

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

JAIME OSMIN CASTRO AREVALO,)
)
) Case No. 25-559
Petitioner,)
)
v.) **PETITION FOR WRIT**
) **OF HABEAS CORPUS**
)
)
)
MICHAEL NESSINGER, Warden of Donald W.)
Wyatt Detention Facility,)
PATRICIA HYDE, Field Office Director)
TODD LYONS, Acting)
Directo of U.S. Immigrations and Customs)
Enforcement, and KRISTI NOEM, U.S. Secretary)
of Homeland Security,)
)
Respondents.)
)
)
)

INTRODUCTION

1. Petitioner Jaime Osmin Castro Arevalo is currently detained at the Donald W. Wyatt Detention Facility (“Wyatt”) in Central Falls, Rhode Island.
2. Under ICE’s discretionary detention authority pursuant to 8 U.S.C. § 1226, Petitioner was arrested by U.S. Immigration and Customs Enforcement (“ICE”) and/or other federal agents acting on ICE’s behalf.
3. Petitioner is present in the United States and, on information and belief, the Department of Homeland Security (“DHS”) has alleged or will allege that Petitioner was not previously admitted or paroled into the United States and is subject to mandatory detention without a bond hearing by an Immigration Judge.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).
5. Venue is proper because Petitioner is currently detained in the District of Rhode Island.

PARTIES

6. Petitioner is a citizen of El Salvador. He is currently in ICE custody at the Donald W. Wyatt Detention Facility.
7. Respondent Michael Nessinger is the Warden of Wyatt and has physical and administrative custody over Petitioners. He is named in his official capacity.
8. Respondent Patricia Hyde is the New England Field Office Director for ICE. She is a legal custodian of Petitioners and is named in her official capacity.
9. Respondent Todd Lyons is the Acting Director of ICE. He is a legal custodian of Petitioners and is named in his official capacity.
10. Respondent Kristi Noem is the U.S. Secretary of Homeland Security. She is a legal custodian of Petitioners and is named in her official capacity.

STATEMENT OF FACTS

13. Mr. Castro Arevalo is a citizen of El Salvador. He is 26 years old. He entered the United States without inspection in approximately 2012. Upon information and belief, he has no criminal convictions and no pending charges. He has had no previous contact with immigration authorities.
14. Mr. Castro Arevalo was arrested in Massachusetts about one month ago by ICE. Mr. Castro Arevalo is now detained at the Donald W. Wyatt Detention Facility in Central

Falls, Rhode Island. Upon information and belief, ICE arrested Mr. Castro Arevalo pursuant to its discretionary detention authority pursuant to 8 U.S.C. § 1226(a).

15. ICE placed Mr. Castro Arevalo in removal proceedings before the Chelmsford Immigration Court pursuant to 8 U.S.C. § 1229a.
16. Mr. Castro Arevalo has been diagnosed with Schizophrenia, suicidal tendencies, severe anxiety and executive function deficit. Prior to his detention, he was a patient under long-term care at the Massachusetts General Hospital Chelsea Behavioral Health Unit. He was taking multiple medications to manage his various mental illnesses, including clozapine, citalopram, and injections of aripiprazole lauroxil. Furthermore, Mr. Castro Arevalo's medical issues required ongoing health monitoring and psychiatry assessments.
17. Prior to his detention, Mr. Castro Arevalo was also enrolled in North Suffolk Mental Health Association's Adult Community Clinical Services for more than seven years. This program provided him with ongoing mental health support and assisted him with building coping and symptom management skills, stress tolerance, and other life skills.
18. Mr. Castro Arevalo has continued to receive medication while detained, however, his ongoing detention and the disruption of the extensive services described herein, has created a humanitarian crisis requiring immediate intervention.

LEGAL FRAMEWORK

22. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(1), because Petitioner does not meet the criteria for Expedited Removal. *See Make the Road New York v. Noem*, No. 25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).
24. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), including because, as someone already present in the United States, Petitioner is not

currently “seeking admission” to the United States. *See Rodriguez v. Nessinger*, No. 25-cv-505-MSM-AEM, at *2 (D.R.I. Oct. 17, 2025) (McElroy, J.); *Romero v. Hyde*, ___ F.3d ___, No. 25-11631, 2025 WL 2403827, at *1, 8-13 (D. Mass. Aug. 19, 2025) (Murphy, J.).

25. On information and belief, Petitioner was not, at the time of arrest, paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and therefore Petitioner cannot “be returned” under that provision to mandatory custody under 8 U.S.C. § 1225(b) or any other form of custody. Petitioner is not subject to mandatory detention under § 1225 for this reason as well.
25. Instead, as a person arrested inside the United States and held in civil immigration detention, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. *See Romero*, 2025 WL 2403827, at *1, 8-13 (collecting cases).
26. Petitioner is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because he has not been convicted of any crime that triggers such detention. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).
27. Accordingly, Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a).
28. As someone detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a custody redetermination hearing (colloquially called a “bond hearing”) with strong procedural protections. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021); *Doe v. Tompkins*, 11 F.4th 1, 2 (1st Cir. 2021); *Brito v. Garland*, 22 F.4th 240, 256-57 (1st Cir. 2021) (affirming class-wide declaratory judgment); 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

29. Petitioner requests such a bond hearing to be conducted by an Immigration Judge.
30. However, on September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals issued a decision that purports to require the Immigration Court to unlawfully deny a bond hearing to all persons such as Petitioner. The *Yajure Hurtado* decision represents a dramatic change in long-standing agency interpretation and application of the Immigration and Nationality Act.¹
31. By issuance of the *Yajure Hurtado* decision, the responsible administrative agency has predetermined that Petitioner will be denied a bond hearing.
32. Petitioner is being irreparably harmed by his ongoing unlawful detention without a bond hearing. *See Romero*, 2025 WL 2403827, at *6-8 (no exhaustion required because “[o]bviously, the loss of liberty is a . . . severe form of irreparable injury” (internal quotation marks omitted)); *Flores Powell v. Chadbourne*, 677 F. Supp. 2d 455, 463 (D. Mass. 2010) (declining to require administrative exhaustion, including because “[a] loss of liberty may be an irreparable harm”); *cf. Brito v. Garland*, 22 F.4th 240, 256 (1st Cir. 2021) (citing *Bois v. Marsh*, 801 F.2d 462 468 (D.C. Cir. 1986), for proposition that “[e]xhaustion might not be required if [the petitioner] were challenging her incarceration . . . or the ongoing deprivation of some other liberty interest”).
33. The Immigration Court lacks jurisdiction to adjudicate the constitutional claims raised by Petitioner, and any attempt to raise such claims would be futile. *See Flores-Powell*, 677 F. Supp. 2d at 463 (holding “exhaustion is excused by the BIA’s lack of authority to adjudicate constitutional questions and its prior interpretation” of the relevant statute).
34. There is no statutory requirement for Petitioner to exhaust administrative remedies. *See Gomes v. Hyde*, No. 25-11571, 2025 WL 1869299, at *4 (D. Mass. July 7, 2025)

("[E]xhaustion is not required by statute in this context."); *Romero*, 2025 WL 2403827, at *6-8.

35. Accordingly, there is no requirement for Petitioner to further exhaust administrative remedies before pursuing this Petition. *See Portela-Gonzalez v. Sec'y of the Navy*, 109 F.3d 74, (1st Cir. 1997) (explaining that, where statutory exhaustion is not required, administrative exhaustion not required in situations of irreparable harm, futility, or predetermined outcome).

CLAIMS FOR RELIEF

COUNT ONE

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

36. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
37. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).
38. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).
39. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
40. 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))

41. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
42. Because Petitioner is a person arrested inside the United States and 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 Petitioner 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.

43. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
44. 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)

45. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
46. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).
47. 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. V.
48. "[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 v. Davis*, 533 U.S. 678, 693 (2001); see *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"); cf. *Department of Homeland Security 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”).

49. “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).

50. The Supreme Court has thus “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 v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); see also *Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

51. Petitioner was arrested inside the United States and is being held without being provided any individualized detention hearing.

52. 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)

53. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

54. 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.*, 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).

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

PRAYER FOR RELIEF

Wherefore, Petitioners respectfully request this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside the District of Rhode Island;
3. Declare that Petitioner’s detention is unlawful absent a bond hearing before an Immigration Judge;
4. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or, in the alternative, provide Petitioner with a bond hearing and order Petitioner’s release on conditions the Court deems just and proper;
5. Award Petitioner’s attorney’s fees and costs under the Equal Access to Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
6. Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Carl Hurvich
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Pro bono counsel for Petitioners

Dated: October 27, 2025

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

I, Carl Hurvich, declare as follows:

I am an attorney admitted to practice law in the Commonwealth of Rhode Island. Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf. I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 27, 2025.

/s/ Carl Hurvich
Carl Hurvich