

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

LAURIEDSON GONCALVES RUFO,  
*Petitioner,*

v.

ERIK ROKOSKY,  
in his official capacity as Director/Warden of  
Elizabeth Contract Detention Facility;

JOHN TSOUKARIS,  
in her official capacity as Field Office Director,  
New Jersey Field Office, U.S. Immigration &  
Customs Enforcement;

PAMELA BONDI,  
in his official capacity as Attorney General, U.S.  
Department of Justice;

KRISTI NOEM,  
in his official capacity as Acting Secretary, U.S.  
Department of Homeland Security; and

TODD M. LYONS,  
in his official capacity as Acting Director, U.S.  
Immigration & Customs Enforcement;  
*Respondents.*

Civil Action No.:  
2:25-cv-17418

REPLY TO RESPONDENTS ANSWER TO  
PETITIONER'S WRIT OF HABEAS CORPUS  
UNDER 28 U.S.C. § 2241.

**INTRODUCTION**

On November 21, 2025, Respondents filed a two-letter “answer” to Petitioner’s, Lauriedson Goncalves Rufo (“Mr. Rufo”), Writ of Habeas Corpus under 28 U.S.C. § 2241. Within the reply, Respondents contended: 1. Mr. Rufo’s detention is lawful under 8 U.S.C. § 1225(b) (2) due to the *Matter of Yajure Hurtado*, 29 I&N Dec. 215 (BIA 2025) as well as his classification as an “applicant for admission” and 2. The only remedy if the Court finds § 1225 does not apply, is a bond hearing under § 1226(a), not immediate release. Mr. Rufo respectfully resubmits that

detention by Respondents unlawfully violates his due process rights and further, seeks immediate release or in the alternative, an immediate bond hearing.

### ARGUMENT

#### **I. MS. RUFO'S DETENTION IS UNLAWFUL & VIOLATES THE DUE PROCESS CLAUSE.**

Within their Answer to the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, and specifically concerning the legality of Mr. Rufo's detention, Respondents allege Mr. Rufo's detention is lawful under 8 U.S.C. § 1225(b) and comports with due process. Respondents are far from correct.

To reiterate, the Due Process Clause of the Fifth Amendment is applicable to all individuals in the United States regardless of status or lack thereof; even further, civil detention is a severe deprivation of liberty, which requires due process protection. *Zadvydas v Davis*, 533 US 678, 682 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003); *Reno v. Flores*, 507 U.S. 292, 3061 (1993); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

#### **A. Mr. Rufo's mandatory detention under INA § 235 (b) (2), 8 U.S.C. 1225, is improper and unconstitutional.**

Prior to the BIA's unconstitutional decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), individuals who entered this nation without being admitted or paroled could quite often, and under the long standing interpretation of INA §§ 235, 8 U.S.C. 1225, and 236, 8 U.S.C. 1226, seek a bond hearing before an Immigration Judge; however, and since the instant decision, all individuals who were not admitted or paroled are subject to mandatory detention without the opportunity to bond where the non-citizen was apprehended or **how long the non-citizen has resided in the United States.** *Id*

Respondents assert Mr. Rufo is properly subject to mandatory detention pursuant to INA § 235, 8 U.S.C. 1225, because he satisfies the applicant for admission and applicant seeking admission prongs under INA § 235(b)(2), 8 U.S.C. 1225 - such a contention is presumptuous and incorrect. Mr. Rufo should not be subject to mandatory detention under to INA § 235, 8 U.S.C. 1225, for a myriad of reasons. First, Mr. Rufo has lived in this nation since July 2016 – **almost a decade**. A noncitizen with long-term residence in the U.S., such as Mr. Rufo, is not properly considered an “applicant for admission” and “applicant seeking admission” under INA § 235(b)(2)(A) because such individuals are not affirmatively seeking to enter the country, have significant longstanding physical and social ties within the states, applying such labels circumvents due process, and in and of itself, contradicts the statute’s intent. Therefore, such long-term U.S. residents should not be subject to mandatory detention without bond and instead should be eligible for a custody redetermination/bond hearing under INA § 236(a).

Second, *Matter of Yajure-Hurtado*, which is subjecting Mr. Rufo to mandatory detention, directly conflicts with significant U.S. Supreme Court decisions including but not limited to *Zadvydas v. Davis*, 533 U.S. 678 (2001), *Demore v. Kim*, 538 U.S. 510 (2003), *Boumediene v. Bush*, 553 U.S. 723 (2008), *Mathews v. Eldridge*, 424 U.S. 319 (1976), and *United States v. Salerno*, 481 U.S. 739 (1987). Additionally, Federal District Courts across the nation, including the New Jersey Federal District Court, have refuted such detentions through the re-enforcement of INA § 236(a), not INA § 235(b)(2), and further, many grants in habeas petition reliefs based on the resounding due process violations set forth by the *Matter of Yajure-Hurtado*. *De Fatima Lomeu v. Soto, et al.*, No. 2:25-cv-16589 (D.N.J. Oct. 23, 2025); *Zumba v Bondi*, 2025 US Dist LEXIS 167666 [DNJ Aug. 28, 2025, No. 25-cv-14626 (KSH)]; *Benitez v. Francis*, 2025 US Dist LEXIS 153952 [SDNY Aug. 8, 2025]; *Samb v. Joyce*, 2025 US Dist LEXIS 161109

[SDNY Aug. 19, 2025]); *Sampiao v. Hyde*, 2025 US Dist LEXIS 175513 [D Mass Sep. 9, 2025, No. 1:25-cv-11981-JEK]); *Leal-Hernandez v. Noem*, 2025 US Dist LEXIS 165015 [D Md Aug. 24, 2025, No. 1:25-cv-02428]); *Kostak v. Trump*, 2025 US Dist LEXIS 167280 [WD La Aug. 27, 2025, No. 3:25-1093]); *Zaragoza Mosqueda v. Noem*, 2025 US Dist LEXIS 174828 [CD Cal Sep. 8, 2025, No. 5:25-cv-02304]).

Third, subjecting Mr. Rufo to mandatory detention during his pending, and likely meritorious, I-130 petition will inevitably result in unconstitutional prolonged detention pursuant to *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *German Santos v. Warden Pike Cty. Corr. Fac.*, 965 F.3d 203, 208 (3d Cir. 2020); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 232-33 (3d Cir. 2011); *Chavez-Alvarez v. Warden York County Prison*, 783 F.3d 469, 478 (3d Cir. 2015). Moreover, Mr. Rufo's continued unlawful detention directly prejudices his ability to pursue lawful immigration relief, including the adjudication of his I-130 Petition for Alien Relative, which has already been pending for three years and four months—well beyond normal processing times. His detention compounds these delays, as it makes the required USCIS interview exponentially more difficult to schedule and complete. ***As confirmed by USCIS Newark Field Officer, Section Chief, Jessica Pomales, conducting this interview requires active coordination and cooperation between USCIS, OPLA, ICE, and the detention facility. Exhibit A: Email Exchange with USCIS Officer Pomales & Exhibit B: Email Exchange with OPLA Duty Attorney Corey A. Combs.*** Respondents conduct in this case demonstrates a clear unwillingness to engage in that mandatory interagency cooperation, thereby obstructing a process that only Respondents can facilitate and further, unavoidably will cause prolonged detention. Accordingly, Mr. Rufo's ability to obtain approval of his petition, an approval that is solely within the Respondents' control, has been placed entirely at the mercy

of agencies that have shown no intention of moving the process forward. The result is that the Mr. Rufo remains trapped in a detention that is both unlawful and affirmatively harmful, as it prevents him from accessing the very channels of relief Congress has made available, leaving this habeas petition as the only remaining mechanism to remedy the government-created harm. Maintaining Mr. Rufo in detention under these circumstances not only perpetuates the unlawful deprivation of liberty, but also actively sabotages his statutory right to pursue lawful status, making immediate judicial intervention necessary to circumvent the inevitably prolonged detention.

**B. Mr. Rufo's unlawful detention, without a bond hearing and pending I-130 Petition violates the Fifth Amendment.**

Respondents' contention that Mr. Rufo's detention, without an opportunity to be heard, and regardless of his pending petitions, is lawful and constitutional – such an allegation is wildly erroneous.

As illustrated in the habeas corpus petition, upon an individual evidencing a liberty or property interest, a Court must determine whether constitutionally sufficient procedures were provided by balancing the three factors set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Mr. Rufo resubmits: First, Mr. Rufo has a significant liberty interest in remaining in the United States – his loving wife, his business, beloved friends that have turned into family, and essentially all he has, is within the United States; Second, in light of the Constitution, the INA and its applicable regulations, Respondents have procedurally deprived and continue to risk deprivation of Mr. Rufo's due process rights by prematurely attempting to deport and confining Mr. Rufo before USCIS may adjudicate his I-130 petition, which Immigration Judge John Carle's Order deemed successful; and Third, the interest of enforcing immigration policies would be valid if the government was even following said policies – Mr. Rufo was improperly

detained while following the procedural requirements to obtain lawful status.

**C. A bond hearing under § 1226(a) is not the only relief this Honorable Court may grant.**

Respondents incorrectly provide “the only remedy, if the Court finds § 1225 does not apply, is a bond hearing under § 1226(a) not immediate release;” comically enough, and following the preceding statement is a cite to the very similar case where this very Court granted the immediate release of an unlawfully detained individual. *De Fatima Lomeu v. Soto, et al.*, No. 2:25-cv-16589 (D.N.J. Oct. 23, 2025).

During Mr. Rufo’s ongoing unlawful detention, the collateral consequences have become increasingly severe. The business he painstakingly built and managed with diligence now faces imminent jeopardy in his absence. His U.S. Citizen wife, who suffers from significant anxiety and relies on Mr. Rufo both financially and physically, has been left in a state of profound distress. Even further, the community that has long benefited from Mr. Rufo’s steady, compassionate presence has been shocked and disheartened by his continued confinement. These mounting harms underscore the urgent need for his immediate release.<sup>1</sup>

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<sup>1</sup> Letter, dated November 6, 2025, from *Jose Zacarias Dias, Senior Pastor of CANAA Church*, evidencing Mr. Rufo’s membership since 2016 and good moral character. Letter, dated November 12, 2025, from *Detective Fabio Medeiros of Newark Police Department*, who has known Mr. Rufo for six years, evidencing Mr. Rufo’s love and commitment to the community, aid to law enforcement whenever sought, and acknowledgment that Mr. Rufo is a law-abiding individual with high values. Letter, dated November 11, 2025, from *Deputy Mayor of Newark Ligia De Freitas*, evidencing Mr. Rufo as a valued member of his community that persistently gives back, whether through free haircuts for children or economic vitality, and that his removal from this nation would be a significant loss to the community he serves. Letter dated, November 10, 2025, from the *Captain of the New York City Police Department and Pastor at CANAA Church*, Kenneth O. Fernandez, evidencing his strong moral character, willingness to serve others, and respect for authority. Letter from *friend, Margaret Kirwan* evidencing Mr. Rufo’s kindness, honesty, and deep sense of commitment to the community. Letter from *friend, Wallace De Oliveira*, evidencing Mr. Rufo is a good person with strong character, a stable life, and genuine commitment of doing what is right. Letter, dated February 12, 2024, from *neighbor Ms. Moutinho* providing Mr. Rufo is wildly trustworthy, always looking out for her, and that he was by her side when she lost one of her own sons. Letter, dated January 23, 2023, from *neighbor Elsie Ferreirina*, who suffers with vertigo and heart problems, provided Mr. Rufo drives her to doctor’s appointments, helps translate whenever needed, buys her groceries, checks on her daily, and helps move things around the house. Letter, dated March 3, 2024, from *friend, Jimmy Freitas*, evidencing Mr. Rufo as dedicated, hardworking, and having unwavering moral integrity. Letter from friend, dated February 20, 2025, *friend, Luana P. Da Silva*, evidencing Mr. Rufo has dedicated personal time and funds to helping people in need of meals and other resources. Letter, dated March 6, 2024,

Mr. Rufo is neither a flight risk nor a danger to the community. Mr. Rufo has established a home in the United States for almost a decade and has no criminal record whatsoever. Moreover, Mr. Rufo is a significant member of the community as evidenced by his business and the myriad of community members that respect and love him as family.

Pursuant to a long-line of U.S. Supreme Court decisions and the Due Process Clause of the Fifth Amendment, Mr. Rufo respectfully resubmits to this Honorable Court that he is improperly being subjected to mandatory detention under INA § 235(b)(2), that his detention should be categorized as discretionary under INA § 236(a), and further, detention pending his meritorious I-130 petition, without the opportunity to be heard for bond, is unlawful and violates Fifth Amendment Due Process Clause.

For the foregoing reasons, Mr. Rufo respectfully resubmits his requests for immediate release from custody or an immediate bond hearing to ensure his detention bears a reasonable relation to the government's interests. *This hardworking and compassionate young man deserves to be home with his family for the holidays, not unjustly separated from them.*

#### CONCLUSION

For the foregoing reasons, the undersigned respectfully resubmits the following requests:

1. Assume jurisdiction over the instant matter;
2. Issue a Writ of Habeas Corpus ordering the immediate release of Petitioner from Respondents custody;
3. In the alternative, grant a Writ of Habeas Corpus ordering an immediate bond hearing to ensure Petitioner's detention bears a reasonable relation to the

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from *friend, Gabriel Belvedere De Goes*, evidencing as a loving, genuine individual, who embodies the "American Dream."

government's interests and the immediate transfer back the State of New Jersey;  
and

4. Order any such other relief as this Court deems just and proper.

Dated: 11/23/25

Respectfully Submitted,



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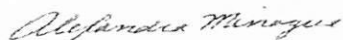
Alexandra Minogue, Esq.  
NJ Bar ID: 479582024  
Nova Law Group  
21 Fulton Street  
Newark, NJ 07102  
E: [aminogue@nova.law](mailto:aminogue@nova.law)  
P: 844-844-6682  
*Counsel for Petitioner*

**CERTIFICATE OF SERVICE**

I, undersigned counsel, hereby certify that on this date, I filed this Reply to Respondents Answer to the Petition for Writ of Habeas Corpus and all attachments using the PACER system.

Dated: 11/23/25

Respectfully Submitted,



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Alexandra Minogue, Esq.  
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*Counsel for Petitioner*

# **EXHIBIT A**



Isabela Alves McCarthy <ialves@nova.law>

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**Pending I-130 - [REDACTED] - Petitioner: Mariana Alves Nunez - Priority Date:  
07/22/2022**

2 messages

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Isabela Alves McCarthy <ialves@nova.law>

Thu, Nov 13 at 15:40

To: <cecilia.jordan@uscis.dhs.gov>

Bcc: Selenia Destefani <sdestefani@nova.law>, Alex Minogue <aminogue@nova.law>, <0a4b2ec7b+matter1743218423@maildrop.clio.com>

Good afternoon,

Please be advised that the undersigned law firm, Nova Law Group, represents Mariana Alves Nunez, USC, and Lauriedson Rufo ("Mr. Rufo") [REDACTED]; attached is Form G-28 signed by the Petitioner.

On July 22, 2022, Mr. Rufo's U.S. Citizen wife, Mariana A. Nunez, filed an I-130, Petition for Alien Relative. We've attached the Receipt Notice here. ***After three years and four months***, the I-130 petition is still pending. Attached is the online case status.

Today, November 13, 2025, Mr. Rufo was taken into ICE Custody. It is of the utmost urgency that the I-130 petition be ***finally*** adjudicated; if not, the undersigned firm will need to file a writ of mandamus.

Due to his detainment, the undersigned ***pleads*** that the I-130 petition finally be processed in an expedient manner.

Should you need anything in addition, please reach out. We are ready and able to provide any further information or evidence needed. Thank you in advance for your courtesies.

Best,

Isabela Alves McCarthy, Esq.  
Nova Law Group  
(844) 844-6682

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Receipt I130 07.26.2022 - Lauriedson (4360).pdf, G-28 Mariana Signed.pdf, Case Status .pdf

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Pomales, Jessica <Jessica.Pomales@uscis.dhs.gov>

Fri, Nov 14 at 14:45

To: ialves@nova.law <ialves@nova.law>

Dear Ms. Alves McCarthy,

Current processing times for an I130 in this category is 65 months based on USCIS processing times listed on our website. To expedite this I130 due to ICE detention, **ICE OPLA** (where the alien is detained) must make an interview request directly to **Newark's USCIS Office of Chief Counsel**. Local ICE OPLA is aware of this process and the procedures.

The coordination of the interview will then be handled by an assigned Senior ISO who will schedule with either the ICE officer or contractors at the facility that is holding the alien. This cannot occur without contact from the detention center as mentioned above.

Regards,

Jessica Pomales

Section Chief

Adjustment of Status


Newark Field Office

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**From:** Isabela Alves McCarthy <ialves@nova.law>

**Sent:** Thursday, November 13, 2025 3:40 PM

**To:** Jordan, Cecilia (Cece) <Cecilia.Jordan@uscis.dhs.gov>

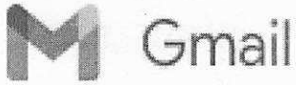
**Subject:** Pending I-130 -  - Petitioner: Mariana Alves Nunez - Priority Date: 07/22/2022

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[Quoted text hidden]

# **EXHIBIT B**



Isabela Alves McCarthy <ialves@nova.law>

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**Request for I-130 Interview Coordination – GONCALVES-RUFO, LAURIEDSON | A-Number: **

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OPLA-NEWARK-DUTYATTORNEY, <OPLA-NEWARK-DUTYATTORNEY@ice.dhs.gov> Fri, Nov 14, 2025 at 4:13 PM  
To: Isabela Alves McCarthy <ialves@nova.law>  
Cc: Philip Velez <pjvelez@nova.law>

Good afternoon, Counsel,

OPLA doesn't play a part in coordinating between USCIS and the detention facility after the request is made, but I will put together the request to expedite and get it sent over to USCIS for this respondent.

Regards,

Corey A. Combs


Assistant Chief Counsel

Office of the Principal Legal Advisor, Newark

U.S. Immigration and Customs Enforcement

U.S. Department of Homeland Security

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**From:** Isabela Alves McCarthy <ialves@nova.law>  
**Sent:** Friday, November 14, 2025 3:56 PM  
**To:** OPLA-NEWARK-DUTYATTORNEY, <OPLA-Newark-DutyAttorney@ice.dhs.gov>  
**Cc:** Philip Velez <pjvelez@nova.law>  
**Subject:** Request for I-130 Interview Coordination – GONCALVES-RUFO, LAURIEDSON | A-Number:  


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Dear OPLA Counsel,

I hope this message finds you well. I am writing regarding Lauriedson Goncalves Rufo, A# [REDACTED], who is currently detained at Elizabeth Contract Detention Facility and in removal proceedings before the Newark Immigration Court. He is represented by our firm, Nova Law Group— specifically, by me and attorney Philip J. Velez.

The Respondent has a pending I-130 petition filed by his USC wife, Mariana Alves Nunez, on 07/22/2022, under the Receipt # [REDACTED] See Notice attached.

We recently received confirmation from USCIS Newark Field Office (Section Chief Jessica Pomales, Adjustment of Status) that, given the current I-130 processing times, any request to expedite and coordinate an I-130 interview for a detained respondent must be initiated by ICE OPLA at the location where the respondent is detained. Per her instructions, ICE OPLA must make an interview request directly to the USCIS Newark Office of Chief Counsel, after which a Senior ISO will coordinate with ICE officers or contractors at the facility to conduct the interview.

In light of this guidance, I respectfully request that your office:

1. Submit the appropriate interview request to the USCIS Newark Office of Chief Counsel to facilitate an I-130 interview for Mariana Alves Nunez (Petitioner) and Lauriedson Gonçaves Rufo; and
2. Coordinate with USCIS and the detention facility so that the interview can be conducted while Lauriedson Goncalves Rufo remains in ICE custody.

Case details for your reference:

- **Petitioner:** Mariana Alves Nunez
- **Beneficiary/Respondent:** Lauriedson Goncalves Rufo, A# [REDACTED]
- **USCIS Receipt Number (Form I-130):** [REDACTED]
- **Detention Facility:** Elizabeth Contract Detention Facility

Given the urgency of this matter due to the Respondent's detention, we would greatly appreciate your prompt attention to this request. I am happy to provide any additional documentation you may need.

Thank you very much for your time and consideration.

Best,

Isabela Alves McCarthy, Esq.

Nova Law Group

(844) 844-6682

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