

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**

SAUL MORALES CHAVEZ,

Petitioner,

v.

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-2061

**PETITION FOR WRIT OF
 HABEAS CORPUS**

**ORAL ARGUMENT
 REQUESTED**

INTRODUCTION

1. Petitioner, Saul Morales Chavez, is currently detained at the Northeast Ohio Correctional Center ("NEOCC") in Ohio. He was detained on February 12, 2025, and has remained detained since then for a period time in excess of 180 days.
2. His detention is unlawful where he was initially denied bond for wrongly being found to be a flight risk based on the Cleveland Immigration Court's reasoning that he had left the country by flying to Puerto Rico, despite Puerto Rico's being a

territory of the United States and despite Respondent's apprehension while returning to the continental United States.

3. The Board of Immigration Appeals ("BIA") then violated Petitioner's Due Process rights by dismissing his appeal of the bond denial based on intervening precedent—*Matter of Yajure Hurtado*, 29 I&N 216 (BIA 2025)—decided while Petitioner's bond appeal was pending.
4. He remains detained to this date in violation of his Due Process rights under the United States Constitution without the possibility of bond or review of that denial of bond. Petitioner is being held without the opportunity to be heard regarding the lawfulness of his detention.
5. Petitioner is now filing a petition for writ of habeas corpus. He has been improperly held in detention and wrongly denied bond and a review of that denial.
6. This has resulted in Petitioner's detention for over six months without the opportunity to have the legality of that detention adjudicated.
7. Absent an order from this Honorable Court, Petitioner will remain detained without Due Process of the law for the duration of his immigration removal proceedings—potentially months to years longer.
8. The Government has adopted the position that noncitizens who entered the United States without admission are ineligible for immigration court bond hearings, despite federal courts' continued rulings that immigration laws and the Constitution provide for such hearings. The BIA has relied on *Matter of Yajure Hurtado* in in subjecting Petitioner to mandatory detention and refusing jurisdiction over his appeal.

9. Petitioner asks this Court to order his release from detention where his detention without possibility of appellate review of the bond determination is an unconstitutional expansion of mandatory detention.

JURISDICTION

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
11. 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) and whether the BIA and Immigration Court have jurisdiction over custody redetermination cases for noncitizens who have allegedly unlawfully entered the United States without inspection.
12. 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

13. Venue is proper because Petitioner is detained at NEOCC in Youngstown, Ohio, which is within the jurisdiction of this District.
14. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States, 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

15. 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).
16. 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

17. Petitioner is an asylum seeker. Petitioner is currently detained at NEOCC. He is in the custody, and under the direct control, of Respondents and their agents.
18. 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.
19. 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.

20. 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

21. Petitioner is a 45-year-old citizen of Mexico. Since 2001, Petitioner has been living in United States. Petitioner is a hardworking part of the community with close friends and family. He has filed taxes every year since 2008. Prior to his detention, he lived for over 16 years at the same residence in North Little Rock, Arkansas with his wife and two daughters who are both U.S.-born citizens. His wife and he own their home. Their daughters go to school in their community.
22. Petitioner fears persecution should he be returned to Mexico where his brother-in-law went missing years ago and his former neighbor was murdered by the cartel.
23. He also fears harm could come to his family in Mexico whether he were removed there and they relocated with him or whether his daughters simply visited. Both daughters suffer from mental health conditions and have seen mental healthcare

providers for years. They are in their teens or early 20s, ages where cartels view them as targets for crimes against women.

24. Petitioner arrived in the United States on his first and only entry about 2001. He has filed with the Executive Office for Immigration Review (“EOIR”) a Form I-589 Application for Asylum and Withholding of Removal and EOIR-42b Applications for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents. Those applications remain pending and are set for an individual merits hearing before the Cleveland Immigration Court on September 30, 2025.
25. Petitioner’s current detention arose when Immigration and Customs Enforcement (“ICE”) officers detained Petitioner while he was traveling back from a social trip to Puerto Rico with only his Mexican passport and no other valid entry documents.
26. Petitioner then presented his case for a custody redetermination to the Cleveland Immigration Court. On April 28, 2025, the Court denied Petitioner bond and held that Petitioner “departed outside the United States without permission” by traveling to Puerto Rico. This is premised on a legal falsehood where travel to Puerto Rico and to return to the continental United States from Puerto Rico is all domestic travel that does not require a passport or visa or inspection by U.S. Customs and Border officials. In facts, Puerto Rico has an Immigration Court San Juan—the Guaynabo Immigration Court—that is part of the same EOIR as the Cleveland Immigration Court labeled Petitioner a flight risk as he tried to return home to his family.

LEGAL FRAMEWORK

27. Just as indicated by the Immigration Judge, Petitioner now comes before this Honorable Court for a review of his unlawful and prolonged detention and the BIA's denial of jurisdiction over review of that detention.

I. Petitioner's Wrongly Being Found a Flight Risk

28. Petitioner was found a flight risk while returning to the continental United States from Puerto Rico. That finding is contrary to logic as he did not fly to a destination outside the United States and he was in the process of returning to the continental United States.

II. Petitioner's Wrongful Continued Detention under Agency Precedential Decision

29. Respondent is not subject to mandatory detention, and the BIA retained jurisdiction over review of his custody redetermination proceedings where Respondent is detained pursuant to Immigration and Nationality Act ("INA") § 236(a) and his detention cannot be deemed to be governed by INA § 235(b).
30. Expansion of INA § 235(b) under *Matter of Yajure Hurtado* to apply to all noncitizens who entered the United States without inspection is a gross contortion of the relevant statute and a stark violation of the U.S. Constitution.
31. Noncitizens detained under section 236(a) of the INA may be eligible for discretionary release on bond pursuant to section 236(a)(2) of the INA. But, noncitizens arriving in the United States who are detained under section 235(b)(1) or (b)(2) are ineligible for release on bond and their detention is mandatory until

the conclusion of removal proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018).

32. “Statutory construction . . . is a holistic endeavor. A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme—because the same terminology is used elsewhere in a context that makes its meaning clear . . . or because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law.” *See United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 371, 98 L.Ed.2d 740, 108 S.Ct. 626 (1988).
33. The heading for INA § 235(b) is “Inspection of applicants for admission” with INA § 235(b)(1) titled “Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled.” This section describes situations that mandate placing noncitizens in expedited removal, and includes two general categories of such noncitizens. The first category involves those “arriving in the United States” and found to be “inadmissible under section 1182(a)(6)(C) or 1182(a)(7) of this title . . .” *See* INA § 235(b)(1)(A)(i). The second category includes “certain other aliens who have not been admitted or paroled” and applies to those who cannot show that they have been “physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility . . .” *See* INA § 235(b)(1)(A)(iii)(II).
34. Looking at INA § 235(b)(2), titled “Inspection of other aliens,” and following the statutory scheme of that section, the “other aliens” refers to those not found inadmissible under sections 212(a)(6)(C) or 212(a)(7), and mandates their detention

for proceedings under INA § 240 if an immigration officer determines that they are not “clearly and beyond a doubt entitled to be admitted . . .”. *See* INA § 235(b)(2)(A). Moreover, in addressing the treatment of aliens arriving from contiguous territory, INA § 235(b)(2)(C) distinguishes those aliens described in subparagraph (A) who are “arriving on land,” as opposed to “arriving” in any other manner, again clearly signifying that Section 235(b)(2) is intended to cover only those applicants for admission “arriving” in the United States. This provision cannot be taken in isolation from the rest of Section 235 and interpreted to mandate detention for any and all aliens, regardless of time and place.

35. Interpreting the statute in such a broad manner would then render INA § 236(a) superfluous for all practical purposes, as anyone can be deemed to forever be an applicant for admission. For this reason, no court has ever before interpreted the mandatory detention provisions under Section 235 to apply to anyone but applicants for admission who are “arriving” in the United States. “An ‘applicant for admission’ is defined, in relevant part, as an alien ‘who arrives in the United States [whether or not at a designated port of arrival.]’” *Matter of Q. Li* at 68. “§1225(b) applies primarily to aliens seeking entry into the United States.” *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018). In *Jennings*, the Supreme Court clearly distinguishes between aliens “seeking admission” into the country at or near a port of entry, to which INA §§ 235(b)(1) and (b)(2) apply, and aliens “already in the country,” who may be detained pursuant to INA § 236. *Jennings* at 298.

36. Respondent is, thus, now within the purview of INA § 236, because Respondent is already in the country and cannot be deemed to forever be an applicant for admission.
37. Furthermore, in no precedent decision has any court required that INA § 236 apply only to aliens “admitted” into the United States. In fact, the Supreme Court has held that Section 236 governs arrest and detention of aliens who may be removed, including “aliens who were inadmissible at the time of entry.” *Id.* As the Court stated in *Zadvydas v. Davis*, “once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
38. It is, therefore, clear that the provisions of Section 235 of the INA can only apply to those seeking admission while “arriving” in the United States or those who trigger the statutory return to that same provision, as in *Matter of Q. Li*. The term “arriving” has been addressed previously by the BIA and has been defined in part by the Regulations.
39. The Regulations define an “arriving alien” as:
an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport.
See 8 C.F.R. § 1.2.
40. Although there is a dispute as to whether the term “arriving” as used in INA § 235 falls under the regulatory definition of “arriving alien,” the BIA has also previously held that the “use of the present progressive tense ‘arriving,’ rather than the past

tense 'arrived,' implies some temporal or geographical limit . . ." See *Matter of M-D-C-V-*, 28 I&N Dec. 18, 23 (BIA 2020).

41. Detention under INA § 235(b) cannot apply to anyone who has entered into the United States, as that would effectively do away with INA § 236(a) and any and all aliens can then be subject to mandatory detention without limit. Clearly this could not have been the intent of Congress, and the BIA's decision in *Matter of Yajure Hurtado* casts such a wide net that it violates the principles of Due Process described in *Zadvydas*.
42. Wherefore, in light of the foregoing, Petitioner respectfully argues that the BIA had jurisdiction to review his denial of bond and remand to the Immigration Court for a review of his request for bond not premised on a legal falsity—that he had shown himself to be a flight risk by leaving the country—when he had in fact merely sought to return home after domestic travel. Thus, Petitioner asks that this Honorable Court order his release from prolonged detention in excess of 180 days which has flowed from violations of Due Process and federal immigration law.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

43. The allegations in the above paragraphs are realleged and incorporated herein.
44. Petitioner has been detained without any option to argue against the unlawful "mandatory" detention, other than this habeas petition.
45. Petitioner was subjected to mandatory detention flowing from an arbitrary and capricious overreach by the BIA. The BIA has decided it lacks jurisdiction to

review a custody redetermination by the Immigration Court, rendering this current detention fundamentally unfair.

46. The Board's decisions in *Matter of Q. Li* and *Matter of Yajure Hurtado* violate Petitioner's Fifth Amendment Due Process rights. The BIA's expansion of warrantless arrest and mandatory detention without the possibility of bond to any noncitizen within the United States who initially entered the country without inspection, no matter how long ago and no matter where they are geographically violates Due Process rights of noncitizens triggered by their presence in the United States. *See Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886) (holding all persons within the territory of the United States are entitled to the protection of the Constitution). "The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 694 (2001) (holding even non-citizens who are subject to deportation proceedings or are unlawfully present still possess constitutional due process rights).
47. The Supreme Court has suggested that the Constitution may well preclude granting "an administrative body the unreviewable authority to make determinations implicating fundamental rights." *Id.* at 692 (quoting *Superintendent, Mass. Correctional Institution at Walpole v. Hill*, 472 U.S. 445, 450 (1985) (O'CONNOR, J.)) (citing *Crowell v. Benson*, 285 U.S. 62, 87 (1932) (Brandeis, J., dissenting) ("[U]nder certain circumstances, the constitutional requirement of due process is a requirement of judicial process")).

48. The serious constitutional problem arising out of a statute that, in these circumstances, permits an indefinite, perhaps lasting many years as immigration removal proceedings often do, deprivation of human liberty without any such protection is obvious.
49. 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), 1226(a), and Implementing Regulations

50. The allegations in the above paragraphs are realleged and incorporated herein.
51. 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.
52. 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 or, in the alternative, directing the Immigration Court to exercise jurisdiction over bond proceedings in accordance with any findings and holdings made by this Honorable Court—including a round trip from the continental United States to Puerto Rico cannot on its own evidence a flight risk and does not constitute traveling to outside the United States;
- (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: Sept. 29, 2025

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

I represent Petitioner, Saul Morales Chavez, 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 29th day of September, 2025.

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