



2. On April 5, 2023, immigration officials released Petitioner with an Order of Release on Recognizance which indicates that his release was “[i]n accordance with section 236 of the [INA] [8 U.S.C. § 1226][.]” (emphasis added). Pet. ¶ 35.

3. Following his release, Petitioner made his way to the New York area, where he established a life. His residence is in Astoria. He subsequently appeared in immigration court in New York and thereafter filed an asylum application with USCIS. On June 6, 2024, Petitioner’s Employment Authorization was approved and granted by USCIS, valid until June 5, 2029. Pet. ¶¶ 36-38.

4. In July 2025, Respondent ICE issued a sweeping policy change, arbitrarily broadening the application of 8 U.S.C. § 1225(b)(2) mandatory detention to all “applicants for admission” which they have incorrectly interpreted to mean any individual present in the United States without having been admitted. Pet. ¶¶ 21-24. In September 2025, the Board of Immigration Appeals upheld Respondents’ novel interpretation in *Matter of Yajure Hurtado*, denying bond hearings to individuals nationwide. 29 I. & N. Dec. 216 (BIA 2025). Pet. ¶¶ 25-32.

5. Over two and a half years after his release by ICE on his own recognizance under INA § 236 (8 U.S.C. § 1226), Petitioner was detained by ICE but this time purportedly under INA § 235 (8 U.S.C. § 1225).

6. Respondents have not afforded Petitioner a discretionary bond hearing (under 8 U.S.C. § 1226(a)) before an immigration judge for consideration of his release. Pursuant to their latest policy and the holding in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Respondents contend that Petitioner is ineligible for a discretionary bond, and is instead subject to mandatory detention under § 1225(b)(2) as he has been charged as an individual present in the United States who was not admitted or paroled. *See* Pet. ¶ 44.

7. Without intervention by this Court, Petitioner will continue to unlawfully languish in civil detention without access to the basic process he is due under the law and our Constitution.

8. Moreover, Petitioner and his family face dire consequences from any delay in this matter. Pet. ¶ 43. Before Petitioner's detention, his income was his family's main source of support for both his household in New York and his children in Boliva, paying for almost all the rent, utilities, school and medical expenses, etc. *Id.* His absence has therefore left his family in extreme economic distress. *Id.* Petitioner's mother struggles to manage the household expenses alone, as her limited house cleaning income is insufficient to cover their basic needs. *Id.* She also suffers from elevated blood pressure, and Petitioner's detention has caused her significant anxiety which has negatively affected her blood pressure.

9. Petitioner has shown that he is entitled to an order to show cause. “Congress has provided that once a petition for a writ of habeas corpus is filed, unless the court is of the opinion that the petitioner is not entitled to an order to show cause, the writ must be awarded ‘forthwith,’ or an order to show cause must be issued. 28 U.S.C. s 2243.” *Harris v. Nelson*, 394 U.S. 286, 298–99 (1969).

10. Alternatively, Petitioner has shown through his petition for a writ of habeas corpus (ECF No. 1) that he is clearly entitled to relief. Fed. R. Civ. Pro. 4.

11. Accordingly, unless this order is issued, Petitioner and his family will suffer immediate and irreparable injury.

WHEREFORE, Petitioner requests that this Court order Respondents to show cause why Respondents should not be ordered to release Petitioner from his unlawful detention and, if he is thereafter detained under the proper authority, provide Petitioner a bond hearing pursuant to 8 U.S.C. § 1226(a) as soon as possible but no later than 15 days from the Court’s order. Petitioner requests that Respondents be ordered to make a return within 3 days, with Petitioner’s traverse due 5 days thereafter, pursuant to 28 U.S.C. § 2248. *See also Romero Lopez v. Noem*, No. 25-cv-16890-SDW (D.N.J. Oct. 24, 2025) (ECF No. 3, at 1) (setting this schedule for a similar habeas petition).

Respectfully submitted,

Date: November 13, 2025

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## CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded a copy of the foregoing, with all attachments thereto, to this Court's CM/ECF case management system, which will send a Notice of Electronic Filing to all counsel of record.

Respectfully submitted,

Date: November 13, 2025

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