

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 Framingham, Massachusetts. Although Petitioner's detention is authorized, if at all, by 8 U.S.C. § 1226(a), which entitles him to a bond hearing. On information and belief, ICE has detained him pursuant to 8 U.S.C. § 1225(b)(2). On information and belief, DHS will argue during bond proceedings that Mr. Malan Quizhpi is subject to mandatory detention, pursuant to *Matter of Yahure-Hurtado*.

6. Petitioner was born in Ecuador on [REDACTED]. He came to the United States to escape persecution in Ecuador and entered without inspection in February of 2020. When Mr. Malan Quizhpi entered the United States, he was not apprehended at the border. He had contact with DHS on September 24, 2020, when he and his wife were working near the U.S. northern border. At that time, they were served with Notices to Appear ("NTA"). While the Petitioner's wife's NTA was filed with the Chelmsford Immigration Court, which initiated her removal proceedings, the Petitioner's NTA was never filed with the court.

7. Petitioner has a series of traffic infractions, some of which may be criminal in nature due to driving without a license, but none are due to driving while intoxicated. The petitioner has no other criminal history. The Petitioner is married to Maria Juana Ñamiña Llibri. Together they have two U.S. citizen children, C [REDACTED] (D.o.B. [REDACTED]) and J [REDACTED] (D.o.B. [REDACTED]). Petitioner is the sole breadwinner for his family, as his youngest son was born two months ago.

8. Petitioner was arrested after a traffic stop in Marlborough, MA. At the time of the arrest, he was told by law enforcement that his license had been suspended and that he was being detained. The officer indicated during the arrest that he did not know why the license was suspended, and

that the Petitioner was being detained because “he needed to be detained.” No other reason was provided to the Petitioner.

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 asylum.

10. DHS served Petitioner with an NTA on September 24, 2020 alleging that he was not previously admitted or paroled into the United States, charging him as removable under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act.

11. 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. § 1226(a). 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).

12. 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).

13. Petitioner requests such a bond hearing.

14. 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

15. 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).

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

17. Respondent Christopher Bracket is Superintendent of the Strafford County Department of Corrections.

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

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

20. 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.

21. 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.

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

23. 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

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

25. 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).

26. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

27. 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))

28. 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.

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 THREE

Violation of Fifth Amendment Right to Due Process

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

31. 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. Case 1:25-cv-12664-PBS Document 10 Filed 09/22/25 Page 14 of 19 15 V.

32. "[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”).

33. “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).

34. 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.

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

36. 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)

37. 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).

38. 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)

39. 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).

40. 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.

41. 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
Juan Carlos Malan Quizhpi
By and through his Attorney,
/s/ Ryan P. Sullivan
Ryan P. Sullivan, Esq.
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Dated: October 8, 2025

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

I represent Petitioner, Juan Carlos Malan Quizhpi, 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 8th day of October, 2025.

/s/ Ryan P. Sullivan
Ryan P. Sullivan

CERTIFICATE OF SERVICE

I, Ryan P. Sullivan, herein certify that on this 8th 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.