

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MANUEL ENRIQUE PEREZ LOPEZ,

Petitioner,

v.

MICHAEL BALL, Warden, Buffalo Federal Detention Facility;
TODD LYONS, Acting Director U.S. Immigrations and Customs Enforcement;
KRISTI NOEM, U.S. Secretary of Homeland Security;
STEPHEN KURZDORFER, Acting Field Office Director, Buffalo Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement;
PAMELA BONDI, United States Attorney General;
J. DOE, Acting Director, Executive Office of Immigration Review, United States Department of Justice;

Respondents.

Case No. _____

**PETITION FOR WRIT
OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner Manuel Perez Lopez, a native and citizen of Guatemala, arrived in the United States in 2011, when he was 16 years old. He was detained by immigration officials within days after crossing the border, made subject to a removal proceeding under section 240 of the Immigration and Nationality Act, and released to his mother as an unaccompanied alien child ("UAC"). The removal proceedings were administratively closed in 2016, on the motion of Respondent DHS, and then re-calendared in 2025. For over 13 years, he resided with his mother in Massachusetts. He obtained a work permit and a driver's license and was steadily employed as a landscaper. At all times, he complied with the conditions of release imposed by the Department of Homeland Security ("DHS"). He has never been charged with a crime.

2. On September 16, 2025, Mr. Perez Lopez was detained in Massachusetts by officers of U.S. Immigration and Customs Enforcement (“ICE”) shortly after he appeared at a hearing before the Immigration Court on his re-calendared removal proceeding.

3. Mr. Perez Lopez is subject to detention, if at all, pursuant to 8 U.S.C. § 1226(a). As a person detained under 8 U.S.C. § 1226(a), Mr. Perez Lopez is entitled to a custody redetermination hearing, also known as a bond hearing, with strong procedural protections.

4. On September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals—an administrative agency with jurisdiction over removal proceedings—issued a decision that purports to require the Immigration Court to deny a bond hearing to all persons situated as Mr. Perez Lopez is. Thus, notwithstanding the requirement of a bond hearing under § 1226(a), DHS takes the position that Mr. Perez Lopez is not entitled to such a hearing.

5. Mr. Perez Lopez is being irreparably harmed by his ongoing unlawful detention without a bond hearing. To remedy this harm, this Court should order that Mr. Perez Lopez be afforded a bond hearing or, in the alternative, released on his own recognizance.

JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is being held unlawfully within this judicial district and his custodian is subject to personal jurisdiction herein.

VENUE

7. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391(e), because Petitioner is physically detained in this District and Respondents' principal place of business is in this district.

PARTIES

8. Petitioner Manuel Enrique Perez Lopez is a native and citizen of Guatemala who, before his arrest and detention, resided in Lawrence, Massachusetts. He is presently in the custody of ICE at the Buffalo Federal Detention Facility in Batavia, New York.

9. Respondent Michael Ball is the Warden of the Buffalo Federal Detention Facility and is Petitioner's immediate custodian.

10. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and is sued in his official capacity. ICE oversees the enforcement of the immigration laws and is responsible for, inter alia, decisions regarding the detention of non-citizens inside the US, including those regarding Mr. Perez Lopez

11. Kristi Noem is Secretary of the Department of Homeland Security of the United States, an agency of the US government, responsible for administration and enforcement of the nations' immigration laws, and is responsible for, inter alia, decisions regarding the detention of non-citizens inside the US, including those regarding Mr. Perez Lopez

12. Respondent Stephen Kurzdorfer is the Acting Field Office Director of the Buffalo Field Office for the Enforcement and Removal Operations directorate of U.S. Immigration and Customs Enforcement within the Department of Homeland Security, and is responsible for the detention of Petitioner as complained of herein.

13. Respondent Pamela Bondi is the United States Attorney General, and has authority over the actions of the Executive Office for Immigration Review, the agency responsible for the denial of Petitioner's request for a bond hearing.

14. Respondent J. Doe, an unknown party, is the Acting Director of the Executive Office of Immigration Review, United States Department of Justice, the agency responsible for the denial of Petitioner's request for a bond hearing.

15. All respondents are named in their official capacities.

STATEMENT OF FACTS

16. Petitioner Manual Perez Lopez is a native and citizen of Guatemala who arrived in the United States in 2011 at the age of 16. As of the date of this petition, he is 29 years old.

17. In November 2011, shortly after his arrival in the United States, Mr. Perez Lopez was detained by Respondent DHS and placed removal proceeding under section 240 of the Immigration and Nationality Act, 8 U.S.C. § 1229a. He was charged by DHS with inadmissibility under section 212(a)(6)(A)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i), known as entry without inspection.

18. In February 2012, Mr. Perez Lopez, who was deemed an unaccompanied alien child, was released to his mother as his sponsor. Upon his release, he moved to Lawrence, Massachusetts, where his mother was living.

19. After engaging a lawyer to represent him in his section 240 removal proceeding, Mr. Perez Lopez filed an application for asylum and withholding of removal.

20. In January 2016, before the Immigration Court rendered any decision on his asylum application or the charge of inadmissibility, Mr. Perez Lopez's section 240 removal

proceeding was administratively closed by order of the Immigration Judge on the motion of DHS.

21. Since 2016, Mr. Perez Lopez has been permitted to work in the United States pursuant to an employment authorization document, also known as a work permit, issued by U.S. Citizenship and Immigration Services. He also holds a Massachusetts driver's license.

22. Between 2016 and the date of his arrest, Mr. Perez Lopez was employed by two landscaping companies. He had been with his most recent employer for approximately three years.

23. On May 23, 2025, DHS served a motion to recalendar Mr. Perez Lopez's proceeding before the Immigration Court. That motion was granted by the Immigration Court on June 4, 2025. A master calendar hearing was scheduled for September 16, 2025.

24. On September 16, pursuant to the notice, Mr. Perez Lopez appeared before the Immigration Court (Judge Masters). DHS did not appear, and the case was then scheduled for a "merits" hearing on Mr. Perez Lopez's application for asylum on October 20, 2028.

25. On September 16, within approximately one hour after his appearance before the Immigration Court, while Mr. Perez Lopez was parking his vehicle in Lawrence, Massachusetts, ICE officers approached the vehicle. Mr. Perez Lopez was ordered out of the vehicle and detained. He was not provided with any reason or justification for his detention.

26. Within one or two days of his arrest, Mr. Perez Lopez was transferred to the Buffalo Federal Detention Facility in Batavia, New York.

27. Mr. Perez Lopez has never been charged with a crime.

28. Mr. Perez Lopez does not pose a danger to the community or a flight risk.

29. Since his release in 2012, Mr. Perez Lopez has fully complied with the conditions of his release. In particular, Mr. Perez Lopez has never failed to apprise the Immigration Court of any change of address, as his home address has not changed since he arrived in Massachusetts in 2012.

30. The ongoing unlawful detention of Mr. Perez Lopez is causing him irreparable harm. The irreparable harm to Mr. Perez Lopez will continue for the duration of his detention.

31. On information and belief, Respondents' position is that Petitioner is not entitled to a bond hearing before an immigration judge. Thus, Respondents will not provide him with such a bond hearing, unless ordered to do so by this Court.

FIRST GROUND FOR RELIEF

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

32. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

33. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing.

34. Respondents have not and will not provide Petitioner with a bond hearing as required by law.

35. Petitioner's detention without a bond hearing thus violates the INA and 8 U.S.C. § 1226(a) and its implementing regulation.

SECOND GROUND FOR RELIEF

Violation of Fifth Amendment Right to Due Process (Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))

36. Because Petitioner is a person arrested inside the United States and is subject to detention, if at all, under 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment to

the United States Constitution requires that Petitioner receive a bond hearing with strong procedural protections.

37. Respondents have not and will not provide Petitioner with a bond hearing as required by law.

38. Petitioner's detention without a bond hearing thus violates his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution

THIRD GROUND FOR RELIEF
Violation of Fifth Amendment Right to Due Process
(Deprivation of Liberty Without Opportunity to Be Heard)

39. After Petitioner's section 240 removal proceeding was commenced in 2011, DHS released Petitioner in 2012 subject to certain conditions of release.

40. Petitioner has fully complied with the conditions of his release.

41. Pending the outcome of his removal proceeding, Petitioner has a protected liberty interest under the Fifth Amendment in his continued release from immigration detention.

42. Respondent's revocation of Petitioner's release from detention, after over ten years and without any change in circumstances, violates his rights to due process guaranteed by the Due Process clause of the Fifth Amendment.

43. Respondent's revocation Petitioner release from detention, after over ten years and without providing him an opportunity to be heard, including an opportunity to challenge his detention, violates his rights under the Due Process clause of the Fifth Amendment.

FOURTH GROUND FOR RELIEF
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

44. Because Petitioner is not being provided a bond hearing, the government is not taking any steps to effectuate its substantive obligation to ensure that immigration detention

bears a reasonable relation to the purposes of immigration detention—*i.e.*, the prevention of flight and danger to the community during the pendency of removal proceedings—and is not impermissibly punitive.

45. Petitioner's continuing detention is therefore unlawful under the Due Process Clause of the Fifth Amendment regardless of the ostensible statutory basis for the detention.

PRAYER FOR RELIEF

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

- i. assume jurisdiction over this matter;
- ii. restrain and enjoin Respondents from transferring Petitioner outside the Western District of New York except;
- iii. issue an Order to Show Cause requiring Respondents to show cause why this Petition should not be granted within three days;
- iv. declare Petitioner's detention is unlawful;
- v. issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, in the alternative, to provide Petitioner with a bond hearing at which Respondents are enjoined from denying bond to Petitioner on the ground that he is detained pursuant to 8 U.S.C. § 1225(b)(2);
- vi. granting any further relief this Court deems just and proper.

Dated: September 27, 2025

Respectfully submitted,

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