

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MYNOR DE JESUS DUARTE ALARCON,



Petitioner,

v.

PAMELA BONDI, U.S. Attorney General;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security;
TODD M. LYONS, in his official capacity as
Acting Director of U.S. Immigration and Customs
Enforcement; and
NIKITA SCOTT, in her official capacity
As Field Office Director of Baltimore
Field Office, U.S. Immigration and Customs
Enforcement.

Respondents.

Case No. 8:25-cv-3605

**FIRST AMENDED
PETITION FOR WRIT
OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Mynor de Jesus Duarte Alarcon, a citizen and national of Guatemala, challenges his custodial detention by the United States Department of Homeland Security, through its component arm, U.S. Immigration and Customs Enforcement (“ICE”).
2. Mr. Duarte Alarcon entered the United States without inspection on April 27, 1998. He is the sole financial provider for his wife and three United States citizen children who live with him in Gaithersburg, Maryland. In 2006, Mr. Duarte Alarcon founded a landscaping

firm. It now employs ten people and generates roughly \$800,000 in annual profits. This results in Mr. Duarte Alarcon's payment of some \$200,000 in taxes each year.

3. On the morning of November 2, 2025, Mr. Duarte Alarcon was driving his brother's truck in Silver Spring, Maryland when immigration officers arrested him. In conjunction with his arrest, the immigration officers served Mr. Duarte Alarcon with a Notice of Custody Hearing informing him that they were detaining him under authority set forth in 8 U.S.C. § 1226. *See* Exhibit A.
4. Earlier this year, the Board of Immigration Appeals issued a precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). That decision asserts that immigration judges lack jurisdiction to hold bond hearings for foreign nationals who are present in the United States without admission. *See id.* at 220.
5. Since *Yajure Hurtado's* issuance, immigration judges across the United States, including those assigned to the immigration courts in Hyattsville and Baltimore, have uniformly stated that they lack jurisdiction to hold bond hearings for foreign nationals whom the Department of Homeland Security charges under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I). *See* Exhibit B. There is no reason to expect that the immigration judge assigned to Mr. Duarte Alarcon's case will arrive at any different conclusion.
6. There is a growing body of case law from the federal district courts holding that Respondents' reinterpretation of 8 U.S.C. § 1225(b) is contrary to law. *See, e.g., Velasquez v. Noem*, 2025 U.S. Dist. LEXIS 210601 (D. Md. Oct. 27, 2025); *Maldonado de Leon v. Baker*, 2025 U.S. Dist. LEXIS 207581 (Oct. 21, 2025) (D. Md. Oct. 21, 2025); *Hasan v. Crawford*, ___ F. Supp. 3d ___, 2025 LEXIS 184734 (E.D. Va. Sept. 19, 2025). This is another such case.

7. Mr. Duarte Alarcon's detention is unconstitutional and violates the Immigration and Nationality Act ("INA"). As a result of this unlawful restraint, Mr. Duarte Alarcon seeks an order from this Court requiring his immediate release or, alternatively, that the Respondents provide him with a bond hearing before a neutral and impartial adjudicator in either the Baltimore or Hyattsville Immigration Courts..
8. Mr. Duarte Alarcon's continued detention by Respondents without any mechanism to challenge his confinement violates the Due Process Clause of the Fifth Amendment to the United States Constitution, and the Immigration and Nationality Act ("INA"), (8 U.S.C. § 1101 et seq.).
9. Absent an order from this Court, Mr. Duarte Alarcon will be transferred to an immigration detention facility outside the State of Maryland. Such transfer of Mr. Duarte Alarcon will result in him losing all meaningful ability to properly defend his legal rights as he has no meaningful ties outside of the State of Maryland and his legal counsel is located in the State of Maryland.
10. On November 3, 2025, an attorney at Griffith Immigration Law visited with Mr. Duarte Alarcon at the ICE Holding Room at 31 Hopkins Plaza, Baltimore, MD 21201.¹ On information and belief, on November 4, 2025, at 8:00 AM, a staff person at Griffith Immigration Law checked the ICE Online Detainee Locator which listed the "current detention facility" as "Call ICE for Details" and stated that he is in "BALTIMORE, MD, DOCKET CONTROL OFFICE."

¹ Mr. Duarte Alarcon's detention in the Baltimore Hold Room has resulted in undersigned counsel being unable to obtain copies of pertinent documents to attach to this petition. Undersigned intends to supplement this Petition with documentary evidence as soon as he is able to obtain copies of these documents.

JURISDICTION AND VENUE

11. On information and belief, Mr. Duarte Alarcon is detained in the Baltimore Holding Room, at 31 Hopkins Plaza, Baltimore, Maryland 21201, which is within the jurisdiction of the United States District Court for the District of Maryland.
12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (“habeas corpus”), 28 U.S.C. § 1651 (“All Writs Act”), 28 U.S.C. § 1331 (“federal question”), the INA, and U.S. CONST. amend. V (the “Due Process Clause”).
13. This Court has jurisdiction to adjudicate habeas corpus claims brought by foreign nationals who challenge the legality of their detention by U.S. immigration officials. *See Reno v. Flores*, 507 U.S. 292, 307 (1993). (“It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.”). Title 8 U.S.C. § 1252(g) does not operate as a jurisdictional bar because that statute does not apply to actions taken to detain foreign nationals. *See Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (“Section 1252(g) ‘applies only to three discrete actions,’ i.e. commencement of removal proceedings, adjudication of removal cases, and execution of removal orders”). Additionally, 8 U.S.C. § 1252(b)(9), does not preclude jurisdiction because that statute applies to review of removal orders and not to detention decisions made prior to the issuance of a removal order. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (“‘where Congress intends to preclude judicial review of constitutional claims its intent to do so must be clear.’”) (quoting *Webster v. Doe*, 486 U.S. 592, 603 (1988)).

EXHAUSTION

14. A petitioner seeking habeas corpus under 28 U.S.C. § 2241 need not exhaust administrative remedies because the statute does not require it. *Compare* 28 U.S.C. § 2241 *with* 28 U.S.C. § 2254(b)(1)(A); *see* *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) (“where Congress has not clearly required exhaustion, sound judicial discretion governs.”) (citation omitted); *see Velasquez v. Noem*, 2025 U.S. Dist. LEXIS 210601, at * 4-5 (D. Md. Oct. 27, 2025).
15. “To determine whether requiring exhaustion is appropriate, federal courts must balance the interest of the individual in retaining prompt access to a federal judicial forum against countervailing institutional interests favoring exhaustion.” *Velasquez*, 2025 U.S. Dist. LEXIS, at * 5 (cleaned up).
16. “Here, there is no reason to require prudential exhaustion or exhaustion of administrative remedies in this Court’s discretion. Though Petitioner may request a bond hearing in front of an IJ, such a request would be an exercise in futility, as the result of such administrative proceedings has already been ‘predetermined.’” *Velasquez*, 2025 U.S. Dist. LEXIS 210601, at * 5 (quoting *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992)). This is so because of the Board of Immigration Appeals’s recent decision in *Matter of Yajure Hurtado*, 29 I. & N, Dec. 216 (BIA 2025), that prohibits IJs from considering bond for noncitizens who were not lawfully admitted. *See Velasquez*, 2025 U.S. Dist. LEXIS, at *6.

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents forthwith, unless Mr. Duarte Alarcon is not entitled to relief.

See 28 U.S.C. § 2243. If an order to show cause 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.*

PARTIES

18. Mr. Duarte Alarcon is a native and citizen of Guatemala and is now detained by Respondents in the Baltimore Holding Room, 31 Hopkins Plaza, Baltimore, Maryland. He is in the custody, and under the direct control, of Respondents and their agents.
19. Respondent Nikita Scott is sued in her official capacity as the Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. Field Office Director Scott has immediate physical custody of Mr. Duarte Alarcon and has the authority to release him.
20. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement and supervises and oversees Respondent Mullen.
21. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Respondent Kristi Noem is responsible for the implementation and enforcement of INA, and oversees ICE, the component agency directly responsible for Mr. Duarte Alarcon’s detention. *See* 8 U.S.C. § 1103(a). Respondent Kristi Noem is a legal custodian of Petitioner.
22. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. The Attorney General oversees the Executive Office for Immigration Review and, within the Executive Branch, is the arbiter of all questions of law pertaining to the INA. *See* 8 U.S.C. § 1103(a)(1), 1103(g).

STATEMENT OF FACTS

23. Mr. Duarte Alarcon entered the United States on April 27, 1998. During the intervening twenty-nine years, Mr. Duarte Alarcon has built a life in the United States and contributed to his community and to the United States more broadly.
24. Mr. Duarte Alarcon is a partner in M & J landscaping, a firm that he founded under a different name approximately twenty years ago. He employs ten people and pays approximately \$200,000 in taxes each year.
25. He is the sole breadwinner for his wife and three United States children who are ages, 11, 14, and 20.
26. Mr. Duarte Alarcon is an active member in St. Martin of Tours Catholic Church in Gaithersburg.
27. Mr. Duarte Alarcon had no interaction with immigration officials until November 3, 2025, when they arrested him while he was driving his brother's truck in Silver Spring, Maryland. In conjunction with their arrest of Mr. Duarte Alarcon, they served him with several documents.
28. One of these documents is a Notice of Custody Determination. *See* Exhibit A. That document informs Mr. Duarte Alarcon that immigration officers intended to detain him until the completion of his removal proceedings. The document also informs Mr. Duarte Alarcon that the Department of Homeland Security is acting "under authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations." *Id.*
29. Immigration officers also served Mr. Duarte Alarcon with a Notice to Appear ("NTA") in the Hyattsville, Maryland, Immigration Court to defend against charges under 8 U.S.C.

§§ 1182(a)(6)(A)(i) (noncitizen present in the United States without having been admitted or paroled or who entered at a time and place other than as designated by the Attorney General), and 1182(a)(7)(A)(i)(I) (applicant for admission without valid entry documents). *See* Exhibit B.

30. In the NTA, immigration officers explicitly declined to charge Mr. Duarte Alarcon as an arriving alien. Instead, they charged him as “an alien present in the United States who has not been admitted or paroled.” *Id.*
31. On September 5, 2025, the Board of Immigration Appeals issued a precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). That decision asserts that immigration judges lack jurisdiction to hold bond hearings for foreign nationals who are present in the United States without admission. *See id.* at 220. It bears noting that the Board issued *Yajure Hurtado* just two months after the Department of Homeland Security, through its Acting Director of U.S. Immigration and Customs Enforcement, “revisited” the Executive Branch’s decades-old position that 8 U.S.C. § 1226(a) applies to foreign nationals who have crossed the border and are apprehended in the interior of the United States. *See Martinez v. Hyde*, 2025 LEXIS 141724, at * 11-12 (D. Mass. Jul. 24, 2025).

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act, 8 U.S.C. §§ 1225(b) and 1226(a)

32. Mr. Duarte Alarcon incorporates and realleges all paragraphs as if fully set forth here.

33. Respondents' theory that Mr. Duarte Alarcon is subject to mandatory detention under 8 U.S.C. § 1225(b) rests on their mistaken recent reinterpretation of the INA's detention provisions at 8 U.S.C. §§ 1225(b) and 1226(a).
34. To begin with, based on the facts of Mr. Duarte Alarcon's case, § 1225(b)(1) does not apply to him.
35. "[F]or mandatory detention under § 1225(b)(1) to apply, a noncitizen must either (1) be 'arriving in the United States,' § 1225(b)(1)(A)(i), or (2) have not been admitted or paroled into the U.S. and not have sufficiently shown at least two years of continuous presence in the United States, § 1225(b)(1)(A)(iii)(II)." *Velasquez*, 2025 U.S. Dist. LEXIS 210601, *8.
36. [[Mr. Duarte Alarcon has been in the United States since April 1998, and he has attached documentary evidence to support this including (i) his 2002 marriage certificate from Montgomery County, Maryland, *see* Exhibit C, and birth certificates from his three United States citizen children. *See* Exhibit D. On this record, "he cannot be subject to expedited removal or mandatory detention under 8 U.S.C. § 1225(b)(1)." *Velasquez*, 2025 U.S. Dist. LEXIS 210601, at * 9.]]
37. What's more, at least four reasons demonstrate the incorrectness of the Respondents' position that they are lawfully detaining him under 8 U.S.C. § 1225(b)(2).
38. First, the Respondents themselves served Mr. Duarte Alarcon with a Notice of Custody Determination. *See* Exhibit A. Tellingly, that Notice states that the Respondents are detaining him "[p]ursuant to the authority contained in section 236 of the Immigration and Nationality Act" and 8 C.F.R. § 236. *Id.*

39. “Where section 236 of the INA is codified at 8 U.S.C. § 1226, and that authority is explicitly referenced in [the Notice of Custody Determination]’ it becomes clear that § 1226 is the applicable statute governing such detention.” *Velasquez*, 2025 U.S. Dist. LEXIS 210601, at * 12 (quoting *Maldonado de Leon v. Baker*, 2025 U.S. Dist. LEXIS 207581, at * 15-16 (D. Md. Oct. 21, 2025).
40. Second, the Respondents’ theory that they are lawfully detaining Mr. Duarte Alarcon under authority set forth in 8 U.S.C. § 1252(b)(2) conflicts with the Supreme Court’s opinion in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).
41. In *Jennings*, the Supreme Court instructed that 8 U.S.C. § 1225(b) “applies primarily to aliens seeking entry into the United States (‘applicants for admission’ in the language of the statute).” *Id.* at 297. Section 1226, on the other hand, applies to aliens already present in the United States.” *Id.* at 303. “Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings.” *Id.* “Section 1226(a) also permits the Attorney General to release those aliens on bond . . .” *Id.*
42. Mr. Duarte Alarcon has been in the United States since 1998. There can be no question that he is “already present in the United States.” *Jennings*, 583 U.S. at 303. Under these circumstances, *Jennings* instructs that he is entitled to a bond hearing under 8 U.S.C. § 1226(a). The Respondents’ reinterpretation of §§ 1225(b)(2)(A) and 1226(a) conflicts with *Jennings*.
43. Third, the Respondents’ reinterpretation of §§ 1225(b)(2)(A) and 1226(a) is contrary to the recently legislative history of the INA. It is settled that a “statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or

superfluous, void or insignificant” *Hibbs v. Winn*, 542 U.S. 88, 101 (2004) (internal quotations omitted)). “Earlier this year, the Legislature amended § 1226 via the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), in a manner that renders the Government’s interpretation of § 1225(b)(2) superfluous.” *Velasquez*, 2025 U.S. Dist. LEXIS 210601, at *13. For instance, § 1226(c)(1)(A), (D), and (E) already require mandatory detention of certain categories of inadmissible noncitizens. Indeed, Congress added § 1226(c)(1)(E)—which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).” *Quispe-Ardiles v. Noem*, 2025 U.S. Dist. LEXIS 194069, at *16 (E.D. Va. Sept. 30, 2025). “If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.” *Id.*

44. Fourth, the Respondents’ reinterpretation of the detention provisions “would upend decades of practice. Indeed, mandatory detention for all applicants has only been the official policy of the Department of Homeland Security (“DHS”) . . . since July 8, 2025, when Acting Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an internal memorandum explaining that the agency had revisited its legal position” *Martinez v. Hyde*, 2025 U.S. Dist. LEXIS 141724, at *12 (D. Mass. Jul. 24, 2025) (internal quotation omitted).
45. The novelty of the Respondents’ new theory of immigration detention is underscored by the conflicting pronouncements of it by the Respondents themselves. In an August 4, 2025, order, the Attorney General determined that foreign nationals arrested in the interior of the United States (other than at a port of entry) are entitled to bond hearings

and are detained under 8 U.S.C. § 1226. She did this by designating as precedent “in all proceedings involving the same or similar issues” the Board’s decision in *Matter of Akhmedov*, 29 I. & N. Dec. 166 n.1 (BIA 2025).

46. In *Akhmedov*, the Board considered the Department of Homeland Security’s appeal of an Immigration Judge’s grant of bond to a foreign national arrested in the interior of the United States. See 29 I. & N. Dec. at 166, 168. The Board’s decision - as adopted by the Attorney General – could hardly be clearer: “The respondent’s custody determination is governed by the provisions of section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a) (2018).” *Id.* at 166.
47. Just like the foreign national in *Matter of Akhmedov*, Mr. Duarte Alarcon was arrested by immigration officers in the interior of the United States. Just like the foreign national in *Matter of Akhmedov*, Mr. Duarte Alarcon is, at a minimum, entitled to a bond hearing.
48. “The Board shall be governed by the provisions and limitations prescribed by applicable law, regulations, and procedures, and by decisions of the Attorney General (through review of a decision of the Board, by written order, or by determination and ruling pursuant to section 103 of the Act).” 8 C.F.R. § 1003.1(d)(1)(i).
49. By statute, the Attorney General’s determinations and rulings on all questions of law pertaining to the Immigration and Nationality Act bind the Executive Branch. See 8 U.S.C. § 1103(a)(1).
50. On September 5, 2025, the Board of Immigration Appeals issued its decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In that case, the Board determined that a foreign national who has not been admitted to the United States is not entitled to a bond hearing and is detained under 8 U.S.C. § 1225(b)(2)(A). See *id.* at 220. *Yajure Hurtado*

cannot be reconciled with the Attorney General's decision in *Akhmedov* (decided a month earlier) where the Attorney General determined that 8 U.S.C. § 1226(a) governs foreign nationals who enter the United States unlawfully and who immigration officers later encounter. *See Matter of Akhmedov*, 29 I. & N. Dec. at 166.

51. The Board's attempt to reconcile the Attorney General's decision in *Akhmedov* with its own decision in *Yajure Hurtado* underscores this point. *See* 29 I. & N. Dec. at 226. In *Hurtado*, the Board articulated no reasoning for its disagreement with the Attorney General other than to state its opinion that a foreign national's presence in the United States "does not somehow eviscerate or nullify section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), or vest the Immigration Judge with authority over the respondent's bond request." *Id.* at 226.² But the Attorney General's decision controls the Board. *See* 8 U.S.C. § 1103(a)(1); 8 C.F.R. § 1003.1(d)(1)(i).
52. The Board's observation in *Yajure Hurtado* that 8 U.S.C. § 1225(b) was not before the Attorney General in *Akhmedov* does not give license to the Board to act contrary to both statutory and regulatory authority declaring that the Attorney General – and not the Board – speaks for the Executive Branch with respect to "all questions of law." 8 U.S.C. § 1103(a)(1); *see* 8 C.F.R. § 1003.1(d)(1)(i). Nor can it vitiate the Attorney General's determination that custody determinations of foreign nationals arrested in the United States interior are "governed by the provisions of section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a) (2018)."

² It bears noting that the Board panel in *Yajure Hurtado* was apparently unaware that the Attorney General had designated *Matter of Akhmedov* as precedent. *See Yajure Hurtado*, 29 I. & N. Dec. at 226 (referencing "[t]he Board's statement" in *Matter of Akhmedov*).

53. For all these reasons, the Respondents' assertion that they are detaining Mr. Duarte Alarcon under authority set forth in 8 U.S.C. § 1225(b) is incorrect. The Court should therefore grant Mr. Duarte Alarcon's Petition for Writ of Habeas Corpus.

COUNT TWO

Violation of Fifth Amendment Right to Due Process

54. Mr. Duarte Alarcon incorporates and realleges all paragraphs as if fully set forth here.
55. It is settled that the Fifth Amendment's Due Process Clause applies to all "persons" within the United States. *See Matthews v. Diaz*, 426 U.S. 67, 77 (1976). The term "persons" includes foreign nationals such as Mr. Duarte Alarcon's. *See id.*
56. It is equally well settled that freedom from confinement is a core liberty interest and violation of that liberty interest raises a colorable substantive due process claim. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *Reno v. Flores*, 507 U.S. 292, 301 (1993) (collecting cases); *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (bodily freedom is the "most elemental of liberty interests").
57. Mr. Duarte Alarcon has been in the United States for approximately twenty-seven years. Two days ago, ICE arrested Mr. Duarte Alarcon and opted to put him in conventional removal proceeding and documented that their detention authority was under 8 U.S.C. § 1226(a). Respondents' departure from their position that they are detaining Mr. Duarte Alarcon under § 1226(a) and that their detention authority somehow transformed to 8 U.S.C. § 1225 (and that he is no longer eligible for bond), violates Mr. Duarte Alarcon's right to substantive due process.

58. Mr. Duarte Alarcon also has a right to procedural due process. Immigration proceedings are civil and they are intended to be “nonpunitive in purpose and effect.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Over a century of Supreme Court precedent instructs that the Fifth Amendment entitles foreign nationals to procedural due process. *See Reno*, 507 U.S. at 306 (citing *The Japanese Immigrant Case*, 189 U.S. 86, (1903)). The Respondents’ refusal to provide any process whatsoever contravenes over a century of Supreme Court precedent interpreting the Due Process Clause as applying to foreign nationals such as Mr. Duarte Alarcon. *See, e.g., Matthews v. Eldridge*, 424 U.S. 319, 335 (1976).
59. “To determine whether civil detention violates a detainee’s Fifth Amendment procedural due process rights, courts apply the three-part test articulated in *Matthews v. Eldridge*, 424 U.S. 319 (1976).” *Quispe-Ardiles*, 2025 LEXIS 194069, at * 22. “Under that test, courts must weigh (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.’” *Id.* (quoting *Matthews*, 424 U.S. at 335).
60. Mr. Duarte Alarcon invokes “‘the most elemental of liberty interests’; ‘[t]he interest in being free from physical detention.’” *Quispe-Ardiles*, 2025 LEXIS 194069, at *17 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)) (alterations in original). To be sure, the Respondents’ refusal to provide any process whatsoever creates significant risk that Mr. Duarte Alarcon will be deprived of that interest.

61. The Government's interest in implementing its novel reinterpretation of 8 U.S.C. § 1225(b)(2)(A) is minimal. This new "approach attempts to upend decades of immigration practice." *Hasan v. Crawford*, 2025 U.S. Dist. LEXIS 184734, at *24 (E.D. Va. Sept. 19, 2025). "Indeed, mandatory detention for all applicants has only been the official policy of the Department of Homeland Security ("DHS") . . . since July 8, 2025, when Acting Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an internal memorandum explaining that the agency had "revisited its legal position. . . ." *Martinez*, 2025 LEXIS 141724, at *12. In contrast, the resumed application of decades of agency practice will satisfy the Government's interest in enforcement of the immigration laws.
62. In Mr. Duarte Alarcon's case, all three *Matthews* factors weigh heavily in favor of holding that the Respondents' refusal to provide him any process whatsoever violates his right to procedural due process. The Court should grant the petition for a Writ of Habeas Corpus for this reason as well.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Mr. Duarte Alarcon's detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1236.

- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, alternatively, order that a neutral and impartial adjudicator conduct a bond hearing pursuant to 8 U.S.C. § 1236(a);
- (5) Issue an order restraining immigration officials from transferring Mr. Duarte Alarcon outside of Maryland, Virginia, or Pennsylvania, and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Raymond O. Griffith
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Attorney for Petitioner

Dated: November 4, 2025

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

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

Dated this fourth day of November, 2025.

/s/ Raymond O. Griffith
RAYMOND O. GRIFFITH, Esq.
Maryland Bar No. 199812150291
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(410) 244-5005

Attorney for Petitioner

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

CERTIFICATE OF SERVICE

I, Raymond O. Griffith, hereby declare that, pursuant to Federal Rule of Civil Procedure 4(i), on November 4, 2025, I directed to be served the following documents in the above-captioned matter:

- Petition for Writ of Habeas Corpus; and
- Civil Cover Sheet

I caused the aforementioned documents to be served by USPS certified mail, return receipt requested, at the following addresses:

Tom Corcoan, Chief
Civil Division
U.S. Attorney's Office
36 S. Charles Srt., Fourth Floor
Baltimore, MD 21201

Nikita Scott, Field Office Director
Department of Homeland Security
Immigration and Customs Enforcement ERO
Baltimore Field Office
3701 Koppers St.
Halethorpe, MD 21227

and

31 Hopkins Plaza, Sixth Floor
Baltimore MD 21201

Todd Lyons, Director
U.S Immigration and Customs Enforcement
500 12th St SW
Washington, DC 20536

Pamela Bondi, Attorney General

Office of the Attorney General
950 Pennsylvania Ave., N.W.
Washington, DC 20530

Kristi Noem, Secretary of Homeland Security
Office of General Counsel
U.S. Department of Homeland Security 277
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 4, 2025 at Baltimore, Maryland.

/s/ Raymond O. Griffith
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Attorney for Petitioner