



4. This misclassification is contrary to settled law and practice, and it is unlawfully premised solely upon the manner in which the person initially entered the country - in this case decades ago.

### PETITIONER'S FACTS

5. Prior to his detention, Petitioner resided in Lowell, Massachusetts. Although Petitioner's detention is authorized, if at all, by 8 U.S.C. § 1226(a), which entitles him to a bond hearing, ICE has detained him pursuant to 8 U.S.C. § 1225(b)(2). At the bond hearing before the Chelmsford Immigration Court, the Immigration Judge (hereinafter "IJ") relied on *Matter of Hurtado*, refusing to accept jurisdiction over the Petitioner's bond hearing, instead requiring him to be held indefinitely.

6. Petitioner was born in Ecuador on [REDACTED]. He came to the United States to escape violence, and entered without inspection in 2010. He was not detained at the border.

7. Petitioner's criminal record consists of one charge for Assault and Battery on Family or Household Member in 2018. He married his wife, Silvia Magali Montero Agualema, on September 27, 2023, and has resided in Lowell, Massachusetts for years. He has two U.S. citizen children, I [REDACTED] (D.o.B. [REDACTED]) and Y [REDACTED] (D.o.B. [REDACTED]). His U.S. citizen son, Y [REDACTED] receives ongoing speech and language therapy to address a developmental disorder of speech and language. His doctor has also stated her demonstrates signs of Autism Spectrum Disorder and the family is working with a developmental specialist to further assess Y [REDACTED]. Petitioner is very involved with his church, Pan de Vida Baptist Church, Inc., located at 635 Rogers Street #10, Lowell, Massachusetts.

8. U.S. Immigration and Customs Enforcement ("ICE") and/or other federal agents acting on ICE's behalf arrested Petitioner in Massachusetts on or about September 07, 2025. The arrest occurred when ICE and/or other agents acting on ICE's behalf were conducting an operation at

452 Central Street, in Lowell, Massachusetts. He had had no prior contact with immigration officials and was not a target of the arrest operation.

9. Petitioner is currently being held in ICE's custody in the District of New Hampshire pending full removal proceedings. On information and belief, Petitioner is prima facie eligible for relief from removal, specifically in the form of Cancellation of Removal.

10. Petitioner requested release but was denied a Bond hearing on September 25, 2025 when the Immigration Judge ruled she had no jurisdiction. The judge additionally stated "were the Court to have jurisdiction, the Court finds that \$4500 bond would be appropriate to ameliorate any flight risk. DHS did not submit evidence to support a finding on danger."

11. DHS has 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.

12. Petitioner is currently scheduled for a Master Calendar hearing before the immigration court in Chelmsford, Massachusetts on October 6, 2025

13. 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 U.S.C. Case 1:25-cv-12664-PBS Document 10 Filed 09/22/25 Page 9 of 19 10 § 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 U.S.C. § 1226(c) and is subject to detention, if at all, under 8 U.S.C. § 1226(a).

14. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a bond hearing with strong procedural protections. See *Hernandez-Lara*, 10 F.4th at 41; *Doe*, 11 F.4th at 2; *Brito*, 22 F.4th at 256-57 (affirming class-wide declaratory judgment); 8 C.F.R. §§ 236.1(d), 1003.19(a)-(f).

15. Petitioner requests such a bond hearing.

16. Under *Matter of Hurtado*, however, the responsible administrative agency has predetermined that Petitioner will be denied a bond hearing, and the government is holding Petitioner under the purported authority of 8 U.S.C. § 1225(b)(2), under which Petitioner will not receive a bond hearing.

#### **JURISDICTION, VENUE, AND PARTIES**

17. 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 U.S. Constitution (Suspension Clause).

18. Venue is proper because Petitioner is presently detained by ICE at the Strafford County Correctional Facility in Dover, NH.

21. Respondent Patricia Hyde is the Acting New England Field Office Director for U.S. Immigration and Customs Enforcement.

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

23. 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.

24. 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.

25. Respondent Kristi Noem is the U.S. Secretary of Homeland Security and administers the Department of Homeland Security.

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

**CLAIMS FOR RELIEF**

**COUNT ONE**

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

27. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).
28. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. See 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f).
29. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
30. Petitioner's continuing detention is therefore unlawful.

**COUNT TWO**

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

**(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))**

31. Because Petitioner 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 they receive a bond hearing with strong procedural protections. See *Hernandez-Lara*, 10 F.4th at 41; *Doe*, 11 F.4th at 2; *Brito*, 22 F.4th at 256-57.
32. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
33. Petitioner's continuing detention is therefore unlawful.

**COUNT THREE**

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

**(Failure to Provide an Individualized Hearing for Domestic Civil Detention)**

34. The Fifth Amendment's Due Process Clause specifically forbids the Government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. amend.
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35. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; 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”).

36. “Freedom from imprisonment—from 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. 678 at (2001).

37. The Supreme Court, thus, “has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington*, 441 U.S. at 425; *see also Salerno*, 481 U.S. at 755; *Foucha*, 504 U.S. at 81-83; *Hendricks*, 521 U.S. at 357.

38. Petitioner will be held without being provided any individualized detention hearing.

39. Petitioner’s continuing detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

#### **COUNT FOUR**

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

##### **(Substantive Due Process)**

40. 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., Case 1:25-cv-12664-PBS Document 10 Filed 09/22/25 Page 15 of 19 16 the prevention of flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. *See Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

41. Petitioner's detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

**COUNT FIVE**

**Violation of Administrative Procedure Act (5 U.S.C. § 706)**

42. Petitioner is being detained without a bond hearing pursuant to the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025).

43.. The BIA's decision in *Matter of Hurtado* is unlawful because it violates the Administrative Procedure Act, including because the BIA's decision is arbitrary, capricious, and contrary to law.

44. Petitioner's detention is therefore unlawful.

**PRAYER FOR RELIEF**

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

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of New Hampshire;
- (3) Declare that Petitioner's detention is unlawful;
- (4) Order that the petitioner be afforded a Bond hearing;
- (5) Order Petitioner's release on conditions the Court deems just and proper pending adjudication of this petition;

Respectfully submitted  
Segundo Manuel Alvarez Caizan  
By and through his Attorney,  
/s/ Ryan P. Sullivan  
Ryan P. Sullivan, Esq.  
NH. BBO No. 278931  
300 High Street  
Andover, MA 01810  
(978) 474-0054

Dated: October 2, 2025

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

I represent Petitioner, Segundo Manuel Alvarez Caizan, 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 2nd day of October, 2025.

/s/ Ryan P. Sullivan  
Ryan P. Sullivan

**CERTIFICATE OF SERVICE**

I, Ryan P. Sullivan, herein certify that on this 2nd day of October, 2025, a copy of the within appearance was filed VIA ECF for all parties involved.

/s/ Ryan P. Sullivan  
Ryan P. Sullivan, Esq.