

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**

CRISTOBAL CAMILO LAGUNA ESPINOZA,

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-2107

**PETITION FOR WRIT OF
HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

INTRODUCTION

1. Petitioner, Cristobal Camilo Laguna Espinoza, is harmed by Respondents' draconian new policy reinterpreting immigration detention statutes to preclude plaintiffs from eligibility for bond under the Immigration and Nationality Act, 8 U.S.C. § 1226(a) and for bond hearings under 8 C.F.R. §§ 1003.19(a), 1236.1(d). Instead, pursuant to this new policy, Respondents now consider Petitioner subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of lengthy removal proceedings.

2. Petitioner has lived in the United States for years and is currently detained at the Mahoning County Justice Center in Youngstown, Ohio. He was detained on June 11, 2025, and has remained detained since then for a 114 days as of the date of this filing without any opportunity to request bond.
3. The Cleveland Immigration Court violated Petitioner's Due Process rights by dismissing his request for custody redetermination based on the Board of Immigration Appeals' ("BIA" or "Board") decision in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), finding him an "applicant for admission" who is seeking admission and subject to mandatory detention under § 1225(b)(2)(A).
4. Requiring administrative exhaustion would be futile in light of BIA precedent—*Matter of Yajure Hurtado*, 29 I&N 216 (BIA 2025).
5. 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.
6. The Government has adopted the position that noncitizens who entered the United States without admission or who were paroled into the United States but have since had that parole expire are ineligible for immigration court bond hearings, despite federal courts throughout the country ruling that immigration laws and the Constitution provide for such hearings. The Immigration Court and BIA are relying on *Matter of Q. Li* and *Matter of Yajure Hurtado* to subject noncitizens like Petitioner to mandatory detention and refusing jurisdiction over custody redetermination proceedings and appeals of the same.

7. Petitioner asks this Court to order his release from detention where his detention without possibility of bond hearing and BIA review is an unconstitutional expansion of mandatory detention.

JURISDICTION

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
9. 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.
10. 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

11. Venue is proper because Petitioner is detained at Mahoning County Justice Center in Youngstown, Ohio, which is within the jurisdiction of this District.
12. 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

13. 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).
14. 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

15. Petitioner is an asylum seeker. Petitioner is currently detained at the Mahoning County Justice Center. He is in the custody and under the direct control of Respondents and their agents.
16. 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.

17. 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.
18. 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

19. Petitioner is a 46-year-old citizen of Nicaragua. Since his entry with parole on April 5, 2022, Petitioner has been living in United States. Petitioner is a hardworking part of the community with close friends and family.
20. Petitioner fears persecution based on his involvement in the 2018 protests against the brutal, authoritarian regime of President Daniel Ortega should he be returned to Nicaragua.
21. Petitioner arrived in the United States on his first and only entry on April 5, 2022. He has filed with the Executive Office for Immigration Review ("EOIR") a Form I-589 Application for Asylum and Withholding of Removal. His application remain

pending and is set for an individual merits hearing before the Cleveland Immigration Court on November 7, 2025.

22. He has no criminal record and was detained by U.S. Immigration and Customs Enforcement (“ICE”) merely because his parole expired.
23. Petitioner then presented his case for a custody redetermination to the Cleveland Immigration Court. On July 24, 2025, the Immigration Court denied Petitioner bond holding, “The Court finds Respondent is an ‘applicant for admission,’ and the Court does not have jurisdiction to redetermine Respondent’s bond. *Matter of Q. Li*, 26 I&N Dec. 66 (BIA 2025).”
24. Petitioner filed a Motion for Reconsideration of the bond determination and pointed to evidence in the record that showed the Department of Homeland Security (“DHS”) itself was blurring the lines between warrantless arrests under INA 235 and arrests with a warrant under INA 236. On August 7, 2025, the Immigration Court treated the motion as a new request for bond redetermination and denied the same, holding, “The Court finds there has not been a material change in the Respondent’s circumstances since the prior bond redetermination.”
25. Petitioner has filed for a timely appeal of the denial to the Board of Immigration Appeals but maintains that such appeal is futile given the Board’s holdings in *Matter of Q. Li* and *Matter of Yajure Hurtado* and the Board’s recent dismissal of an appeal in another case where the Board decided that the Immigration Court and Board lacked jurisdiction for to hear custody redetermination or appeal of the same in a case where a noncitizen is in the United States without current lawful status.

LEGAL FRAMEWORK

26. 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 Agency's anticipated denial of jurisdiction over that detention.

I. Petitioner Has Been Wrongly Being Found to Fall Under the Purview of INA § 235(b)

27. Contrary to the Government's position, Petitioner is detained pursuant to Immigration and Nationality Act ("INA") § 236(a) and his detention cannot be deemed to be governed by INA § 235(b). Aliens 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, aliens 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). The exception to this mandatory detention reads, under section 212(d)(5)(A) of the INA,

The Secretary of Homeland Security may, except as provided in subparagraph (B) or in section 1184(f) of this title, in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

28. Under this section, the following plain statutory language provides for when a noncitizen paroled from detention under this section returns to such custody: "when

the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served . . .”. INA § 212(d)(5)(A). According to the statute, a return to custody is not triggered by the issuance of a notice to appear or termination of parole. Congress could have stated as much if that was their intention. Rather, the statute’s plain language explicitly states that, when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served, the alien returns to custody.

29. Because, under this section, the discretionary parole authority is available for the purpose of “urgent humanitarian reasons or significant public benefit”, for a respondent to return to pre-paroled mandatory 235 detention possible without a warrant, the opinion of the Secretary of Homeland Security must be that the urgent humanitarian reasons or significant public benefit for which the parole was initially granted shall have been served.
30. Here, Petitioner was released from detention without a warrant on parole under INA § 212(d)(5) and, even upon the termination of that parole and issuance of a notice to appear (which even DHS intermittently refers to as a Warrant of Arrest and indicates anticipating eligibility for bond redetermination before an Immigration Judge), does not return to such mandatory detention where the urgent humanitarian reasons or significant public benefit of his parole has not been served. The Secretary of Homeland Security has issued no opinion finding the urgent humanitarian reasons or significant public benefit have been served. DHS has not argued otherwise in its legal briefs filed with the Immigration Court on July 15, 2025, or presented any evidence to that effect in its filing on July 21, 2025. DHS merely

filed a paragraph-long argument citing to *Matter of Q. Li*, 29 I&N Dec. 66, 66 (BIA 2025), for the holding that an alien who is arrested and detained while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) and is ineligible for any subsequent release on bond under section 236(a). But this blanket application of the holding in *Matter of Q. Li* to a case like Petitioner's ignores a key difference between the posture of each case.

31. In *Matter of Q. Li*, in which there was a "Red Notice" issued by Interpol seeking that respondent's arrest because she was wanted in Spain for travel document forgery and human smuggling crimes. Only after DHS received report of that Red Notice did they return her to custody and did the Immigration Judge in that case decide that she was ineligible for bond. *Matter of Q. Li*, 29 I&N Dec. at 67. Thus, in that case, it is apparent that there was a shift in circumstances such that the Secretary of Homeland Security might argue that the urgent humanitarian reasons or significant public benefit of Q. Li's parole was served. Although not detailed in the BIA decision, Q. Li was—as required by statute—paroled from detention for urgent humanitarian reason or public benefit, which presumably was no longer being served after DHS was alerted to the Red Notice against her. Thus, returning Q. Li to mandatory detention under the statutory trigger at least has an argument for falling into the purview of no longer serving significant public benefit.
32. However, in Petitioner was released for urgent humanitarian reason or public benefit that continues to be served where he has no adverse factors other than his merely existing without lawful status. DHS has pointed to no change since

Petitioner's release on parole that would show such a change. One might infer that purpose of the paroled release was for Petitioner—a man with no criminal record who presented himself to immigration officials—to not remain detained for many months or years during removal proceedings that are backlogged in this country while preserving limited resources of the immigration courts to pursue expedited proceedings in other cases where actually appropriate. Stretching *Q. Li* beyond a case wherein an adverse fact was discovered about the respondent reads beyond the plain language of the statute and challenges Constitutional limits of geography and time for mandatory detention set forth in *Jennings v. Rodriguez*.

33. "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).
34. 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 aliens in expedited removal, and includes two general categories of such aliens. 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).

35. Looking then at INA § 235(b)(2), titled “Inspection of other aliens,” and following the statutory scheme of this 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.
36. Interpreting the statute in such a 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 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.

37. Respondent is, thus, now in the purview of INA § 236, because Respondent is already in the country under a grant of parole and there has been no event under the plain language of Section 212(d)(5)(A) of the INA to trigger his return to the mandatory detention that he was in prior to that grant of parole,
38. 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).
39. 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.
40. The Regulations define an “arriving alien” as follows:

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.

41. 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).
42. Detention under INA § 235(b) cannot apply to anyone who has entered into the United States or anyone ever paroled into the United States who is now in removal proceedings, 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 Q. Li* cannot be read to cast such a wide net.
43. In addition to the preceding arguments in support of jurisdiction, Petitioner points to the evidence filed by the DHS with the Immigration Court on July 21, 2025. On page 3 of attached Form I-213, the following key language reads: “ICE/HIS served LAGUNA-Espinoza with a WA/NTA . . . He will remain in custody until he goes before an Immigration Judge for a custody redetermination.” *See* Exhibit E, Page from Respondent’s I-213 filed by DHS (highlighting added) and Redacted document from separate case also referring to a notice to appear as a WA and

warrant of arrest. Of particular significance is the reference to the documents served on Respondent as a “WA/NTA” or warrant of arrest¹/notice to appear. *See id.*

44. The quoted language which DHS itself has set forth in the administrative record also anticipates that Petitioner would have an opportunity to be awarded bond by the Immigration Court. The record clearly indicates an intention and understanding on the part of DHS to trigger jurisdiction for a bond hearing and for Petitioner to have the opportunity to have a bond amount set by the Immigration Court.

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

1. 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).
2. 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.
3. 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).

4. “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).
5. 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).
6. 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.

7. 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.
8. 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.

9. 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).
10. 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.
11. 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.
12. 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).

13. 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*.
14. 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

15. The allegations in the above paragraphs are realleged and incorporated herein.
16. Petitioner has been detained without any option to argue against the unlawful “mandatory” detention, other than this habeas petition.
17. Petitioner was subjected to mandatory detention flowing from an arbitrary and capricious overreach by the BIA in *Matter of Q. Li* and *Matter of Yajure Hurtado*. The BIA has decided the Agency lacks jurisdiction to perform a custody redetermination, rendering this current detention fundamentally unfair.

18. 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 or who was paroled into the country and whose parole has since expired, no matter how long they have been in the United States and no matter where they are geographically located 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).
19. 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"))).
20. The serious constitutional problems 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 apparent.

21. 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

22. The allegations in the above paragraphs are realleged and incorporated herein.
23. 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 and was initially paroled into the United States.
24. 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;
- (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: Oct. 3, 2025

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

I represent Petitioner, Cristobal Camilo Laguna Espinoza, 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 3rd day of October, 2025.

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