on the Board; accordingly, immediate action from this court is required to prevent Petitioner's continued prolonged and unjustified detention. *Executive Office for Immigration Review Adjudication Statistics*, U.S. DEP'T OF JUSTICE, https://www.justice.gov/eoir/media/1344986/dl?inline (last updated July 31, 2025); *Board of Immigration Appeals*, U.S. DEP'T OF JUSTICE, https://www.justice.gov/eoir/board-of-immigration-appeals (last updated Sep. 17, 2025).

18. Petitioner's only remedy is by way of this judicial action.

VI. STATUTORY FRAMEWORK

19. On September 9, 2025, Immigration Judge John Barnes determined that the Immigration Court did not have jurisdiction to issue a bond in Petitioner's case in light of a decision from the Board of Immigration Appeals (BIA), *Matter of Yajure-Hurtado*, which found that any noncitizen present in the United States without having been inspected and admitted is subject to detention under 8 U.S.C. § 1225(b)(2), rather than 8 U.S.C. § 1226(a), regardless of how long they have resided in the United States and where they were encountered by immigration authorities. 29 I&N Dec. 216 (BIA 2025).

Relevant Sections of the Immigration and Nationality Act

20. **8 U.S.C. § 1225 / INA § 235**: Chapter titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing."

21. **8 U.S.C. § 1225(a)(1) / INA § 235(a)(1)**: Defines applicant for admission, "for purposes

of this chapter" as "an alien present in the United States who has not been admitted or who arrives in the United States[.]"

22. **8 U.S.C. § 1225(b)(1) / INA § 235(b)(1)**: Lays out the class of noncitizens subject to expedited removal. Section 1225(b)(1)(A)(i) subjects to expedited removal any applicants for admission "who [are] *arriving in* the United States [("Arriving Aliens")] **or** who [are] described in clause (iii)" **and** who lack valid entry documents. 8 U.S.C. § 1225(b)(1)(A)(i) (emphases added). Clause (iii) provides for expedited removal of applicants for admission who are not "arriving in" the United States but who have not been admitted or paroled into the United States **and** cannot establish two years of physical presence in the United States "immediately prior to the determination of inadmissibility." 8 U.S.C. § 1225(b)(1)(A)(iii).

23. **8 U.S.C. § 1225(b)(2)(A) / INA § 235(b)(2)(A)**: A noncitizen who is an "applicant for admission" and is not clearly and beyond a doubt entitled to be admitted *must* be kept in DHS custody during the pendency of removal proceedings under 8 U.S.C. § 1229A (INA § 240). These are non-expedited proceedings and are commenced by the issuance of a charging document known as a Notice to Appear. Section 1225(b)(2) applies to arriving aliens and certain individuals stopped shortly after entry.

24. **8 U.S.C. § 1226 / INA § 236:** Chapter titled "Apprehension and detention of aliens."

25. **8 U.S.C. § 1226(a) / INA § 236(a)**: Allows the Attorney General, *on warrant*, to arrest and detain a noncitizen pending the outcome of their removal proceedings. Noncitizens arrested under a warrant may be released on bond or recognizance in DHS' discretion. Predecessor statutes to § 1226(a) authorized arrest, detention, and release of noncitizens inside the United States and permitted discretionary bond; when Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), it stated that Section 1226 "restates the current

provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release on bond a[ ] [noncitizen] who is not lawfully present in the United States[,]" indicating continuity. H.R. Rep. No. 104-469, pt. 1, at 229.

26. **8 U.S.C. § 1226(c) / INA § 236(c)**: Creates grounds of mandatory detention for criminal and terrorist noncitizens. The Laken Riley Act (LRA) added 8 U.S.C. § 1226(c)(1)(E), which requires DHS to keep detained noncitizens who are arrested for, charged with, or convicted of certain crimes, who are also inadmissible for being present in the country without inspection or admission, for lacking valid documentation, or for committing fraud or misrepresentation.

27. **8 U.S.C. § 1357(a) / INA § 287(a)**: Permits immigration officials to arrest noncitizens without a warrant where (1) the officer sees the noncitizen entering the country in violation of law; (2) the officer has reason to believe that the noncitizen is in the United States unlawfully and is likely to escape before a warrant can be obtained; or (3) the officer has reason to believe the noncitizen has committed a felony. The BIA construed the "reason to believe" standard with probable cause and recognized that a person in a vehicle may be deemed likely to escape before a warrant can be secured. *Matter of Mariscal-Hernandez*, 28 I&N Dec. 666 (BIA 2022).

Longstanding Interpretation of 8 U.S.C. §§ 1225 and 1226

28. Since 1996, the immigration courts, Board of Immigration Appeals, and federal courts recognized the plain text of these two sections, accepting that § 1225(b) only covers a narrow subset of detainees, with the rest subject to discretionary detention under the "catch-all" provision of § 1226(a). A longstanding practice of the government applying the law in a certain way can inform the court's determination of what the law is. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 386 (2024).

29. The U.S. Supreme Court added temporal and geographical confines to treating a noncitizen

as an applicant for admission. In *Department of Homeland Security v. Thuraissigiam,* the Court analyzed the constitutionality of expedited removal proceedings, it noted that the broad definition of an applicant for admission contained in § 1225 applies ***for the purposes of those subject to expedited removal.*** 591 U.S. 121, 124 (2020). Further, the Court noted that DHS historically treated noncitizens as applicants for admission only when encountered within 14 days of entry, and within 100 miles of the border. *Id.* at 134 n.2 (2020) (citing 69 Fed. Reg. 48879 (2004)).

30. Indeed, in *Jennings v. Rodriguez*, the seminal case analyzing Sections 1225 and 1226, the United States Supreme Court maintained that § 1225(b) concerns "primarily [those] seeking entry," and is generally applicable "at the Nation's borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible." 583 U.S. 281, 297, 287 (2018). On the other hand, Section 1226 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." *Id.* at 289 (emphasis added).

31. The discretionary detention provision in Section 1226 has been referred to as a catch-all provision, with the Supreme Court dubbing it a "default rule" that "applies to [noncitizens] already present in the United States." *Id.* at 288, 301.

32. In *Matter of Akhmedov*, the BIA acknowledged that noncitizens arrested within the interior of the United States and placed into removal proceedings with the issuance of a Notice to Appear (NTA) are detained under § 1226(a) and therefore the Immigration Judge had jurisdiction to consider their bond request. 29 I&N Dec. 166 (BIA 2025). *Matter of Q. Li* held that the detention of a noncitizen who is detained and arrested at or near the border and placed into expedited removal proceedings is not governed by § 1226(a) but rather by § 1225(b). 29 I&N Dec. 66, 69 (BIA 2025).

Matter of Yajure-Hurtado and DHS Policy on Detention

33. In July 2025, DHS issued a policy alert laying out a novel interpretation of these two sections unsupported by the above case law: 8 U.S.C. § 1225(b)(2) requires mandatory detention of all noncitizens present without admission, and that Immigration Judges therefore lack jurisdiction to grant them bond.

34. In *Matter of Yajure-Hurtado*, the BIA upheld DHS' policy and departed from three decades of statutory interpretation, holding that the detention of any noncitizen who is in the United States without being admitted is governed by § 1225(b)(2), irrespective of whether the noncitizen's encounter with immigration officials was when they were "arriving" or whether they have been physically present in the United States for more than two years. *Yajure-Hurtado,* 29 I&N Dec. 216 (BIA 2025).

35. Accordingly, the decision held that Immigration Judges effectively only have jurisdiction over deciding bond for noncitizens who have been inspected and admitted, and that all noncitizens present in the United States without admission or parole must be detained during the pendency of their removal proceedings. *Id.* at 218, 223. It was on this decision that the Immigration Judge denied Petitioner's request for bond and custody redetermination in the instant case, finding that the Immigration Court lacked jurisdiction over the request.

36. Respondents continue to subject Petitioner to what is effectively mandatory detention based on this flawed logic.

Chevron Overruled – Independent Statutory Interpretation Required

37. For decades, courts deferred to reasonable agency interpretations of ambiguous statutes under *Chevron* deference. On June 8, 2024, the U.S. Supreme Court overturned *Chevron U.S.A., Inc. v. NRDC* in *Loper Bright Enterprises v. Raimondo*, holding that the Administrative Procedure

Act requires courts to exercise their own independent judgment in deciding whether an agency has acted within its statutory authority. 603 U.S. 369 (2024). In its decision, the Court emphasized that judges may not defer to an agency interpretation merely because a statute is ambiguous; instead, the courts must decide the best interpretation, giving respectful consideration - but not deference - to the Executive Branch. *Id.*

VII. STATEMENT OF FACTS

38. Petitioner is a national and citizen of El Salvador who entered the United States without inspection in March 2004 and resided continuously in the United States since his entry for over two decades. Petitioner was never previously in immigration court proceedings, nor was he encountered by immigration officials prior to his detention in 2025.

39. Petitioner has a teenage U.S. citizen child, [redacted], who would suffer exceptional and extremely unusual hardship if Petitioner were to be removed from the United States.

40. On August 21, 2025, Petitioner was arrested by individuals purporting to be immigration officials but bearing no uniform identifying them as ICE. They forced him into an unmarked SUV. They allowed him to call his son before transporting him to the U.S. ICE Field Office in Chantilly, Virginia.

41. Respondents held Petitioner there until transferring him to Farmville Detention Center in Farmville, Virginia.

42. Petitioner fully cooperated with the authorities.

43. On September 2, 2025, through undersigned counsel's office, Petitioner filed a motion for bond and custody redetermination with the Annandale Immigration Court. On September 4, 2025, he supplemented the motion with evidence of his family ties to the United States, evidence for

eligibility for relief, and other favorable discretionary evidence.

44. In response, DHS filed Form I-213, which lists:

> "Processing Disposition **Warrant of Arrest/Notice to Appear**" (page 1)
>
> "CUSTODY DETERMINATION: ERO Richmond processed PALACIOS, Henry as a [NTA/VD?] and he will be held in ERO custody without bond." (page 3) (bracketed language in original).

45. The I-213 also reports that "The subject claims to be single and to have no children." Yet, upon his initial detention, Petitioner's son reports that Petitioner was given the opportunity to call him, calling into question the veracity of the I-213, which is unauthenticated and unsigned by any immigration officer.

46. Moreover, despite the I-213 stating that Petitioner was arrested by ERO WAS officers "wearing high visibility ICE issued gear, with ICE and Police identifiers," a video taken of Petitioner's arrest obtained by Petitioner's son shows quite the opposite: Petitioner was apprehended by two individuals, one of whom was wearing jeans and a black shirt with no badge or other gear, and the other was wearing a green shirt and a vest labeled "POLICE."

47. The I-213, despite stating that Petitioner will be held in ERO custody without bond, makes no mention of Petitioner being detained under Section 1225, other than the unsubstantiated statement that he will be held without bond.

48. DHS did not make available during the bond proceedings Petitioner's Notice to Appear.

49. On September 9, 2025, Petitioner appeared for a custody redetermination hearing in front of Immigration Judge ("IJ") Chris Barnes, who denied Petitioner's request for bond and determined that under *Matter of Yajure-Hurtado,* he did not have jurisdiction to consider the request. *See* Section VI, Statutory Framework, *supra,* for a discussion on the decision.

50. As of the time of filing this petition, the Petitioner's detention has lasted for more than twenty-six (26) days, approaching one (1) month, and more than a week since his bond decision.

Respondents continue to detain the Petitioner.

51. Petitioner's prolonged detention will likely cause serious and adverse consequences for his physical and mental health.

52. Petitioner is not a danger to the community or a flight risk. He has no criminal history in this country or outside the United States.

53. Petitioner has deep roots in this community. He has one U.S. citizen child who would qualify him for a form of immigration relief known as EOIR-42B, Cancellation of Removal for Certain Nonpermanent Residents

54. Petitioner maintains steady employment and provides financial support for his family. He and his family are suffering financial loss. His continued detention deprives his loved ones of his companionship and income.

55. Petitioner's teenage son reports that he suffers from extreme anxiety, sleep disruption, and other mental health symptoms because of his father's arbitrary arrest and prolonged detention. Petitioner's son found a video of his father's arrest on the popular social media app TikTok, which served to traumatize him further.

56. Respondents' decision to detain Petitioner is not legally justifiable. There is no better time for the Court to consider the merits of Petitioner's request, clarify that he is entitled to release, and affirm that the BIA's reading of the INA in *Matter of Yajure-Hurtado* and the reasoning under which Respondents continue to keep Petitioner detained is constitutionally flawed.

VIII. CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Substantive and Procedural Due Process

57. Petitioner alleges and incorporates by reference paragraphs 1 through 56 above.

The Authority Under Which Petitioner Is Being Detained Is Unlawful

58. The misinterpretation of 8 U.S.C § 1225 used to render Petitioner ineligible for bond violates the Petitioner's substantive due process rights under the Fifth Amendment to the United States Constitution as it effectively subjects him to mandatory and arbitrary detention based on a fundamentally flawed reading of the Sections 1225 and 1226.

59. The plain language of Section 1225, as supported by the U.S. Supreme Court's decision in *Thuraissigiam,* limits its definition of "applicant for admission" for purposes of that chapter. Section 1225 unambiguously lays out two categories of noncitizens who are applicants for admission for those purposes: (1) arriving aliens, and (2) those who are present without admission or parole and cannot demonstrate that they have been physically present in the country for two years.

60. This statutory interpretation created by DHS, affirmed by the BIA, and applied by the Immigration Judge in Petitioner's case impermissibly broadens the application of Section 1225 to, itself, become the "catch-all" provision for detention of noncitizens and displace § 1226, which would no longer be the "default rule" as recognized by the Supreme Court in *Jennings.*

61. Reading Section 1225 to displace Section 1226 would nullify the targeted mandatory detention provision added by the LRA for certain criminal noncitizens present without admission or parole – if all noncitizens present in the United States were ineligible for bond, then such additions would be redundant, because DHS could detain them without bond using Section 1225. When conflicting statutes are read together, they must be harmonized to give effect to each provision; courts presume that statutory amendments have real and substantial effect and avoid interpretations that render other provisions meaningless. *Corley v. United States,* 556 U.S. 303 (2009); *see also TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) ("It is 'a cardinal principle of

statutory construction' that a 'statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.'") (quoting *Duncan v. Walker*, 533 U.S. 167, 174 (2001)).

62. Furthermore, the I-213 issued by DHS indicates that Petitioner was processed under a "Warrant of Arrest/Notice to Appear." Nor has DHS placed him in expedited removal proceedings but rather in § 1229a proceedings. Under the plain language of § 1226(a) and DHS' own classification of Petitioner's processing, Petitioner's detention and custody should be governed by § 1226(a).

63. Granting another bond hearing to Petitioner would not be a sufficient remedy in his case: If he were to be granted bond by an Immigration Judge, Respondents would likely file Form EOIR-43, leading to an automatic stay of the bond decision, and later appeal the bond grant to the BIA, which would keep Petitioner detained for an unknown period of time, potentially months. A new hearing ordered by the court would be an "empty gesture" because Respondents have an avenue to prolong his detention even in light of a bond grant. *See Ashley v. Ridge*, 288 F.Supp. 2d 662, 669 (D.N.J. 2003).

64. Finally, the doctrine of *Chevron* deference no longer controls, and this court must interpret the plain language of the INA independently and may not simply accept the BIA's or DHS' misreading of §§ 1226(a) and § 1225(b)(2); it must ensure that its reading harmonizes the statutory scheme and gives effect to Congress's intent.

65. The reasoning set forth by Respondents and the BIA in *Yajure-Hurtado* has been resoundingly rejected by numerous federal district courts nationwide, each of which exercised their own independent judgement and ruled in favor of the petitioners.[1]

[1] *See Pizarro-Reyes v. Raycraft*, No. 25-cv-12546 (E.D. Mich. Sept. 9, 2025) (noting court's disagreement with *Yajure-Hurtado*); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (same); *Jimenez v. FCI Berlin,*

Petitioner's Prolonged Detention Violates His Fifth Amendment Right to Due Process

66. Government detention violates the Fifth Amendment "unless the detention is ordered in a *criminal proceeding* with adequate procedural protections or, in certain special and 'narrow' nonpunitive 'circumstances' where a special justification . . . outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Zadvydas v. Davis*, 553 U.S. 678, 690 (2001) (emphasis in original).

67. There is no "special justification" which allows the Respondents to deny the Petitioner release. He would otherwise be eligible for a reasonable bond considering his lack of criminal record, extensive ties to the United States, and length of residency.

68. Petitioner's continued detention and deprivation of a meaningful bond hearing (over which the Immigration Judge should have jurisdiction) grossly deprives the Petitioner of his procedural due process rights. This court applies the three-factor balancing test set out in *Matthews v. Eldridge* in the context of civil immigration detention. *See, e.g.*, *Santos Garcia v. Garland*, No. 1:21-cv-742 (E.D. Va Mar. 31, 2022). The three factors are (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Matthews v.*

Warden, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Doe v. Moniz,* 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180 (S.D. Ca. Sept. 3, 2025); *Lopez-Campos v. Raycroft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Benitez et al. v. Noem et al.*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Romero v. Hyde, et al.*, No. 1:25-cv-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Lopez Benitez v. Francis et al.*, No. 1:25-cv-05937-DEH, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *Rosado v. Figueroa et al.*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571, 2025 WL 1869299 (D. Mass. July 7, 2025).

Eldridge, 424 U.S. 319, 335 (1976).

69. Here, the factors weigh heavily in favor of the petitioner. First, the Petitioner has a significant private interest at stake. Freedom from bodily restraint "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 at 630. The petitioner is being detained hundreds of miles from his family and without access to counsel.

70. As to the second factor, there is an enormous risk of the erroneous deprivation of Petitioner's liberty interest. In fact, it has already occurred. Petitioner is categorically eligible for bond, not subject to mandatory detention under the INA, and an Immigration Judge with jurisdiction to hear Petitioner's bond request would likely grant him bond, given his equities.

71. Petitioner was deprived of his liberty interest when the Immigration Judge denied him bond under the authority of a fundamentally flawed decision from the BIA, which this court owes no deference.

72. Regarding the third *Matthews* factor, the government does not have a significant interest at stake in Petitioner's continued detention at the expense to taxpayers, since he has no criminal record, nor is he a danger to the community or a flight risk. Petitioner has every incentive to appear for his immigration court proceedings as his intended immigration relief (EOIR-42B, Cancellation of Removal for Certain Nonpermanent Residents) can *only* be pursued in immigration court proceedings. In contrast to the enormous interest at stake for the Petitioner, the government's interest is miniscule. On balance, the *Matthews v. Eldridge* factors weigh heavily in favor of the Petitioner.

73. Petitioner's due process rights are violated by Respondents keeping him in detention for an unnecessary period as it deprives him of fundamental fairness in his removal proceedings. Petitioner is eligible to apply for EOIR-42B, Cancellation of Removal for Certain Nonpermanent

Residents, but his access to counsel is severely impugned by the remote location of the detention center. It is nearly impossible to prepare an application for this documentation-intensive immigration benefit and prepare for an individual hearing while detained.

74. Finally, Petitioner was detained by two individuals not clearly identified by ICE uniforms or badges, despite Respondent's claim on the I-213 that he was arrested by individuals bearing "high-visibility" garb that associated them with ICE.

75. Petitioner's next Master Calendar Hearing is scheduled for Thursday, September 25th, on which date the judge will order him removed unless he can prepare this petition on short notice.

76. Without federal court action, Petitioner will likely be ordered removed without the opportunity for a fair hearing in his removal proceedings.

COUNT TWO

Violation of Eighth Amendment Right to Protection from Cruel and Unusual Punishments

77. Petitioner alleges and incorporates by reference paragraphs 1 to 56 above.

78. Respondents have Petitioner detained at the Farmville Detention Center in Virginia. Farmville has been the subject of investigations into its poor conditions, with a group of United States Senators urging the federal government to shut it down: U.S. Senator Elizabeth Warren announced in a press release that Farmville is one of four facilities that Respondents maintain with "well-documented horrific conditions, such as 'yellow drinking water,' forced sleep deprivation, prolonged solitary confinement, inadequate medical care, limited access to legal counsel, and violent retaliation against those who complain."[2]

79. On August 8, 2025, Virginia Congressman Don Beyer toured Farmville Detention Center

[2] *See* Press Release, Senator Elizabeth Warren, Warren, Senators Urge Closure of Inhumane Immigration Detention Centers (May 15, 2024), https://www.warren.senate.gov/newsroom/press-releases/warren-senators-urge-closure-of-inhumane-immigration-detention-centers.

and reported "serious medical challenges inside the facility," including an understaffed medical department unfit to manage the detainees' medical conditions.[3]

80. Even if no harm occurred so far, the unsafety of Petitioner's conditions is sufficient cause for judicial intervention. *See Helling v. McKinney*, 509 U.S. 25, 33 (1993) (explaining that the Supreme Court and Courts of Appeals have recognized a remedy for unsafe conditions where a tragic event has not yet occurred, i.e., one need not wait for a tragic event to occur to file a claim for future harm under the Eighth Amendment claim).

81. The U.S. Supreme Court has not foreclosed or even limited Eighth Amendment protections for foreign nationals in civil detention. *Vazquez Barrera v. Wolf*, 455 F. Supp. 3d 330, 336 (S.D. Tex. 2020); *see also Poree v. Collins*, 866 F.3d 235, 242–43 (5th Cir. 2017); *see generally Boumediene v. Bush*, 553 U.S. 723 (2008).

82. Petitioner's continued unlawful detention also constitutes cruel and unusual punishment under the Eight Amendment because the Petitioner is subject to mandatory, indefinite detention based solely on Respondents erroneous interpretation of 8 U.S.C. § 1225(b)(2).

83. Detainees may challenge the unconstitutional conditions of their confinement through writs of habeas corpus, an avenue which the Supreme Court has never explicitly foreclosed. *See Preiser v. Rodriguez*, 411 U.S. 475, 499-500 (1973) (stating that when "a prisoner is put under *additional and unconstitutional restraints* during his lawful custody, it is arguable that habeas corpus will lie to remove the restraints making the custody illegal.") (emphasis added); *see also Coreas v. Bounds*, 451 F. Supp. 3d 407, 419 (D. Md. 2020) ("In the absence of binding Fourth Circuit authority, this Court concludes, consistent with the positions of several circuits, that a claim by an immigration

[3] Deniel Dookan, *'They need more help': Rep. Don Beyer details medical challenges at Farmville Detention Center*, ABC 8 NEWS, Aug. 8, 2025, https://www.wric.com/news/local-news/prince-edward-county/they-need-more-help-rep-don-beyer-details-medical-challenges-at-farmville-detention-center/.

detainee seeking release because of unconstitutional conditions or treatment is cognizable . . . ." (*citing Aamer v. Obama*, 742 F.3d 1023, 1038 (D.C. Cir. 2014)).

84. Respondents' continued custody of the Petitioner has transformed civil immigration detention into cruel and unusual punishment. Petitioner has no criminal record in this country, and a neutral fact finder assuming jurisdiction over his detention would likely determine that he should be released from detention as he is not a flight risk or a danger to the community. Petitioner is eligible for relief from removal yet is indefinitely held in detention because of the manner of his entry into the United States.

85. Respondents' incorrect and reckless interpretation of a detention statute is imposing additional constitutional restraints on Petitioner's liberty, in the form of cruel and unusual punishment. As such, Petitioner challenges the fact and condition of his detention through this habeas petition.

86. Accordingly, the Petitioner prays that this court intervene and order his detention under documented, inhumane conditions unconstitutional under the Eighth Amendment.

COUNT THREE

Violation of 8 U.S.C. § 1226(a) and Implementing Regulations

87. Petitioner alleges and incorporates by reference paragraphs 1 to 56 above.

88. The continued detention of Petitioner pursuant to the erroneous interpretation of the language of 8 U.S.C. § 1225 is *ultra vires* in that it exceeds the authority that Congress conferred upon DHS and unlawfully removes the authority from the Immigration Court to determine bond eligibility. As an appointee of the Attorney General, 8 U.S.C. § 1226(a) grants the Immigration Judge discretion to decide custody matters for a broad swath of noncitizen detainees, which Immigration Judges have been doing for years.

89. Petitioner's continued detention instead is narrowing that authority to only detainees who were inspected and admitted. This argument is a dangerous misreading of the INA and immediate clarification from a federal court is needed that it is wrong.

90. Respondents' continued detention of Petitioner violates the Immigration and Nationality Act and the U.S. Constitution.

COUNT FOUR

91. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an order directing Respondents to show cause why the writ should not be granted;
3. Issue an order prohibiting Respondents from moving Petitioner outside of this Court's jurisdiction during the adjudication of this petition;
4. Issue an order prohibiting Respondents from removing him from the United States during the adjudication of this petition;
5. Issue an order requesting a postponement of Petitioner's removal proceedings during the adjudication of this petition;
6. Issue a writ of habeas corpus ordering Respondents to release Petitioner on his own recognizance, under parole, or reasonable conditions of supervision;
7. Award Petitioner reasonable costs and attorney's fees; and,
8. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

/s/ Yusuf Ahmad

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Dated: September 18, 2025

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

I represent Petitioner, Henri Palacios Zepeda, 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 18 day of September, 2025.

/s/Yusuf Ahmad