

**FILED**

November 03, 2025

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY: lad  
DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO, TEXAS

Anson Craig REBELO,

Case No. 6:25-cv-00505-ADA

Agency No. 

Petitioner,

**AMENDED PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT  
TO 28 U.S.C. § 2241**

v.

Bret BRADFORD, Houston Field Office  
Director, Enforcement and Removal  
Operations, United States Immigration and Customs  
Enforcement (ICE); David TURRURBIARTE,  
Limestone County Sheriff's Office, Krisit NOEM,  
Secretary, United States Department of Homeland  
Security; Pamela BONDI, United States Attorney  
General; UNITED STATES DEPARTMENT  
OF HOMELAND SECURITY

Respondents.

## INTRODUCTION

1. This case challenges the unlawful detention of Anson Craig Rebelo, who entered the United States without inspection in 2018, after fleeing from India to avoid persecution and torture for practicing his Christian faith.
2. On October 1, 2025, he was arrested and detained by ICE.
3. Mr. Rebelo, through his counsel, sought a custody determination hearing from the Immigration Judge, but the Immigration Judge denied him claiming he did not have a power to conduct a bond hearing pursuant to the recent Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA). See Attachment 1.

## JURISDICTION

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. §1101 et. Seq.
5. 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).
6. 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

7. Venue is proper because Mr. Rebelo is in Respondents' custody at the Limestone County Detention Center at Groesbeck, Texas Pursuant to *Braden v. 30<sup>th</sup> Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the judicial district in which Mr. Rebelo is in custody.

### REQUIREMENTS OF 28 U.S.C. §2243

8. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*

9. Habeas corpus is “perhaps the most important writ known to the constitutional law...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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receive prompt action from him within the four corners of the application. “*Yong v. I.N.C.*, 208 F.3d 1116, 1120 (9<sup>th</sup> Cir. 2000) (citation omitted); see also *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737-38 (9<sup>th</sup> Cir. 1954) (Habeas Corpus is “a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination.”).

10. Mr. Rebelo is “in custody” for the purpose of 28 U.S.C. § 2241 because he is in Respondents’ custody at the Limestone County Detention Center at Groesbeck, Texas.

### PARTIES

11. Anson Craig Rebelo is an adult citizen of India. He is detained at the Limestone County Detention Center at Groesbeck, Texas

12. Respondent Bret Bradford is the Field Office Director of ICE’s Houston Field Office. The Houston Field Office is responsible for local custody decision relating to noncitizens charged with being removable from the United States. Respondent Bradford is a legal custodian of Mr. Rebelo and is sued in his official capacity.

13. Respondent David Turrurbiarte is employed by the Limestone County Sheriff's office, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

14. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

15. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice. She is sued in her official capacity. Respondent U.S. Department of Homeland Security is the federal agency that has the authority over the actions of ICE.

#### **FACTUAL BACKGROUND**

16. Mr. Rebelo is a 36-year-old citizen and national of India. He is father of two US citizen children who have some serious medical issues.

17. Mr. Rebelo fled India in 2018 to escape persecution and torture in India for



18. On or about September 18, 2018, Mr. Rebelo illegally entered the United States undetected.

19. On or about March 12, 2023, Mr. Rebelo became a victim of a serious crime (Aggravated Robbery).

20. On or about December 12, 2023, Mr. Rebelo filed a petition for U-Visa being a victim of a serious crime and that petition is still pending with the USCIS.

21. On or about December 06, 2023, Mr. Rebelo's spouse, Reshma Rafi Barreto, illegally entered the United States near Laredo Texas.

22. After a Credible Fear Interview (CFI) Respondents determined that Mr. Rebelo's spouse had a credible fear of persecution or torture in India.

23. On January 09, 2024, Respondent DHS paroled Mr. Rebelo's spouse from its custody into the United States under 8 U.S.C. § 1182(d)(5).

24. Following her release, on October 4, 2024, Mr. Rebelo's spouse timely filed her application for asylum, withholding of removal, and Convention Against Torture Protection with the USCIS. Mr. Rebelo is a rider on his spouse's asylum application. *See*, tab B

25. On or about October 1, 2025, Mr. Rebelo was arrested by ICE when he was taking his younger son to the hospital.

26. Mr. Rebelo through his counsel sought a custody determination hearing from the Immigration Court, but the Immigration Judge denied of not having power to conduct a bond hearing pursuant to the recent Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA).

#### LEGAL FRAMEWORK

27. Under current caselaw that governs the immigration court system, the mandatory detention scheme under 8 U.S.C. § 1225(b)(1) applies to individuals who are placed in expedited removal proceedings, pass a CFI, and are subsequently placed in removal proceedings. *See Matter of M-S*, 27 I. &N. Dec 509 (A.G. 2019). Such individuals are subject to detention without any bond hearing until the conclusion of their proceedings unless DHS release them on parole. *See id.* at 510, 518-19.

28. Before September 5, 2025, the official BIA position was that in the run-of-the-mill case of a person who entered without inspection, the immigration judge had power to grant release on bond under § 236(a) of INA if the person did not have a disqualifying criminal record and the judge was satisfied, after a hearing, that the person was not a danger to the community or a flight risk.

29. BIA held in *Matter of Yajure Hurtado* that people who entered the United States without being “admitted” by an immigration officer are “applicants for admission,” therefore the INA 235 (b) (2) applies when they are in removal proceeding.

30. Mr. Rebelo has been residing in the United States for almost seven years, and he is not seeking admission. Therefore, 8 U.S.C. § Section 1226(a) and not 8 U.S.C. § 1225(b)(2) (A) governs Mr. Rebelo’s detention.

31. The BIA’s decision is deeply flawed. It departs from the only interpretation of the detention statute formally on the books since the laws were enacted in 1996.

32. Multiple federal courts have already rejected the BIA’s reasoning in *Yajure Hurtado*. Therefore, this court must reject BIA’s interpretation that people who entered the United States without being “admitted” by an immigration officer are “applicants for admission,” therefore the INA 235 (b) (2) applies when they are in removal proceeding.

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 v. Davis*, 533 U.S. 678, 690 (2001).

## **CLAIM FOR RELIEF**

### **Violation of Fifth Amendment Right to Due Process**

#### **Procedural Due Process**

34. Mr. Rebelo restates and realleges all paragraphs as if fully set forth here.

35. Due process does not permit the government to strip Mr. Rebelo of his liberty without written notice and a hearing before a neutral decisionmaker to determine whether detention is warranted based on danger or flight risk. *See Morrissey*, 408 U.S. at 487-88.

36. Accordingly, Mr. Rebelo's detention violates the Due Process Clause of the Fifth Amendment.


### **PRAYERS FOR RELIEF**

WHEREFORE, Mr. Rebelo respectfully requests that this Court:

- (1) Assume jurisdiction over this matter.
- (2) Issue an Order to Show Cause ordering Respondents to show cause within three days as to why this Petition should not be granted as required by 28 U.S.C. § 2243;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Rebelo from custody immediately and permanently enjoining his re-detention absent written notice and a hearing prior to re-detention where Respondents must prove by clear and convincing evidence that he is a flight risk or danger to the community and that no alternatives to detention would mitigate those risks;
- (4) Declare that Mr. Ramirez's detention without an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;
- (5) Award Mr. Rebelo 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.

Dated: October 24, 2025

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Aftab Sharif', written over a horizontal line. The signature is stylized with a large, sweeping flourish on the right side.

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