

Steven Lyons, Esq.,  
Martin C. Liu & Associates, PLLC  
135 Bowery, 4<sup>th</sup> Floor  
New York, NY 10002  
T: (212) 255-8833  
F: (212) 226-0036

**RECEIVED**  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

OCT 01 2025

BY: DANIEL J. MCGOY, CLERK  
*KW*

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

**ERIC VINICIUS SILVA OLIVEIRA**

Petitioner,

v.

**BRYAN PATTERSON**, *Warden*, Pine Prairie ICE Processing Center;  
**BRIAN ACUNA**, Acting ICE New Orleans Field Office Director;  
**TODD M. LYONS**, Acting Director, U.S. Immigration and Customs Enforcement;  
**SIRCE OWEN**, Acting Director, Executive Office for Immigration Review;  
**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. 25-cv-1463 Sec P

**PETITION FOR WRIT OF  
HABEAS CORPUS  
PURSUANT TO 28 USC  
§2241 AND REQUEST  
FOR ORDER TO SHOW  
CAUSE**

## INTRODUCTION

1. This case presents a request for immediate relief on behalf of 26-year-old Petitioner-Plaintiff, who was issued an order of expedited removal on August 16, 2025, and is being wrongfully detained by DHS after having resided in the U.S. for more than nine years and lacking any criminal history. He has never been arrested. Respondents are holding Petitioner in civil immigration detention in Pine Prairie ICE Processing Center in Pine Prairie, LA 70576, a facility within the New Orleans ICE Field Office area of responsibility. Petitioner was initially detained at Plymouth County Correctional Facility in Plymouth, Massachusetts 02360, but he was transferred to Pine Prairie ICE Processing Center on September 26, 2025.

2. On September 8, 2025, Petitioner appeared for a bond hearing before an Immigration Judge. However, the Immigration Judge declined to make a custody determination, finding under current law, the immigration court lacked jurisdiction to redetermine custody. As a result, Petitioner has been denied any meaningful bond or custody review.

3. Over the past two months, the U.S. Department of Homeland Security (DHS) and the U.S. Department of Justice (DOJ) have abruptly and unlawfully reversed decades of settled immigration practice in order to deny immigration bond hearings and release to many people in immigration proceedings nationwide.

4. Specifically, DHS and DOJ are systematically misclassifying people arrested inside the U.S. These people are generally subject to detention provisions of 8 USC § 1226, which usually allow for release on bond and conditions during the pendency of immigration proceedings. DHS and DOJ are now misclassifying these people as being subject to 8 USC § 1225, which does not allow for release on bond. This misclassification is contrary to almost 30

years of settled law and practice, and it is unlawfully premised solely upon the manner in which the person initially entered the country – in some cases, decades ago.

5. This misclassification policy has been uniformly adopted by DHS and DOJ, and it is being applied to all civil immigration detainees and in all immigration courts, including people arrested, detained, and/or in immigration proceedings in Louisiana. As a result, DHS is currently arresting numerous people and unlawfully detaining them without any possibility of release and without any due process protections even though they are legally required to receive a bond hearing and are eligible for release on bond.

6. DHS and DOJ continue to violate the law and detain people without due process in violation of their statutory, regulatory, and constitutional rights.

7. Eric Vinicius Silva Oliveira, a citizen of Brazil, is currently detained at Pine Prairie ICE Processing Center in Pine Prairie, LA 70576, and has been in ICE custody since August 15, 2025, after being apprehended by ICE officers looking for another individual during a traffic stop. Petitioner has not been charged with a crime, and he does not possess a criminal history. Petitioner has never been arrested, nor does he have any pending criminal matters.

8. Petitioner seeks relief from his unlawful and prolonged detention by the Department of Homeland Security (“DHS”) pursuant to 8 USC § 1226(c) as his detention under § 1226(c) violates his Due Process right to the Fifth Amendment because it is prolonged, unnecessary, and not reasonably related to any legitimate governmental purpose. Accordingly, to vindicate Petitioner’s constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

### **LEGAL FRAMEWORK**

9. The fundamental principle liberty is enshrined in the Fifth Amendment's Due Process Clause, which specifically forbids the Government to "deprive[] any "person...of....liberty...without due process of law." U.S. Cons. amend. V.

10. The Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law").

11. When governmental action limits a fundamental right, here freedom from detention, heightened scrutiny is applied, and the governmental action will be upheld only if it is necessary to promote a compelling governmental interest. *See, e.g., Washington v. Glucksberg*, 521 U.S. 702, 721 (1997); *Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996)) ("Due process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake...are both particularly important and more substantial than mere loss of money.")(internal citations and quotations omitted). In addition to demonstrating a "compelling interest" in detention, the government must show that the detention is narrowly tailored, i.e., "implemented in a manner that is 'carefully limited' and 'narrowly focused.'" *Reno v. Flores*, 507 U.S. 292, 302 (1993) (quoting *Foucha v. Louisiana*, 504 U.S. 71, 81 (1992)).

12. "Under the Due Process Clause, a detainee may not be punished prior to an adjudication of guilt in accordance with due process of law." *Hare*, 74 F.3d at 651. *See also Foucha*, 504 U.S. 71 at 80. Therefore, persons detained civilly, including in immigration detention like Petitioner-Plaintiff, are entitled to "more considerate treatment and conditions of

confinement than criminals whose conditions of confinement are designed to punish.”

*Youngberg v. Romeo*, 457 U.S. 307, 322 (1982); *In re Kumar*, 402 F. Supp. 3d 377, 384 (W.D.

Tex. 2019) A person detained civilly has due process rights that are “at least as great as the Eight Amendment protections available to a convicted prisoner.” *Hare*, 74 F.3d at 639 (citations omitted).

13. Freedom from imprisonment—form government custody, detention, or other forms of physical restraint – lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 678.

14. The government asserts authority to detain Petitioner under INA §236, 8 USC §1226<sup>1</sup> or INA §235(a), 8 USC § 1225(b).

15. As the Supreme Court recognized in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), 235(b) is concerned primarily with those seeking entry,” and is generally imposed “at the Nation’s borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible. *Id.*

16. Noncitizens who are already residing in the United States, including those who are charged with inadmissibility, are subject to discretionary detention under INA § 236, 8 USC § 1226. *See Jennings*, 583 U.S. at 288-89 (describing § 1226 detention as relating to people “inside the United States” and “present in the country”). Most of these individuals are eligible for release on bond and conditions under § 1226(a), and they are consequently entitled to a custody

---

<sup>1</sup>8 USC § 1226, is silent as to the allocation of burden of proof in a bond hearing under section 1226(a). Federal regulations place the burden on the immigrant to prove they are not a danger to property or persons or a flight risk, but only in the context of decision-making by a DHS officer. 8 CFR §§ 236.1(c)(8), 1236.1(c)(8). The BIA has interpreted this regulation to mean that the same allocation of burden should apply in immigration judge bond proceedings. *See Mater of Adeniji*, 22 I&N Dec. 1102 (BIA 1999); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) and successive decisions.

redetermination (colloquially called a “bond hearing”) before an Immigration Judge to decide whether they should be detained or released. See 8 CFR §§ 1003.19(a), 1236.1(d). A bond hearing with strong procedural protections is not merely a regulatory grace; it is the baseline Due Process requirement for § 1226 detainees. See *Hernandez-Lara v. Lyons*, 10 F.4<sup>th</sup> 19, 41 (1<sup>st</sup> Cir. 2021). The Supreme Court and First Circuit have recognized only one exception to this constitutional requirement for a bond hearing for § 1226 detainees: In 2003, in *Demore v. Kim*, the Court held that, under 8 USC § 1226(c), there is a narrow category of people who can be held in mandatory detention for a brief period of time, if the person has conceded removability and has been convicted of certain crimes following all of the due process afforded by a criminal adjudication.<sup>2</sup> See 538 U.S. 510, 513 (2003).

17. This system –in which people arrested inside the U.S. are generally eligible for a bond hearing and release during immigration proceedings –has existed essentially in its current form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 3003, 110 Stat. 3009-546, 3009-585 to 3009-587 (codified at 8 USC § 1226). According to IIRIRA’s legislative history, § 1226(a) was intended to “restate[] the [then-]current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States.” See *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (quoting H.R. Rep. No. 104-469, at 229 (1996)).

---

<sup>2</sup>“Convictions” for immigration purposes includes both formal adjudications of guilt and certain factual admissions of guilt made during the judicial process, such as the Massachusetts procedure for admitting to sufficient facts in order to secure a continuance without a finding (“CWOFF”). See 8 USC § 1101(a)(48)(A); *De Vega v. Gonzalez*, 503 F.3d 45, 48-49 (1st Cir. 2007).

18. All participants in the immigration system have understood that people arrested inside the U.S. generally fall within § 1226 for detention purposes and are therefore required to receive a bond hearing upon request – even if they initially entered the country without permission.” *See Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at \*4 n.9 (D. Mass. July 24, 2025) (citing the United States Solicitor General’s representation to the Supreme Court at oral argument that “DHS’s long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended”).

19. However, around late 2022, the Immigration Court in Tacoma, Washington began misclassifying § 1226 detainees arrested inside the United States as mandatory detainees under § 1225(b)(2), solely because they initially entered the country without permission. *See Rodriguez*, 779 F. Supp. 3d at 1244. The U.S. District Court for the Western District of Washington ruled that this practice was likely illegal in April 2025 and ordered a bond hearing for a wrongfully detained litigant. *See id.* at 1263.

20. On July 8, 2025, DHS “in coordination” with DOJ, adopted the Tacoma Immigration Court’s unlawful practice nationwide. Pursuant to the July 2025 Policy, DHS’s representatives in the Immigration Courts began to request that Immigration Judges nationwide misclassify bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees and refuse to conduct bond hearings on that basis. Some Immigration Judges agreed. As a result, numerous detainees were illegally denied bond hearings and sought relief in the federal courts. Numerous courts – including many in the District of Massachusetts rejected DHS’s newly invented misclassification as illegal and ordered the detainees to receive a prompt bond hearing. *See Romero*, 2025 WL 2403827, at \*1 (collecting cases).

21. On September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (*Matter of Hurtado*), the BIA issued a precedential decision that purports to require all Immigration Judges to misclassify people in this manner. Although the *Matter of Hurtado* decision is not even a month old, multiple federal courts already ruled that the BIA's decision is not entitled to any deference under *Loper Bright Enters v. Raimondo*, 603 U.S. 369, 412-13 (2024), and have rejected the BIA's decision as contrary to law. *See, e.g., Chogllo Chafra v. Scott*, No. 25-437, 2025 WL 2688541, at \*7 (D. Me. Sep. 21, 2025) (“I find Yajure Hurtado to be unavailing....”); Order (D.E. 22), *Hilario Rodriguez*, No. 25-12358, at n.4; *Sampiao*, No. 25-11981, 2025 WL 2607924, at\*8 n.11 (“[T]he Court disagrees with the BIA for the reasons given herein.”); *Pizarro Reyes*, 2025 WL 2609425, at \*7 (“[T]he BIA’s decision to pivot from three decades of consistent statutory interpretation and call for [petitioner’s] detention under § 1225(b)(2)(A) is at odds with every District Court that has ever been confronted with the same question of statutory interpretation.”).

22. This Court has concluded that “the plain text of Sections 1225 and 1226, together with the structure of the larger statutory scheme, indicates that Section 1225(b) does not apply to noncitizens who are arrested on a warrant issued by the Attorney General while residing in the United States.”

23. Due process requires that the nature and duration of a noncriminal confinement bear “some reasonable relation to the purpose for which the individual is committed.” *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 243 (5<sup>th</sup> Cir. 2018)

24. The only legitimate purpose, consistent with due process, for federal civil immigration detention is to prevent flight risk and ensure the detained person’s attendance for a

legal hearing adjudicating their status or potential removal, or to otherwise ensure the safety of the community. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001).

25. Nevertheless, DHS and DOJ are continuing to systematically misclassify people and unlawfully deny them access to bond hearings and release on bond and conditions during the pendency of their immigration proceedings.

26. Petitioner is not seeking entry, nor was he detained at the border, thus he is not subject to detention pursuant to INA 235(b), as DHS itself acknowledges in the NTA issued to Petitioner dated 8/26/16 that he entered the United States on August 26, 2016 at or near Nogales, AZ. Paragraph (b)(1) of Section 235 encompasses only the “inspection” of certain “arriving” noncitizen and other recent entrants the Attorney General designates, and only those who are “inadmissible” for having misrepresented information to an inspecting officer or for lacking documents to enter the United States.

27. The Supreme Court has cautioned that prolonged immigration detention without individualized process raises serious constitutional concerns. See *Jennings v. Rodriguez*, 583 U.S. 281, 298-99 (2018); *Demore v. Kim*, 583 U.S. 510, 532 (2003) (upholding detention only where brief and accompanied by administrative review.)

28. Because Petitioner has been categorically denied a custody determination based on the IJ’s finding of lack of jurisdiction, his continued detention is not authorized by statute, is not reasonably related to any legitimate government interest, and violates the Fifth Amendment’s Due Process Clause. *Foucha*, 504 U.S. 71 at 86.

29. The government’s interest in detaining Petitioner Eric does not outweigh his liberty interest, especially where he has no criminal history, strong family ties, and a well-documented claim for relief from removal.

**PETITIONER'S FACTS**

30. Petitioner Eric V. Silva Oliveira is a 25-year-old citizen of Brazil who entered the United States at age 16 on August 27, 2016, and was paroled for humanitarian reasons under INA § 212(d)(5)(A). Petitioner resides in Bridgeport, CT but is currently detained in Pine Prairie Correctional Center, Pine Prairie, LA 70576.

31. Petitioner has no criminal record. He has resided in the United States for more than 9 years. He lives with his wife and their three-year old U.S. citizen daughter.

32. U.S. Immigration and Customs Enforcement (ICE) and/or other federal agents acting on ICE's behalf arrested Petitioner in Bridgeport, CT on or about August 15, 2025. The arrest occurred when ICE and/or other agents acting on ICE's behalf stopped a vehicle in which Petitioner was riding as a passenger. On information and belief, he had no prior contact with immigration officials and was not a target of the arrest operation.

33. Mr. Silva Oliveira is currently being held in ICE's custody in the Western District of Louisiana pending full removal proceedings. On information and belief, Petitioner is eligible for relief under INA §208 (Asylum), and INA §241(b)(3) (Withholding of Removal) and the Convention Against Torture. His claims are based on membership in the particular social group: "Brazilian male minors who are unable to leave an abusive relationship with adult male extended family members.

34. On August 26, 2016, DHS served Petitioner with a Notice to Appear alleging that he was not previously admitted or paroled into the United States, and that he is present in the United States without immigration status.

35. On July 8, 2021, Petitioner Eric, represented by Counsel, appeared for an individual hearing before the IJ Michael W. Straus, who ordered petitioner's removal proceedings dismissed.

36. On August 15, 2025, DHS served Petitioner with a Notice and Order of Expedited Removal pursuant to INA § 235(b)(1).

37. On August 27, 2025, Petitioner, by and through Counsel, filed a Motion for Custody Status Redetermination requesting that the Immigration Court set a reasonable bond or order his release from detention. Bond hearing was scheduled for Petitioner on September 8, 2025.

38. On September 5, 2025, DHS filed a Notice to the Court asserting that Petitioner was not eligible for bond because he is subject to Expedited Removal under INA § 235(a).

39. At the bond 9/8/25 bond hearing, the IJ denied Petitioner's request for bond on the grounds that the Court lacked jurisdiction to determine Petitioner's custody status because Petitioner is placed under mandatory detention pursuant to 8 USC §1225(b)(1) rather than 8 USC §1226. The IJ did not make factual determinations about Petitioner's potential flight risk or risk of danger to the community.

40. As a person arrested inside the United States and held in civil immigration detention for pending removal proceedings, Petitioner is subject to detention, if at all, pursuant to 8 USC § 1226. See, e.g. *Romero*, 2025 WL 2403827, at \*1, 8-13 (collecting cases). Petitioner lacks any criminal predicates that could subject him to mandatory detention under 8 USC § 1226(c) and is subject to detention, if at all, under 8 USC § 1226(a).

41. Petitioner Eric has no criminal history other than minor traffic infractions, which were resolved by fines. Petitioner has never been arrested and lack any history of immoral acts or

participating in subversive activities. Furthermore, Petitioner lacks disciplinary problems and has no history of escapes while in ICE custody, demonstrating respect for judicial procedure.

42. Petitioner has lived in the United States for over nine years, got married in Bridgeport, CT on May 7, 2024, to spouse Priscilla Santos Cruz, and he is father of a U.S. citizen daughter, [REDACTED], born on [REDACTED] in Bridgeport, CT 06606.

43. Petitioner is an active member of the Evangelical Church located in Trumbull, CT and the Free Methodist Church of Bridgeport, CT; he has filed U.S. Income Tax Returns starting in 2021 since age 21; and has been steadily employed as a subcontractor for R.J. Lora Builders located in Bozrah, CT 06334 since 2019.

44. Petitioner Eric is not a flight risk: he has a fixed address at 50 Cleveland Avenue, Bridgeport, CT 06606, where he will reside if released.

45. Petitioner Eric is not a danger to the community or a threat to national security.

46. As a person detained under 8 USC § 1226(a), Petitioner, must, upon his request, receive a bond hearing with strong procedural protections. *See Hernandez-Lara v. Lyons*, 10 F.4<sup>th</sup> 19, 41 (1<sup>st</sup> Cir. 2021); *Doe*, 11 F.4<sup>th</sup> at 2; 8 CFR §§236.1(d), 1003.19(a)-(f).

### JURISDICTION

47. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

48. 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).

49. 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

50. Venue is proper because Petitioner is detained at Pine Prairie ICE Processing Center in Pine Prairie, Louisiana, which is within the jurisdiction of this Western District of Louisiana by Immigration and Customs Enforcement (ICE), and Petitioner is under the custody and control of ICE officials in Louisiana at the time of filing this petition. Respondent Acuna is located in this District and possesses day-to-day authority over the custody of Petitioner and others arrested or detained in Louisiana.

#### PARTIES

51. Petitioner is a citizen and native of Brazil. Petitioner is currently detained at Pine Prairie Correctional Facility, Pine Prairie, LA 70576. He is in custody, and under the direct control, of Respondents and their agents. He entered the United States as a minor on August 27, 2016, after suffering years of abuse and forced labor by his family members in Brazil.

52. Respondent Brian Acuna is the Acting New Orleans Field Office Director for U.S. Immigration and Customs Enforcement.

53. Respondent Bryan Patterson is the Warden of the Pine Prairie ICE Processing Center and is Petitioner's immediate custodian.

54. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement.

55. Respondent Sirce Owen is the Acting Director of EOIR and has ultimate

responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond proceedings.

56. Respondent Pamela Bondi is the Attorney General of the United States and administers the Department of Justice, including EOIR, the BIA, and the Immigration Courts.

57. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 USC § 11039(a)(2007); is legally responsible for pursuing any effort to detain and remove the petitioner; and as such is a custodian of the Petitioner.

58. All respondents are named in their official capacities. One or more of the respondents is Petitioner's immediate custodian.

#### **ALLEGATION**

59. The forgoing allegations are re-alleged and incorporated herein.

60. Petitioner is not subject to detention pursuant to INA 235(b)

61. The Government's interpretation of Section § 1226(e) to require the mandatory detention of applicants for admission already residing in the U.S. is contrary to the plain text of the statute and the overall statutory scheme.

#### **CLAIMS FOR RELIEF**

##### **COUNT ONE**

##### **Violation of Fifth Amendment Right to Substantive Due Process**

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

63. The Fifth Amendment protects all "persons" in the United States, including noncitizens, from arbitrary and prolonged detention without adequate process. *Zadvydas v.*

*Davis*, 533 U.S. 678, 693 (2001); cf. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020) (holding noncitizens' due process rights were limited where the person was not residing in the United States, but rather had been arrested 25 yards into U.S. territory, apparently moments after he crossed the border while he was still "on the threshold".)

64. "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of liberty" protected by the Due Process Clause. *Zadvydas*, 533 U.S. 678 at (2001).

65. The Due Process Clause of the Fifth Amendment guarantees persons in civil immigration detention the right to reasonable safety and to be free from punitive conditions of confinement, and requires that the government have a constitutionally adequate, non-punitive purpose for continued detention. These requirements are violated when a condition of detention is not reasonably related to a legitimate government objective and when government officials are deliberately indifferent to a substantial risk of harm to the detained person.

66. To justify denial of this right, there must be a compelling governmental interest that is narrowly tailored, and detained persons must be afforded adequate procedures that ensure against erroneous confinement.

67. Petitioner-Plaintiffs' ongoing confinement lacks a reasonable relationship to any legitimate government purpose. Petitioner-Plaintiffs do not pose a danger or a flight risk, and these considerations alone are insufficient to countervail the deprivation of Eric's "liberty" without adequate due process of law, if he is not released. U.S. Const. amend V.

68. The weight of the government's interests in ensuring a lack of flight risk and preventing danger to the community is severely diminished considering Petitioner-Plaintiff lengthy history of residence and employment in the U.S. and his lack of criminal history.

Further, mandating Petitioner-Plaintiff's continued detention at risk of worsening his debilitated mental health is disproportionate to the government's interests.

69. Absent judicial relief in the form of release from detention, Petitioner-Plaintiffs are suffering and will continue to suffer irreparable harm.

70. Federal courts have recognized that immigration judges' refusal to exercise jurisdiction over custody determinations leaves noncitizens without any administrative mechanism to challenge their detention. In such circumstances, habeas corpus relief under 28 USC § 2241 is the only available avenue for judicial review. See *INS v. St. Cyr*, 533 U.S. 289, 305 (2001).

71. Petitioner's continued detention is arbitrary and excessive, given his:
- a. Lack of criminal history beyond minor traffic offenses;
  - b. Strong family and community ties, including a spouse and U.S. citizen daughter, who rely on him for emotional and financial assistance;
  - c. Long residence in the U.S. and history of steady employment; and
  - d. Eligibility for Asylum, Withholding of Removal, and CAT protection.

72. The IJ's refusal to exercise jurisdiction over bond proceedings, combined with prolonged detention, constitutes a violation of substantive and procedural due process under the Fifth Amendment.

**COUNT TWO**  
**Entitlement to Habeas Relief Under 28 U.S.C. § 2241**

73. Habeas relief is available to noncitizens challenging unlawful immigration detention, especially where no meaningful custody determination has been provided. *INS v. St. Cyr*, 533 U.S. at 305.

74. The Court has broad, equitable authority under the habeas statute, 28 USC §§ 2241, 2243 and the common law, to dispose of Petitioner-Plaintiff's case as law and justice require, based on the unique facts and circumstances of their cases, in order to remedy Petitioner's unlawful conditions of detention.

75. Petitioner's detention, which continues unabated after the IJ's refusal to exercise jurisdiction on September 8, 2025, is unlawful and not authorized by statute, and exceeds any constitutionally permissible duration. *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

76. Accordingly, the Court should exercise this authority to grant Petitioner-Plaintiff's habeas corpus petition and to fashion any and all additional relief, necessary to effectuate Petitioner-Plaintiff's expeditious release from unlawful detention. In the absence of such relief, Petitioner is suffering and will continue to suffer irreparable harm.

**COUNT THREE**  
**Entitlement to a Bond or Custody Determination**

77. Even if detention under expedited removal proceedings is statutorily permissible, due process requires some mechanism for meaningful custody review.

78. The IJ's refusal to exercise jurisdiction has denied Petitioner any opportunity to have his custody status evaluated, leaving him indefinitely detained without jurisdiction.

79. Petitioner is therefore entitled to:

- a. Immediate release from ICE custody; or in the alternative,
- b. A prompt and constitutionally adequate custody or bond hearing before a neutral decisionmaker, where the government bears the burden of proving by clear and convincing evidence that continued detention is necessary.

80. Without such relief, Petitioner's detention remains arbitrary and unconstitutional,

in violation of the Fifth Amendment.

**PRAYER FOR RELIEF**

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

- (1) Find Petitioner's detention is pursuant to Section 1226(a);
- (2) Declare that Petitioner is statutorily eligible for bond;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (4) Declare that Petitioner Eric V. Silva Oliveira's detention violates the Due Process Clause of the Fifth Amendment;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or in the alternative;
- (6) Issue a temporary restraining order or preliminary and permanent injunction relief ordering Respondents-Defendants to immediately release Petitioner-Plaintiff on the grounds that his continued detention violates the Due Process Clause.
- (7) Issue a temporary restraining order enjoining the Respondents or its agents, assignees or transferees from transferring, removing, transporting, relocating the Petitioner from this jurisdiction,
- (8) Issue an order that this Court retain jurisdiction over this matter, and
- (9) Grant any further relief this Court deems just and proper.

Date: 09/30/2025  
New York, New York

Respectfully submitted,  
  
Steven Lyons, Esq.

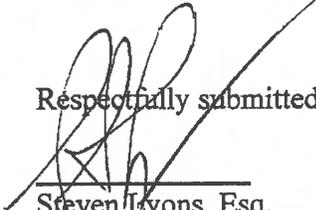
Martin C. Liu & Associates, PLLC  
135 Bowey, 4<sup>th</sup> Floor  
New York, NY 10002  
Tel: (212) 255-8833  
Fax: (212) 226-0036

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

I, Steven Lyons, Esq. represent Petitioner, Eric V. Silva Oliveira, 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.

Date: 09/30/2025  
New York, New York

Respectfully submitted,

  
Steven Lyons, Esq.  
Martin C. Liu & Associates, PLLC  
135 Bowey, 4<sup>th</sup> Floor  
New York, NY 10002  
Tel: (212) 255-8833  
Fax: (212) 226-0036

**PROOF OF SERVICE**

I, Steven Lyons, Esq., certify that this Petition for Writ of Habeas Corpus was mailed via USPS Regular Mail on September 30, 2025 to the U.S. Attorney's Office in the Western District of Louisiana in the Lafayette Division to the following address: 800 Lafayette Street Suite 2200, Lafayette, LA 70501.

Date: 09/30/2025



---

Steven Lyons, Esq.  
Martin C. Liu & Associates, PLLC  
135 Bowey, 4<sup>th</sup> Floor  
New York, NY 10002  
Tel: (212) 255-8833  
Fax: (212) 226-0036