



Cir. 2022); *Zadvydas v. Davis*, 533 U.S. 678 (2001). The proper remedy is a grant of the writ and immediate release.

## **II. BOND WAS SOUGHT; THE IJ DENIED JURISDICTION ON OCTOBER 1, 2025**

The Court's order suggested Petitioner had not sought bond. Respectfully, that is incorrect. As reflected in Petitioner's prior filings, on October 1, 2025 the Los Fresnos Immigration Court denied bond for lack of jurisdiction, treating Petitioner as an applicant for admission under *Yajure Hurtado*. Accordingly, there is no administrative avenue for individualized custody review. That closed door is precisely why § 2241 review remains available.

## **III. § 2241 JURISDICTION IS PROPER**

Petitioner challenges custody only—not removability. Section 1252(b)(9) does not bar such claims. The Fifth Circuit holds that district courts retain § 2241 jurisdiction to decide the legality of civil immigration detention when no adequate alternative forum exists. See *Duarte*, 27 F.4th at 1056; *Garcia v. Holder*, 649 F.3d 915, 918 (5th Cir. 2011). *Jennings v. Rodriguez* confirms that custody challenges are “too remote” from removal to be foreclosed by § 1252(b)(9). 583 U.S. 281, 295–96 (2018). Here, *Yajure Hurtado* forecloses IJ bond jurisdiction for persons treated as applicants for admission; therefore habeas is the safety valve.

## **IV. DETENTION LACKS STATUTORY AUTHORITY**

Petitioner is detained during pending removal proceedings without any final order; thus 8 U.S.C. § 1226, not § 1231, governs custody. See, e.g., *Zadvydas*, 533 U.S. at 682–83 (post-order

detention arises under § 1231). Because the IJ has disclaimed bond jurisdiction under Yajure Hurtado, detention has become effectively indefinite and unreviewable—exceeding statutory authority and raising serious constitutional concerns recognized in Jennings. 583 U.S. at 300–01.

#### **V. SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS**

To obtain injunctive relief, a movant must show a substantial likelihood of success, irreparable injury, that the balance of harms favors relief, and that the public interest is not disserved. *Mississippi Power & Light Co. v. United Gas Pipe Line Co.*, 760 F.2d 618, 621 (5th Cir. 1985). The movant need only present a prima facie case, he need not prove he will ultimately prevail. *Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 582 (5th Cir. 2013). Petitioner easily meets that bar for the reasons set out above and below.

#### **VI. IRREPARABLE INJURY**

Unlawful detention is irreparable harm per se. Every day in confinement is a deprivation of liberty that cannot be remedied after the fact. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (loss of constitutional rights even briefly constitutes irreparable injury); *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012). The Petitioner is currently being held at an immigration detention facility meant for criminal aliens and those with final orders of removal awaiting deportation. Neither of which apply to the Petitioner.

#### **VII. BALANCE OF HARMS**

Petitioner has no criminal record, longstanding ties to this District, and no history of absconding. Any administrative burden on DHS from release under reasonable supervision is far

outweighed by the ongoing constitutional injury of unlawful detention. The government has identified no legitimate interest served by continued confinement when less restrictive alternatives are available.

### **VIII. PUBLIC INTEREST**

The public interest is served by adherence to statutory limits and the Constitution. Vindicating individual liberty and the rule of law strengthens confidence in the integrity of immigration proceedings. See *Valdez v. Wren*, 201 F. Supp. 3d 624, 631 (S.D. Tex. 2016).

### **IX. REQUESTED RELIEF**

For these reasons, Petitioner respectfully requests that the Court deny dismissal, grant the petition for a writ of habeas corpus under 28 U.S.C. § 2241, and order immediate release from ICE custody. No further bond hearing is necessary or possible given the IJ's jurisdictional ruling.

Dated: October 31, 2025

Respectfully submitted,

*/s/ Matthew R. Mendez*

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date, a true and correct copy of the foregoing was served via CM/ECF on counsel for Respondents.

*/s/ Matthew R. Mendez*