

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

JUAN ANTONIO MAYA TORRES,

Petitioner,

v.

**JEFFREY CRAWFORD, Warden,
Farmville Detention Center;
MATTHEW ELLISTON, Deputy
Assistant Director for Field Operations,
Eastern Division, Enforcement and
Removal Operations, U.S. Immigration
and Customs Enforcement; KRISTI
NOEM, Secretary of the U.S.
Department of Homeland Security; and
PAMELA BONDI, Attorney General of
the United States, in their official
capacities,**

Respondents.

Case No: 1:25-cv-1891

PETITION FOR WRIT OF HABEAS CORPUS

This is a petition for a writ of habeas corpus filed on behalf of Petitioner, Mr. Juan Antonio Maya Torres (Mr. Maya Torres) seeking relief to remedy his unlawful detention. Respondents are detaining Petitioner in violation of his constitutional due process rights and the Department of Homeland Security's ("DHS") statutory authority. Further, by subjecting Petitioner to unlawful and indefinite detention, Respondents also violate Petitioner's Eighth Amendment rights by inflicting cruel and unusual punishment.

Petitioner fully cooperated with Respondents in their pursuit of his arrest and detention.

On the morning of October 27, 2025, Petitioner was stopped and detained by alleged DHS Immigration and Customs Enforcement (“ICE”) agents in Washington, D.C. Respondents transferred Petitioner to Riverside Regional Jail in Prince George’s County, Virginia and subsequently to Farmville Detention Center in Farmville, Virginia, where he currently remains detained. Petitioner’s detention was for the purpose of placing him in removal proceedings and possible deportation.

Recent Board of Immigration Appeals (“BIA”) precedent, namely *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), strips the Immigration Judge of jurisdiction to issue a bond in Petitioner’s case. Thus, Petitioner’s detention could be indefinite if he pursues all forms of relief from removal available to him. In effect, Petitioner’s indefinite detention creates a chilling effect to deter him from defending against his own deportation, as litigating his case may take years. Petitioner’s continued detention also hinders access to his counsel to mount a zealous defense against removal.

Petitioner submits that his prolonged detention violates the plain text of the Immigration and Nationality Act (“INA”) and its implementing regulations. This constitutes a violation of the *Accardi* Doctrine and the Petitioner’s Fifth Amendment due process rights. Petitioner also asserts that his detention subjects him to cruel and unusual punishment under the Eighth Amendment. Petitioner seeks an order from this Court declaring his continued detention unlawful and ordering Respondents to allow Petitioner to post bond and be released from their custody.

CUSTODY

1. Petitioner is in the physical custody of Respondent Matt Elliston, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement (“U.S. ICE”), the Department of Homeland Security (“DHS”), and Respondent Jeffrey Crawford, Warden of the

Farmville Detention Center located in Farmville, Virginia. At the time of the filing of this petition, the Petitioner is detained at the Farmville Detention Center in Farmville, Virginia. The Farmville Detention Center contracts with the DHS to detain noncitizens such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570. 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), as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

3. 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

4. Venue is proper in the United States District Court for the Eastern District of Virginia, the judicial district in which Respondents, Matthew Elliston and Jeffrey Crawford reside and where Petitioner is detained. 28 U.S.C. § 1391(e).

PARTIES

5. Petitioner Maya Torres is a national and citizen of Mexico. Respondents have detained him pursuant to the DHS’s authority to detain certain noncitizens pending a decision on whether the noncitizen is removable from the United States.

6. Respondent Crawford¹ is the Warden of Farmville Detention Center, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. ICE to detain noncitizens and is a legal custodian of Petitioner.

7. Respondent Elliston is sued in his official capacity as the Deputy Assistant Director for Field Operations, Eastern Division, for Enforcement and Removal Operations within U.S. ICE. Respondent Elliston is a legal custodian of Petitioner and has authority to release him.

8. Respondent Kristi Noem is sued in her official capacity as the Secretary of the DHS. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. ICE, the component agency responsible for Petitioner's detention.

9. Respondent Pamela 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.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. Petitioner exhausted his administrative remedies to the extent required by law.

11. Petitioner has fully cooperated with Respondents and has not delayed or obstructed his detention.

12. Even if Respondents contend that Petitioner has not exhausted his administrative remedies because he did not file a motion for custody and bond redetermination, the Court should waive the

¹ This petition has been amended to replace Respondent Jeffrey N. Dillman with Respondent Jeffrey Crawford. At the time of the petition's original filing, it was counsel's belief that Petitioner remained in the custody of Jeffrey N. Dillman, Superintendent of Riverside Regional Jail. *See* PEX 2. On the morning of October 29, 2025, counsel checked Petitioner's location on the ICE detainee locator, and it showed that Respondents transferred him to Farmville Detention Center at 07:36 am. *See* PEX 3. This amended petition reflects Petitioner's current custodial status, since he is now in the custody of Jeffrey Crawford, Warden of Farmville Detention Center.

exhaustion requirement as Petitioner raises serious constitutional concerns and there is no section in the INA requiring exhaustion of administrative remedies. *See Aguilar v. Lewis*, 50 F. Supp. 2d 539, 541 (E.D. Va. 1999) (“[T]here is no federal statute that imposes an exhaustion requirement on [noncitizens] taken into custody pending their removal.”); *see also Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022) (“[W]here Congress had not clearly required exhaustion, sound judicial discretion governs”) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); *see also Guitard v. U.S. Secretary of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) (“Exhaustion of administrative remedies may not be required when ... a plaintiff has raised a ‘substantial constitutional question’”).

13. Further, Petitioner’s detention is causing him irreparable harm, and the administrative agency has predetermined the issue that Petitioner would appeal, making his pursuit of this remedy futile. *See McCarthy v. Madigan*, 503 U.S. 140, 146-48 (noting exceptions to the exhaustion requirement include “irreparable harm” to the petitioner, where there is “some doubt as to whether the agency was empowered to grant effective relief,” or where it would be futile because **“the administrative body is shown to be biased or has otherwise predetermined the issue before it”**) (emphasis added).

14. On September 5, 2025, the BIA published *Matter of Yajure Hurtado*, which strips immigration judges of their authority to issue bond in cases such as the Petitioner’s. 29 I&N Dec. 216 (BIA 2025). Even if Petitioner filed a motion for custody and bond redetermination, an Immigration Judge is bound by *Yajure Hurtado* and would declare they had no authority to issue a bond. If Petitioner were to appeal this decision to the BIA, the BIA would rely on its own precedent to deny the appeal.²

² The exhaustion requirement serves to “[protect] administrative agency authority and [promote] judicial efficiency.” *Kurfees v. INS*, 275 F.3d 332, 336 (4th Cir. 2001). These purposes would not be served by requiring Petitioner to file

15. This administrative remedy is clearly futile as the BIA has predetermined this issue and bound itself and all Immigration Judges to follow its authority on this matter.

16. Finally, Petitioner would remain in detention during the pendency of his appeal, subject to an intolerable delay, which would exacerbate the harm he and his family are facing while he is detained.

17. There are over 186,000 cases pending at the BIA with just 18 members on the Board; accordingly, immediate action from this court is required to prevent Petitioner's continued prolonged and unjustified detention.³

18. Petitioner's only remedy is by way of this judicial action.

LEGAL FRAMEWORK

19. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

20. First, 8 U.S.C. § 1226 authorizes DHS to detain noncitizens in standard (non-expedited) removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to the criminal grounds of mandatory detention, *see* 8 U.S.C. § 1226(c).

21. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2)

a motion for custody redetermination when the BIA has already issued a definitive ruling that the Immigration Judge would not have jurisdiction to grant him bond.

³ Executive Office for Immigration Review Adjudication Statistics, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/eoir/media/1344986/dl?inline> (last updated July 31, 2025); Board of Immigration Appeals, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/eoir/board-of-immigration-appeals> (last updated Sep. 17, 2025).

22. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

23. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

24. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act (“LRA”), Pub. L. No. 119–1, 139 Stat. 3 (2025).

25. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

26. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings (as opposed to expedited removal proceedings) received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104–469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

27. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. *See*

Hasan v. Crawford, 2025 WL 2682255, at *9 (E.D. Va. Sept. 19, 2025) (noting that the government’s approach to § 1225(b)(2) attempts to “upend decades of immigration practice,” as it has been DHS’s longstanding practice to apply 1226(a) to noncitizens who have crossed the border and are thereafter apprehended in the interior of the country).

28. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

29. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. 29 I&N Dec. at 218-19.

30. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities, including this court, in *Hasan*, 2025 WL 2682255.⁴ Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading

⁴ See also *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Pena v. Hyde*, 2025 WL 2108913 (D. Mass. July 28, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Orellana Juarez v. Moniz*, 2025 WL 1698600 (D. Mass. June 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez-Campos v. Raycroft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Cortes Fernandez v. Lyons*, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Palma Perez v. Berg*, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Jacinto v. Trump*, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Escalante v. Bondi*, 2025 WL 2212104 (D. Minn. July 31, 2025); *Zaragoza Mosqueda et al. v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Vasquez Garcia et al. v. Noem*, 25025 WL 2549431 (S.D. Cal.

of the statute as ICE. *See Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court's disagreement with BIA's analysis in *Yajure Hurtado*).

31. The Respondents' interpretation defies the plain text of the INA which demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

32. Section 1226(a) applies by default to all persons pending a decision on whether the [noncitizen] is to be removed from the United States." These removal proceedings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

33. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present in the country without admission or parole.

34. By contrast, § 1225(b) applies to people arriving at United States ports of entry or who recently entered. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

35. Additionally, the Supreme Court has traditionally conceptualized a legal difference between "'aliens seeking admission'" and "'aliens already in the country' who are subject to

Sept. 3, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

removal proceedings” with 1225(b) applying to the former and 1226(a) applying to the latter. *Hasan*, 2025 WL 2682255, at *8 (quoting *Jennings*, 583 U.S. at 289). And “this distinction makes sense in the broader context of U.S. immigration law,” which has traditionally afforded more rights to noncitizens in the interior of the United States versus those seeking admission at the borders. *Id.*

36. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended. *Accord Hasan*, 2025 WL 2682255, at *8; *Maldonado de Leon v. Baker*, 2025 WL 2968042, at *7 (D. Md. Oct. 21, 2025) (finding that “noncitizens who have been present for years, have never attempted to acquire legal entry or status, and are not actively doing so at the time of their detention, cannot be deemed to have been “seeking admission” at the time of their detention). Petitioner Maya Torres was not “seeking admission” when the Respondents detained him in Washington D.C. Instead, the discretionary detention procedures under § 1226(a) should apply to the Petitioner, who has resided in the United States for more than two decades. The Respondents are unlawfully imprisoning him without access to a meaningful custody redetermination.

37. For decades, courts deferred to reasonable agency interpretations of ambiguous statutes under *Chevron* deference. On June 8, 2024, the U.S. Supreme Court overturned *Chevron* in *Loper Bright Enterprises v. Raimondo*, holding that the Administrative Procedure Act requires courts to exercise their own independent judgment in deciding whether an agency has acted within its statutory authority. 603 U.S. 369 (2024). In its decision, the Court emphasized that judges may not defer to an agency interpretation merely because a statute is ambiguous; instead, the courts must decide the best interpretation, giving respectful consideration - but not deference - to the

Executive Branch. *Id.*; *accord Hasan*, 2025 WL 2682255, at *9 n.11 (stating that “this court owes little deference to the BIA’s interpretation of the INA” and citing to *Loper Bright*).

38. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.”); *United States v. Morgan*, 193 F.3d 252, 266 (4th Cir. 1999) (when an agency fails to “afford an individual procedural safeguards required under its own regulations may result in the invalidation of the ultimate administrative determination).

39. To establish a due process violation, a petitioner must show that the agency’s violation prejudiced them. *Id.* at 267. Prejudice may “be presumed under certain specific circumstances,” including where “compliance with the regulation is mandated by the Constitution” and “where an entire procedural framework, designed to ensure the fair processing of an action affecting an individual is created but then not followed by an agency.” *Id.*; *see also Delgado-Corea v. Immigr. & Naturalization Serv.*, 804 F.2d 261, 263 (4th Cir. 1986) (approving of this analysis).

40. Here, the Petitioner is properly subject to § 1226(a). The statute itself and implementing regulations allow noncitizens detained under § 1226(a) to request and receive review of their custody before an immigration judge. *See* 8 C.F.R. § 236.1(d), 8 C.F.R. § 1003.19, and 8 C.F.R. § 1236.1(d). The Respondents’ unlawful classification of the Petitioner as a no-bond detainee deprives him of the procedural safeguards he is entitled to under § 1226(a), and prejudices him in

his removal proceedings, as his access to counsel is limited and he cannot adequately prepare his applications for relief from removal from detention. Here, it is clear that the Respondent agencies are failing to comply with their own regulations to provide safeguards to detained individuals like the petitioner, which constitutes a violation of the *Accardi* doctrine.

STATEMENT OF FACTS

41. Petitioner is a national and citizen of Mexico who entered the United States without inspection over twenty years ago and has continuously resided in the United States for over two decades since his initial entry.

42. Upon information and belief, the Petitioner has never been subject to removal proceedings and does not have criminal history in the United States.

43. Upon information and belief, federal agents purporting to be ICE officers arrested the Petitioner on October 27, 2025, in Washington, D.C. when he was driving to his place of employment.

44. Respondents transferred Petitioner to the Riverside Regional Jail located in Prince George County, Virginia. *See* PEX 1. Respondents subsequently transferred Petitioner to the Farmville Detention Center in Farmville, Virginia, where he remains detained. *See* PEX 3.

45. The Petitioner is neither a danger to the community nor a flight risk. The Petitioner's entire family resides in the Washington, D.C. area and he has a major incentive to pursue his case in immigration court as he is eligible for cancellation of removal for certain non-permanent residents (Form EOIR-42B).

46. Petitioner Maya Torres has deep familial ties to the United States. He has three U.S. citizen children, Maria (20 years old), Sergio (eighteen years old), and Juan (sixteen years old).

Petitioner's children reside with him and their mother in the Washington, D.C. area. Petitioner's mother and brother also reside in the United States. His brother is a U.S. citizen and serves in the United States Air Force. Petitioner's family would suffer exceptional and extremely unusual hardship if he were to be removed from the United States. His family is already suffering immensely due to his unlawful detention.

47. Petitioner has been gainfully employed with the same employer for fifteen years.

48. At the time of this filing, Respondents continue to detain Petitioner.

49. Respondents' decision to detain Petitioner is not legally justifiable and is capricious and arbitrary. There is no better time for the Court to consider the merits of Petitioner's request for release and clarify that he is entitled to release.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the INA

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

51. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

52. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT TWO

Violation of the Accardi Doctrine

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

54. To establish an *Accardi* doctrine due process violation, claimants must demonstrate prejudice resulting from the agency's violation of its own regulations. *United States v. Morgan*, 193 F.3d 252, 267 (4th Cir. 1999). Prejudice may be presumed under specific circumstances, including where a "procedural framework" is "designed to ensure fair processing of an action affecting an individual is created but then not followed by an agency." *Delgado-Corea v. Immigr. & Naturalization Serv.*, 804 F.2d 261, 263 (4th Cir. 1986); *Morgan*, 193 F.3d at 267 (same).

55. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-named Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination*." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations. These regulations are necessary to afford due process.

56. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like the Petitioner in the instant case.

57. The application of § 1225(b)(2) to the Petitioner unlawfully mandates his continued detention and runs afoul of the agency's own regulations in 8 C.F.R. §§ 236.1, 1236.1, and 1003.19. Respondent's decision to hold Petitioner without bond despite him clearly being subject

to the discretionary procedural scheme of § 1226(a) blatantly violates his due process rights under the *Accardi* doctrine and prejudices him. The Petitioner faces immense difficulty in working with family and counsel to prepare his applications for relief from removal.

COUNT THREE

Violation of Fifth Amendment Right to Substantive and Procedural Due Process

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

59. Petitioner's detention violates his substantive due process rights under the Fifth Amendment to the United States Constitution as it subjects him to arbitrary detention.

60. "Government detention violates the Fifth Amendment "unless the detention is ordered in a *criminal proceeding* with adequate procedural protections or, in certain special and 'narrow' nonpunitive 'circumstances' where a special justification . . . outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Zadvydas v. Davis*, 553 U.S. 678, 690 (2001) (emphasis in original).

61. Here, there is no "special justification" which allows the Respondents to deny the Petitioner the liberty to which he is entitled. Respondents have not alleged any "special justification" to support Petitioner's continued detention. Petitioner would otherwise be eligible for a reasonable bond considering immigration history and equities.

62. Petitioner's continued detention and deprivation of a bond hearing (over which the Immigration Judge should have jurisdiction) grossly deprives the Petitioner of his procedural due process rights. This court applies the three-factor balancing test set out in *Mathews v. Eldridge* in the context of civil immigration detention. *See, e.g., Santos Garcia v. Garland*, No. 1:21-cv-742 (E.D. Va Mar. 31, 2022).

63. The three factors are (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

64. Here, the factors weigh heavily in favor of the Petitioner. First, the Petitioner has a significant private interest at stake. Freedom from bodily restraint “lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 630. Petitioner is being detained far away from his family in a different state, and without access to counsel.

65. As to the second factor, there is an enormous risk of the erroneous deprivation of the Petitioner’s liberty interest. In fact, it has already occurred. The Petitioner is categorically eligible for bond, not subject to mandatory detention under the INA, and an Immigration Judge with jurisdiction to hear Petitioner’s bond request would likely grant him bond, given his equities.

66. Regarding the third *Mathews* factor, the government does not have a significant interest at stake in the Petitioner’s continued detention at the expense to taxpayers, since he is not a danger to the community or a flight risk. Petitioner has every incentive to appear for his immigration court proceedings as his intended immigration relief (EOIR-42B, Cancellation of Removal for Certain Nonpermanent Residents) can *only* be pursued in immigration court proceedings. In contrast to the enormous interest at stake for the Petitioner, the government’s interest is miniscule. On balance, the *Mathews v. Eldridge* factors weigh heavily in favor of the Petitioner.

67. The Petitioner’s due process rights are violated by Respondents keeping him in detention for an unnecessary period as it deprives him of fundamental fairness in his removal proceedings.

68. Respondent is eligible to apply for EOIR-42B, Cancellation of Removal for Certain Nonpermanent Residents, but his access to counsel is severely impugned by the remote location of the detention center. It is nearly impossible to prepare an application for this documentation-intensive immigration benefit and prepare for an individual hearing while detained.

69. Without federal court action, Petitioner will likely be ordered removed without the opportunity for a fair hearing in his removal proceedings.

COUNT FOUR

Violation of Eighth Amendment Right to Protection from Cruel and Unusual Punishment

70. Petitioner's continued unlawful detention constitutes cruel and unusual punishment under the Eighth Amendment because the Petitioner is subject to mandatory, indefinite detention based solely on Respondents' erroneous interpretation of 8 U.S.C. § 1225(b)(2). This court, as well as countless other federal district courts around the country have rejected the Respondents' interpretation of the statute and ordered non-citizen Petitioners' release from detention.⁵

71. Detainees may challenge the unconstitutional conditions of their confinement through writs

⁵ *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Luna Quispe v. Crawford*, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Hernandez Hernandez v. Crawford*, 2025 WL 2940702 (E.D. Va. Oct. 16, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Pena v. Hyde*, 2025 WL 2108913 (D. Mass. July 28, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Orellana Juarez v. Moniz*, 2025 WL 1698600 (D. Mass. June 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez-Campos v. Raycroft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Cortes Fernandez v. Lyons*, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Palma Perez v. Berg*, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Jacinto v. Trump*, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Escalante v. Bondi*, 2025 WL 2212104 (D. Minn. July 31, 2025); *Zaragoza Mosqueda et al. v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Vasquez Garcia et al. v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

of habeas corpus, an avenue which the Supreme Court has never explicitly foreclosed. *See Preiser v. Rodriguez*, 411 U.S. 475, 499-500 (1973) (stating that when “a prisoner is put under *additional and unconstitutional restraints* during his lawful custody, it is arguable that habeas corpus will lie to remove the restraints making the custody illegal.”) (emphasis added); *see also Coreas v. Bounds*, 451 F. Supp. 3d 407, 419 (D. Md. 2020) (“In the absence of binding Fourth Circuit authority, this Court concludes, consistent with the positions of several circuits, that a claim by an immigration detainee seeking release because of unconstitutional conditions or treatment is cognizable” (citing *Aamer v. Obama*, 742 F.3d 1023, 1038 (D.C. Cir. 2014))).

72. Respondents’ continued custody of Petitioner has transformed civil immigration detention into cruel and unusual punishment. Petitioner is not being detained pursuant to any criminal charges. Petitioner is eligible for relief from removal yet is indefinitely held in detention solely because of the manner of his entry into the United States over two decades ago.

73. Respondents’ incorrect and reckless interpretation of a detention statute is imposing additional constitutional restraints on Petitioner’s liberty, in the form of cruel and unusual punishment. As such, Petitioner challenges the fact and condition of his detention through this habeas petition.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an order directing Respondents to show cause why the writ should not be granted;
3. Issue an order prohibiting Respondents from moving Petitioner outside of this Court’s jurisdiction during the adjudication of this petition or ordering him to be

transferred back to the Court's jurisdiction if he is transferred;

4. Issue an order prohibiting Respondents from removing him from the United States during the adjudication of this petition;
5. Issue a writ of habeas corpus ordering Respondents to release Petitioner on his own recognizance or under parole, a low bond or reasonable conditions of supervision; and
6. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

/s/ Sandra E. Lackmann
Sandra E. Lackmann
Counsel for Petitioner
Haynes Novick Kohn
2001 S St NW, Suite 550
Washington, DC 20009
Phone: 202-769-3993
Fax: 202-293-6230

Dated: October 29, 2025

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

I represent Petitioner, Juan Maya Torres, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Amended Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 29th day of October, 2025.

/s/ Sandra E. Lackmann

CERTIFICATE OF SERVICE

I certify that on October 29, 2025, a copy of the foregoing Petitioner's Amended Petition for Writ of Habeas Corpus and attached documents were served on Federal Respondents' counsel via the Court's CM/ECF system. Copies of the Complaint and Civil Cover Sheet will be mailed to all Respondents via Certified Mail.

//S// Sandra E. Lackmann

Sandra E. Lackmann
Counsel for Petitioner

ATTACHMENTS:

- Exh. 1 Printout from VINELink, showing Petitioner Juan Maya Torres was initially detained at Riverside County Regional Jail.
- Exh. 2 Printout from the EOIR Automated Case Information System, showing that Petitioner's case has not yet been filed with the Immigration Court.
- Exh. 3 Printout from ICE Detainee Locator showing Petitioner Maya Torres's transfer to Farmville Detention Center at 07:36 am on October 29, 2025.