

Olivia Kaplan, Esq.  
Rebecca Hufstader, Esq.  
Emily Thornton, Esq.  
**LEGAL SERVICES OF NEW JERSEY**  
100 Metroplex Drive, Suite 101  
Edison, New Jersey 08817  
(732) 529-8323  
okaplan@lsnj.org

*Attorneys for Petitioner*

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

Alex SANCHEZ-BENITEZ,

Petitioner,

v.

Stephen KURZDORFER, in his official capacity as Acting Field Office Director, Buffalo Field Office, U.S. Immigration & Customs Enforcement; Joseph E. FREDEN, in his official capacity as Deputy Field Office Director of the Buffalo Federal Detention Facility for U.S. Immigration and Customs Enforcement; Todd LYONS, in his official capacity as Director of U.S. Immigration and Customs Enforcement; and Kristi NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security,

Respondents.

Case No.

**VERIFIED PETITION  
FOR WRIT OF  
HABEAS CORPUS**

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

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, as follows:

**INTRODUCTION**

1. Petitioner Alex Sanchez-Benitez has been detained in Respondents' custody for nearly sixteen months without a bond hearing pursuant to 8 U.S.C. § 1231, while he pursues protection from removal in withholding-only proceedings.

2. Pursuant to the Second Circuit's decision in *Black v. Decker*, courts assess the constitutionality of prolonged detention without a bond through the *Mathews v. Eldridge* balancing test. 103 F.4th 133 (2d Cir. 2024). Applying this test, additional process is now due to justify Mr. Sanchez-Benitez's continued detention.

3. Accordingly, Mr. Sanchez-Benitez requests that this Court hold or order a bond hearing at which the Government (i) bear the burden of proof by clear and convincing evidence as to the necessity of continued detention, and (ii) show that no alternatives to detention are available.

**PARTIES**

4. Petitioner Alex Sanchez-Benitez is a noncitizen currently detained by Respondents at Buffalo Federal Detention Facility (BFDF) pending the outcome of the appeal of the Immigration Judge's decision ordering his removal and any further removal proceedings.

5. Respondent Stephen Kurzdorfer is named in his official capacity as Acting Field Office Director, Buffalo Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. In this capacity, he is responsible for administration and management

of ICE Enforcement and Removal Operations in Western New York, and has control over Petitioner and where he is detained BFDF. He is an immediate custodian of Petitioner.

6. Respondent Joseph E. Freden is named in his official capacity as Deputy Field Office Director for the Buffalo Federal Detention Facility of ICE Enforcement and Removal Operations (ERO). In this capacity, Respondent Brophy is responsible for administration and management of ICE Enforcement and Removal Operations at the BFDF. He is an immediate custodian of Petitioner.

7. Respondent Todd Lyons is named in his official capacity as Acting Director of ICE. In this capacity, Respondent Lyons is responsible for the administration of federal immigration law and the execution of detention and removal determinations; he routinely transacts business in the Western District of New York, and, he is a legal custodian of Petitioner.

8. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, she is responsible for the administration of federal immigration law pursuant to 8 U.S.C. § 1103(a); she routinely transacts business in the Western District of New York; and she is legally responsible for pursuing Petitioner's detention and removal. As such, she is a legal custodian of Petitioner.

### **JURISDICTION AND VENUE**

9. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. 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.

11. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against its agencies' officers, who are sued in their official capacities. *See* 5 U.S.C. § 702.

12. Venue is proper in this District under 28 U.S.C. § 1391 because Petitioner is detained in this District.

**Administrative Exhaustion is Not Required.**

13. No statutory exhaustion requirement applies to Mr. Sanchez-Benitez's petition. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014). While courts have generally required exhaustion as a "prudential matter," exceptions apply. *Michalski v. Decker*, 279 F. Supp. 3d 487, 495 (S.D.N.Y. 2018). Under Second Circuit law, exceptions to judicial exhaustion exist where:

(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question.

*Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003)

14. In the present case, requiring exhaustion would be futile because Mr. Sanchez-Benitez is statutorily ineligible for bond. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022). Mr. Sanchez-Benitez challenges the constitutionality of his continued detention. Neither the IJ nor the BIA may rule on such issues. *Matter of Rodriguez-Carrillo*, 22 I. & N. Dec. 1031, 1035 (BIA 1999) ("[N]either the Immigration Judge nor this Board may rule on the constitutionality of the statutes that we administer."); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 238 (W.D.N.Y. 2019) (finding that exceptions to prudential exhaustion for the futility of an administrative appeal and a substantial constitutional question applied to habeas petitioner's motion to enforce requirements of the Due Process Clause).

**STATEMENT OF FACTS**

15. Petitioner Alex Sanchez Benitez was born in El Salvador in 1989 and first entered the United States as a child in 2003. He was placed in removal proceedings on November 29, 2017 and ordered removed to El Salvador on June 6, 2018. *See* Exhibit A, Notice of Intent/Decision to Reinstate Prior Order. Mr. Sanchez Benitez later returned to the United States.

16. On July 6, 2024, the Department of Homeland Security (DHS) reinstated Mr. Sanchez Benitez's 2018 removal order and he was detained by ICE. *Id.* He was detained at Moshannon Valley Processing Center in Philipsburg, Pennsylvania. Mr. Sanchez Benitez claimed fear of returning to his country of origin, El Salvador, passed a reasonable fear interview, and was placed in withholding-only proceedings before the Elizabeth Immigration Court. El Salvador was the only country of removal designated during his 2018 removal proceedings.

17. On March 27, 2025, the Immigration Court granted Mr. Sanchez Benitez deferral under the Convention Against Torture (CAT) after finding that, if deported to El Salvador, he would more likely than not be tortured and the government would acquiesce or even participate in the torture. Exhibit B, Order Granting CAT Deferral to El Salvador. Mr. Sanchez Benitez remained in detention following this decision, but was transferred to Buffalo Service Processing Center in Batavia, New York on April 7, 2025. Exhibit C, I-830 Notice to EOIR of Transfer to Batavia.

18. On June 23, 2025, Mr. Sanchez Benitez and undersigned counsel received notice of the DHS's intent to deport him to Mexico. Mr. Sanchez Benitez moved to reopen his withholding-only proceedings to seek protection from removal to Mexico on June 27, 2025. On July 17, 2025, the Immigration Court granted Mr. Sanchez Benitez's motion to reopen his withholding-only proceedings and he applied for CAT deferral of removal to Mexico. The Immigration Court denied his application for CAT deferral on September 29, 2025 and Mr.

Sanchez Benitez has filed a timely appeal of this decision to the Board of Immigration Appeals (BIA). Exhibit D, Order Denying CAT Deferral to Mexico; Exhibit E, BIA Filing Receipt.

### **LEGAL FRAMEWORK**

#### **Reinstatement of Removal and Withholding-Only Proceedings**

19. When a non-citizen facing persecution in their home country reenters the United States after having been previously removed, they are subject to a process called reinstatement of removal (“reinstatement”), whereby the government reinstates the non-citizen’s prior removal order and seeks to immediately deport them without a hearing. *See* 8 U.S.C. § 1231(a)(5).

20. However, pursuant to treaty obligations codified into U.S. law that prevent governments from removing individuals to countries where their lives are at risk, a non-citizen in reinstatement is entitled to a RFI. *See* 8 C.F.R. § 241.8(e). To pass the RFI, the non-citizen must demonstrate “a reasonable possibility that he or she would be persecuted on account of his or her race, religion, nationality, membership in a particular social group or political opinion, or a reasonable possibility that he or she would be tortured in the country of removal.” 8 C.F.R. § 208.31(c).

21. If an AO finds that the non-citizen has demonstrated a reasonable possibility of persecution or torture during the RFI, the non-citizen is referred to proceedings before an IJ at which they seek to demonstrate their eligibility for withholding of removal under 8 U.S.C. § 1231(b)(3) or CAT protection under 8 C.F.R. §§ 1208.16, 1208.17. These proceedings are often referred to as “withholding-only proceedings.” *See Lin v. U.S. Dep’t of Justice*, 453 F.3d 99, 105 (2d Cir. 2006) (“In accordance with our international human rights obligations, withholding of removal is a mandatory form of relief under the INA.”). Withholding-only proceeding can last for months or even years. *See, e.g., Guerrero-Sanchez v. Warden York Cty. Prison*, 905 F.3d 208,

212 (3d Cir. 2018) (noting that petitioner's withholding-only proceedings lasted more than 53 months).

**Immigration Detention Under 8 U.S.C. § 1231**

22. Congress authorized civil detention of non-citizens in removal proceedings for specific, non-punitive purposes. Detention is either discretionary, *see* 8 U.S.C. § 1226(a), or mandatory, *see* §§ 1225(b) (non-citizens seeking admission), 1226(c) (non-citizens inadmissible or deportable for certain offenses), 1231(a) (non-citizens ordered removed). Under 8 U.S.C. § 1226(a), a non-citizen may request a bond hearing at any time to contest whether he is a danger or a flight risk and thus properly detained during the pendency of removal proceedings.

23. In 2016, the Second Circuit found that non-citizens like Mr. Sanchez-Benitez who are in withholding-only proceedings are detained pursuant to 8 U.S.C. § 1226(a) and are therefore entitled to bond hearings at the outset of their detention. *See Guerra v. Shanahan*, 831 F.3d 59, 64 (2d Cir. 2016) (finding that reinstated-order detention was governed by 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1231(a), and that an individual in withholding-only proceedings was therefore entitled to a bond hearing), *abrogated by Johnson v. Guzman Chavez*, 594 U.S. 523, 542 (2021) (finding that 8 U.S.C. § 1231, not 8 U.S.C. § 1226, governs the detention of non-citizens subject to reinstated orders of removal).

24. After *Guerra*, non-citizens detained in withholding-only proceedings in New York were routinely granted bond hearings after six months of detention. This changed in 2021, when the Supreme Court reviewed a similar Fourth Circuit case and reached a contrary conclusion, finding non-citizens in withholding-only removal proceedings are detained under 8 U.S.C. § 1231. *See Guzman Chavez*, 495 U.S. at 542.

25. However, the Supreme Court did not decide whether individuals detained under 8 U.S.C. § 1231(a)(6), which now includes non-citizens in withholding only proceedings, may be entitled to bond hearings on due process grounds after prolonged detention. *Arteaga-Martinez*, 596 U.S. at 583 (explicitly declining to reach this question).

**Respondents’ Custody Review Process for Individuals Detained Under § 1231(a)(6)**

26. The government does not provide bond hearings for individuals detained under § 1231(a)(6).

27. The DHS regulations that implement § 1231 provide for only limited custody review before officials from ICE—the agency that arrests, jails, and prosecutes non-citizens, including those in withholding-only proceedings. *See* 8 C.F.R. § 241.4 (referring to this review as a “post-order custody review” or “POCR”).

28. The regulations provide for an initial custody determination within 90 days of detention under § 1231. 8 C.F.R. § 241.4(k)(1)(i). That custody determination is conducted by a local ICE official and is based on a “records review” to determine whether release is appropriate. 8 C.F.R. § 241.4(c)(1), (h)(1), (h)(5). 60. If an individual is detained beyond the initial 90-day period, a second administrative review of the individual’s detention occurs around 180 days (or six months) of incarceration. 8 C.F.R. § 241.4(c)(2), (k)(2)(ii), (k)(2)(iv). The authority to conduct the 180-day review is transferred from the local ICE official to a particular unit of ICE headquarters, the Headquarters Post-Order Detention Unit (“HQPDU”). *See* 8 C.F.R. § 241.4 (c)(2), (i).

29. This review process entails few procedural safeguards. It begins with a records review, and if release is not authorized after this records review, the detained individual is interviewed by a panel of three ICE deportation officers. 8 C.F.R. § 241.4(i)(1)-(3). The panel asks

a series of questions and records the individual's answers, and then prepares a recommendation on whether the individual should remain in custody, which is then passed to the ultimate decisionmaker—an officer at ICE's Washington, D.C. headquarters—who does not directly interview or hear from the detained person or their representative. 8 C.F.R. § 241.4(c)(2),(i)(4)-(6).

30. Although an attorney or representative is permitted to attend the interview, 8 C.F.R. § 241.4(d)(3), (i)(3), and an individual may submit evidence on their behalf, *id.* § 241.4(i)(3)(ii), there are no provisions authorizing presentation of argument, calling of witnesses, or viewing or confronting the government's evidence. *See generally* 8 C.F.R. § 241.4(i)(3) (describing the interview process).

31. The burden is on the individual non-citizen to demonstrate that they are neither a danger nor a flight risk. 8 C.F.R. § 241.4(d)(1).

32. There is no right to appeal the agency's determination. 8 C.F.R. § 241.4(d), (g)(2).

33. The ultimate decision to release is discretionary even if an individual establishes that his or her release does not pose a danger to the community or a significant flight risk. *Id.* § 241.4(d)(1) (explaining that the agency "may release" or "may also . . . continue [] custody . . ." for such individuals).

34. A subsequent review is only commenced by ICE "within approximately one year" of the 180- day review, after approximately 18 months of confinement. *See* 8 C.F.R. § 241.4(k)(2)(iii). A non-citizen may submit a written request once every three months between the annual reviews based on a "material change in circumstances," and ICE may take approximately 90 days—another three months—to respond. *Id.*

#### **Due Process and Prolonged Detention**

35. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. “It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Due process requires “adequate procedural protections” to ensure that the Government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (internal quotation marks omitted).

36. This fundamental protection applies to all persons present in the United States, including both removable and inadmissible non-citizens. *See id.* at 721 (Kennedy, J., dissenting) (“both removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious”); *see also Velasco Lopez v. Decker*, 978 F.3d 842, 853–54 (2d Cir. 2020).

37. The Supreme Court has held that immigration statutes including 8 U.S.C. § 1226(c) and 8 U.S.C. § 1231(a)(6) require detention without a bond hearing during ongoing proceedings before the Executive Office of Immigration Review. *Arteaga-Martinez*, 596 U.S. at 582; *Jennings*, 583 U.S. at 305-06. However, both decisions left open whether prolonged detention without a bond hearing under those statutes could become unconstitutional. *Arteaga-Martinez*, 596 U.S. at 583; *Jennings*, 583 U.S. at 312.

38. In *Black v. Decker*, the Second Circuit answered that open question in a case involving § 1226(c), and held that unreasonably prolonged detention without adequate procedural protections violates due process. 103 F.4th 133, 145 (2d Cir. 2024).

39. To determine when additional procedural protections become necessary, *Black* instructed courts to apply the *Mathews v. Eldridge* balancing test and weigh (1) the private liberty

interest at stake, (2) the risk of erroneous deprivation and the probable value of additional safeguards, and (3) the Government’s interest. *Black*, 103 F.4th at 147 (citing *Mathews*, 424 U.S. 319, 335 (1976)).

40. The *Mathews* test applies “to examine the adequacy of procedures provided to individuals in custody” in a variety of contexts, and the Second Circuit has applied it to detention under both § 1226(a) and § 1226(c). *Black*, 103 F.3d at 148; *see also Velasco Lopez*, 978 F.3d at 851. Therefore, this test similarly applies to determine whether detention during withholding-only proceedings pursuant to 8 U.S.C. § 1231 has become unconstitutionally prolonged and additional process is due. *See, e.g., Hilario M.R. v. Warden, Mesa Verde Detention Center*, No. 2025 WL 1158841, at \*7-11 (E.D. Cal. Apr. 21, 2025) (applying *Mathews* to detention under § 1231 during withholding-only proceedings); *Cabrera Galdamez v. Mayorkas*, No. 22-cv-9847, 2023 WL 17777310, at \*5 (S.D.N.Y. 2023) (same); *Michelin v. Oddo*, No. 3:23-cv-22, 2023 WL 5044929, at \*6 (W.D. Pa. Aug. 8, 2023) (applying the Third Circuit’s framework for prolonged § 1226(c) detention cases).

### **FIRST CLAIM FOR RELIEF**

#### **Violation of Fifth and Fourteenth Amendment Right to Procedural Due Process: Unconstitutionally Prolonged Detention**

41. Petitioner re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

42. Under the *Mathews* balancing test, Mr. Sanchez-Benitez’s detention of nearly sixteen months has become unconstitutional.

43. The first factor in the *Mathews* balancing test, “the private interest affected by the official action[,] is the most significant liberty there is—the interest in being free from imprisonment.” *Black*, 103 F.4th at 151. Mr. Sanchez-Benitez’s sixteen months of detention is far

longer than the seven months the Second Circuit found to be unconstitutional in *Black*. *See id.* This lengthy period detention increases the deprivation at stake. *Velasco Lopez*, 978 F.3d at 852.

44. Whether “the facility for the civil immigration detention is meaningfully different from a penal institution for criminal detention” factors into the reasonableness of detention. *Pucha Quituizaca v. Barr*, No. 20-CV-403, 2020 WL 3166732, at \*5 (W.D.N.Y. June 15, 2020); *Accord Velasco Lopez*, 978 F.3d at 851-52. This Court has found that conditions at BFDF are akin to prison conditions. *Alvarado v. Garland*, 608 F. Supp. 3d 32, 40 (W.D.N.Y. 2022); *see also Mycoo v. Warden of Batavia Fed. Det. Facility*, 2020 WL 5800920, at \*7 (W.D.N.Y. Sept. 29, 2020) (“[B]ecause BFDF houses individuals against their will with various restrictions on their freedom of movement . . . the facility does not seem meaningfully different from at least a low-security penal institution for criminal detention.”) (quoting *Gonzales Garcia v. Barr*, 2020 WL 525377, at \*15 (W.D.N.Y. Feb. 3, 2020)); *Ranchinskiy v. Barr*, 422 F. Supp. 3d 789, 799 (W.D.N.Y. 2019) (finding that detention at the BFDF is akin to criminal incarceration).

45. Therefore, the deprivation of liberty at stake is very significant and strongly weighs in favor of Mr. Sanchez-Benitez.

46. The second Mathews factor—the risk of erroneous deprivation of liberty under the current regime and the value of additional safeguards—also favors Mr. Sanchez-Benitez. Critically, there is no opportunity for Mr. Sanchez-Benitez to challenge his detention because the statute mandates detention regardless of whether he is or has ceased to be a flight risk or danger to the community. In *Cabrera Galdamez*, the Court rejected the government’s argument that its’ own POOCR procedures are sufficient to protect against the risk of an erroneous deprivation of liberty. The Court explained that the POOCR “proceedings suffer from three significant shortcomings. First, the regulations place the burden on Petitioner rather than the government. Second, the decision is

by ICE itself, not an outside arbiter such as an immigration judge. Finally, the regulations do not provide for an in-person hearing, where Petitioner can present his argument, call witnesses and confront the government's evidence." *Cabrera Galdamez*, 2023 WL 1777310 at \*6 (internal citations omitted); *see also Falodun v. Sessions*, No. 18-CV-6133-MAT, 2019 WL 6522855, at \*11 (W.D.N.Y. Dec. 4, 2019) (finding POCR reviews insufficient process because they are "cursory" and "unreviewable[.]").

47. ICE's post-order custody review process is constitutionally inadequate as applied to Mr. Sanchez-Benitez's prolonged detention. The first 90-day review is document-based only, which deprives the decision maker's ability to assess credibility and veracity. *Goldberg v. Kelly*, 297 U.S. 254, 269 (1970) ("Particularly where credibility and veracity are at issue . . . written submission are a wholly unsatisfactory basis for decision."). In the second review, which does not include an in-person hearing, there is no requirement that the panel review or consider the evidence submitted by the non-citizen, nor can the individual view or confront ICE's evidence against them in any way. *See* 8 C.F.R. § 241.4(i). Second, the review is performed by ICE officers rather than a neutral adjudicator. *See* 8 C.F.R. § 241.4(i)(1),(i)(3)(i), (i)(5)-(6); *Hamdi v. Rumsfeld*, 542 U.S. 507, 537 (2004) (plurality op.) ("An interrogation by one's captor . . . hardly constitutes a constitutionally adequate factfinding before a neutral decisionmaker."). Third, the burden is placed on the detained individual to demonstrate that they pose neither a danger nor a flight risk, a burden allocation held unconstitutional in prolonged detention under 8 U.S.C. § 1226(a) and § 1226(c). *Black*, 103 F.4th at 155; *Velasco Lopez*, 978 F.3d at 853. Fourth, there is no appeal permitted of ICE's decision. *See* 8 C.F.R. § 241.4(d). Two Circuit courts have previously indicated that these processes raise grave constitutional concerns. *Guerrero-Sanchez v. Warden York C'ty Prison*, 905 F.3d 208, 227 (3d Cir. 2018) ("The DHS regulations that implement the Government's detention

authority under § 1231(a)(6) themselves raise serious constitutional concerns.”) (internal quotations omitted); *Diouf v. Napolitano*, 634 F.3d 1081, 1091 (9th Cir. 2011) (finding that custody review procedures raise increasingly “serious constitutional concerns” as “continuing detention becomes prolonged”).

48. Therefore, this procedure creates a significant risk of error, and there is substantial value in additional safeguards, namely, a bond hearing. *See Black*, 103 F.4th at 152; *Velasco Lopez*, 978 F.3d at 852.

49. Finally, a bond hearing would not undercut the government’s interest in preventing against flight risk or danger to the community, because it will only allow for an individualized assessment of those issues. *Black*, 103 F.4th at 153. Rather, “[w]hen the Government incarcerates individuals it cannot show to be a poor bail risk for prolonged periods of time, as in this case, it separates families and removes from the community breadwinners, caregivers, parents, siblings, and employees.” *Velasco Lopez*, at 855. The government has no legitimate interest in continuing to detain Mr. Sanchez-Benitez without a bond hearing.

50. For all these reasons, application of the *Mathews* factors shows that more process is due now. The Court should require a bond hearing at which the government bears the burden of justifying continued detention, after consideration of ability to pay and alternatives to detention. *Black*, 103 F.4th at 155-158.

51. Mr. Sanchez Benitez requests that this Court grant his release or hold a bond hearing pursuant to 28 U.S.C. § 2241(c)(3), which “authorizes a district court to grant a writ of habeas corpus whenever a petitioner is ‘in custody in violation of the Constitution or laws or treaties of the United States.’” *Wang v. Ashcroft*, 320 F.3d 130, 140 (2d Cir. 2003)

52. “Habeas lies to enforce the right of personal liberty; when that right is denied and a person confined, the federal court has the power to release him.” *Fay v. Noia*, 372 U.S. 391, 430 (1963); *Enoh v. Sessions*, No. 16-cv-85, 2017 WL 2080278, at \*2 (W.D.N.Y. 2017) (“[O]rdering a petitioner’s release is the very essence of habeas relief.”)

53. This Court’s ability to hold its own bond hearing and order a petitioner’s release is inherent in its habeas authority. *Mapp v. Reno*, 241 F.3d 221, 226 (2d Cir. 2001) (holding that federal courts have inherent authority to release habeas petitioners on bail); *Leslie v. Holder*, 865 F. Supp. 2d 627, 634 (M.D. Pa. 2012) (“[T]he power to order bail in habeas proceedings is a legal and logical concomitant of the court’s habeas corpus jurisdiction.”).

54. Therefore, the Court may remedy the constitutional violation in this case by holding its own bond hearing rather than ordering an immigration judge to hold a hearing. *See L.G.M. v. LaRocco*, 788 F. Supp. 3d 401, 405-407 (E.D.N.Y. 2025); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 235 (W.D.N.Y. 2019) (“[A] federal court always retains jurisdiction to enforce its lawful judgments, including habeas judgments, [and] the court has the authority to see that its judgment is fully effectuated.”); *Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728 (M.D. Pa. Aug. 6, 2020) (indicating that the Court would conduct its own bond determination); *Thaxter v. Sabol*, No. 1:14-cv-02413, 2016 WL 3077351, at \*3 (M.D. Pa. June 1, 2016) (referring bond determination to a magistrate judge rather than an immigration judge); *Judulang v. Chertoff*, 562 F. Supp. 2d 1119, 1127 (S.D. Cal. 2008) (ordering release).

55. Federal courts are the arbiters of the constitutional rights at issue in this petition, and immigration judges have regularly failed to comply with the requirements of constitutionally-mandated bond hearings and forced district courts to adjudicate subsequent motions to enforce. *L.G.M.*, 788 F. Supp. 3d at 405; *see Mathon v. Searls*, 623 F. Supp. 3d 203, 218 (W.D.N.Y. 2022)

(finding that conditional release was appropriate where the IJ hearing was not constitutionally adequate and where remand would only extend detention unnecessarily); *Pucha Quituizaca v. Barr*, 2021 WL 6797494, at \*1 (W.D.N.Y. Jan. 5, 2021); *Davis v. Garland*, No. 22-CV-443-LJV, 2023 WL 1793575, at \*2 (W.D.N.Y. Feb. 7, 2023). Therefore, Mr. Sanchez-Benitez respectfully requests that this Court hold the bond hearing in the first instance.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Declare Petitioner's ongoing prolonged detention by Respondents, without a constitutionally-adequate bond hearing, to be unconstitutional;
- 3) Issue a Writ of Habeas Corpus and order Respondents to immediately release Petitioner;
- 4) In the alternative, issue a Writ of Habeas Corpus hold a bond hearing at which the Government has the burden to demonstrate by clear and convincing evidence that Petitioner's continued detention is necessary to serve a compelling regulatory purpose, while requiring consideration of alternatives to detention;
- 5) In the alternative, order Petitioner's release within ten days unless Respondents schedule an individualized bond hearing before a neutral decision maker at which the Government bears the burden by clear and convincing evidence. At that hearing, if the Government cannot meet its burden, a neutral decision maker must find that no condition or combination of conditions can reasonably assure Petitioner's appearance and safety of the community, and that even with conditions, Petitioner presents an articulable risk of flight or threat to the community;

6) Retain jurisdiction to release Petitioner or conduct an individualized bond determination;

7) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law;

8) Grant such further relief as the Court deems just and proper.

DATED: October 30, 2025  
Edison, New Jersey

LEGAL SERVICES OF NEW JERSEY  
By: /s/Olivia Kaplan  
Olivia Kaplan, Esq.  
Rebecca Hufstader, Esq.  
Emily Thornton, Esq.  
100 Metroplex Drive, Suite 101  
Edison, New Jersey 08817  
(732) 529-8323  
okaplan@lsnj.org

*Attorneys for Petitioner*

#### VERIFICATION

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached Verified Petition are true and correct to the best of my knowledge.

DATED: Edison, New Jersey  
October 30, 2025

LEGAL SERVICES OF NEW JERSEY  
By: /s/Rebecca Hufstader  
Rebecca Hufstader, Esq.

**EXHIBITS**

- A** Notice of Intent to Reinstate Prior Removal Order
- B** IJ Order Granting Deferral of Removal from El Salvador
- C** I-830
- D** IJ Decision Denying Deferral of Removal from Mexico
- E** Filing Receipt for BIA Appeal