IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

CHAVEZ LEMUS, Manuel Enrique Petitioner,	)	
v.	)	
PAMELA JO BONDI, in her capacity as the U.S. Attorney General, and **KRISTI ARNOLD NOEM**, in her capacity as the Secretary of the Department of Homeland Security, and **TODD LYONS**, in his capacity as the Acting Director of U.S. Immigration and Customs Enforcement, and **GARRETT RIPA**, in his Capacity as the Miami Field Office Director for U.S. Immigration and Customs Enforcement, and **RONNIE WOODALL**, in his capacity as the Warden for the Baker Correctional Institution Sanderson, Florida. Respondents.	)	Case No: Choose an item.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 USC §§ 2241 and 2243

Petitioner CHAVEZ LEMUS, Manuel Enrique, petitions the Court for a Writ of Habeas Corpus to remedy his unlawful custody by the respondents or an order directing the respondents to show cause why the Writ should not be granted.

PARTIES:

The **petitioner, Manuel Enrique Chavez Lemus**, resides in Polk County, FL, and is being detained by the respondents in Baker County, FL, at the Florida Baker Correctional Institution.

The **respondent, Pamela Jo Bondi,** is the United States Attorney and is being sued in her official capacity as the U.S. Attorney General, responsible for the operation and administration of the U.S. Department of Justice, which oversees and administers the U.S. Immigration Courts.

The **respondent, Kristi Arnold Noem**, is the Secretary of the Department of Homeland Security (DHS) and is being sued in her official capacity as the DHS Secretary responsible for the enforcement of the immigration laws through DHS's sub-agencies, USCBP and U.S. Immigration and Customs Enforcement (ICE).

The **respondent, Todd Lyons**, is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is being sued in his official capacity as the Acting Director of ICE.

The **respondent, Garrett Ripa**, is the Director of the Miami, FL, Field Office for ICE and is being sued in his official capacity as the Field Office Director, who has jurisdiction and authority over the petitioner's custody status.

The **respondent, Ronnie Woodall**, is the warden of the Baker Correctional Institute for ICE and is being sued in his official capacity as warden, who has jurisdiction and authority over the petitioner's custody status.

VENUE:

The venue is proper in the Middle District of Florida under 28 USC § 2241(a) because the respondents are unlawfully restraining the petitioner at the Florida Baker Correctional Institution in Sanderson, FL, situated in the Middle District of Florida, and they are present or with facilities in the territorial jurisdiction of the Middle District of Florida.

FACTUAL ALLEGATIONS:

1. The petitioner, Manuel Enrique Chavez Lemus, is a 21-year-old Guatemalan citizen detained at the FL Baker Correctional Institution in Sanderson, FL (**EXHIBIT 1 – Petitioner's Birth Certificate with English Translation** and **EXHIBIT 2 – ICE Online Detainee Locator**).
2. On February 3, 2021, U.S. Customs and Border Patrol (USCBP) officials encountered and arrested the petitioner near Rio Grande City, TX, shortly after his February 2, 2021, entry into the United States without inspection as a 16-year-old unaccompanied minor child (**EXHIBIT 3 – Warrant for Arrest of Alien**).
3. On February 3, 2021, USCBP officials detained the petitioner in Texas under the authority of INA §236 or 8 USC §1226 (**EXHIBIT 4 – Notice of Custody Determination**).
4. On or about March 7, 2021, the respondents' agents released the petitioner presumably pursuant to the authority in INA §235 [8 USC §1225] on a humanitarian parole in accordance with 8 CFR § 235.3(b)(2)(iii) and 8 CFR §212.5(b)(3)(i)) (**EXHIBIT 5 – Office of Refugee Ressetlement (ORR) - Verification of Release**).
5. On April 22, 2021, the Department of Homeland Security placed the respondent in INA §240 [8 USC §1229a] removal proceedings, which are pending before the Orlando, FL Immigration Court (**EXHIBIT 6 - Notice to Appear and Current Notice of Hearing**).
6. On June 21, 2021, the petitioner filed a defensive asylum application with the USCIS (**EXHIBIT 7 – USCIS Receipt Notice for Form I-589**).
7. On January 19, 2023, the USCIS granted the Petitioner Special Immigrant Juvenile Status (SIJ) as defined in INA §101(a)(27)(J) [8 USC §1101(a)(27)(J)] (**EXHIBIT 8 – USCIS Approval Notice**).

8. The petitioner alleges that the March 2021 INA §235 [8 USC §1225] humanitarian parole ended on January 19, 2023, when the USCIS granted him SIJ status with a priority date of January 26, 2022 (**EXHIBIT 8 – USCIS Approval Notice**).

9. The petitioner's allegation that his INA §235 [8 USC §1225] humanitarian parole release terminated on the grant of SIJ status is grounded in the language of INA §245(h) [8 USC §1255(h)], which states in relevant part:

> "(h) **Application with respect to special immigrants.** – In applying this section to a special immigrant described in section 101(a)(27) --
>
> (1) such an immigrant shall be deemed, for purposes of subsection (a), **to** have been paroled into the United States; and
>
> (2) in determining the alien's admissibility as an immigrant –
> (A) paragraphs (4), (5)(A), (6)(A), (6)(C). (6)(D), (7)(A), and (9)(B) of section 212(a) shall not apply; and
> (B) the Attorney General may waive other paragraphs of section 212(a) … in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest."

10. The petitioner alleges that the April 22, 2021, commencement of his removal proceedings by filing of the Notice to Appear in the Orlando, FL Immigration Court and his January 2023 USCIS parole under INA §245(h) [8 USC §1255(h)] extricated him from the pending expedited removal proceeding governed by INA §235(a) and (b) [8 USC §1125(a) and (b)].

11. The termination of the petitioner's expedited removal proceedings ended the mandatory custody provisions of INA §235(a) and (b) [8 USC §1125(a) and (b)] and allowed for the Attorney General's Immigration Court Judge to have jurisdiction of his custody determination under INA §236 [8 USC 1226]. INA §236 [8 USC 1226] says in relevant part: "*On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. … the Attorney General – (1) may continue to detain the arrested alien; and (2) may release the*

alien on – (A) a bond ...; or (B) conditional parole; ..." (**EXHIBIT 3 – Arrest Warrant and EXHIBIT 4 – Notice of Custody Determination**).

12. The petitioner has no criminal conviction record and is eligible for adjustment of status upon the availability of an SIJ visa.

13. On September 22, 2025, the respondents' ICE agents detained the petitioner after encountering him as a vehicle passenger in a Polk County, FL, traffic stop. He remains detained by respondents at the FL Baker Correctional Institute in Sanderson, FL (**EXHIBIT 2 – ICE Online Detainee Locator**).

14. The petitioner has filed multiple motions for a redetermination of his custody status with the Orlando, FL Immigration Court, which were denied by respondent Bondi's Immigration Court Judge (IJ) for the purported reason that the IJ lacks jurisdiction to redetermine the custody status of an alien **who entered without inspection and is present without admission** because such an alien is an "applicant for admission" and "applicants for admission" are subject to the mandatory detention provisions in INA §235(a) and (b) [8 USC 1125(a) and (b)] where immigration lack jurisdiction to determine custody status. In INA §235(a) and (b) [8 USC 1125(a) and (b)] proceedings, only immigration officials have jurisdiction to determine the custody status of "applicants for admission". (**EXHIBIT 9 - October 20, 2025, Order of the Immigration Judge**).

15. The IJ's refusal to take jurisdiction to redetermine the petitioner's custody status is grounded on a recent Board of Immigration Appeals (BIA) decision, ruling that "**Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.**" The BIA's ruling is premised on the finding that *aliens present in the United States without admission are "applicants*

for admission" and subject to mandatory detention under INA §235(a)(1) and (b)(2)(A) [8 USC §1225(a)(1) and (b)(2)(A)]. (*Matter of Yajure-Hurtado*, 29 I.&N. Dec. 216 (BIA 2025)) (**EXHIBIT 9 – October 20, 2025, Order of the Immigration Judge**).

16. The petitioner alleges that immigration judges are currently required to comply with the BIA's ruling *Yajure-Hurtado* and to refuse to take jurisdiction to determine the custody status of aliens, like the petitioner, whose **first entry** into the United States was without inspection.

EXHAUSTION OF REMEDIES:

17. The petitioner has exhausted his administrative remedies by filing multiple motions for redetermination of his custody status, which the IJ is unwilling to hear because he is required to follow BIA precedent in *Matter of Yajure-Hurtado*, supra.

JURISDICTION:

18. This Court has subject matter jurisdiction pursuant to 28 USC §2241(a) and (c)(1), (2), (3) because the respondents' detention of the petitioner is a substantive violation of his liberty interest as protected by the U.S. Constitution's 5th Amendment Due Process Clause and a violation of the Immigration and Nationality Act (INA) or 8 USC §1101 et. seq.

19. The U.S. Supreme Court has held "that the 5th Amendment entitles aliens to due process of law in deportation proceedings". (*Demore v. Kim*, 538 U.S. 510 (2003) at 523, citing *Reno v. Flores*, 507 U.S. 292 (1993) at 306.

ARGUMENT:

I. The USCIS's January 2023 parole, under INA §245(h) [8 USC §1255(h)] superseded the respondents' March 2021 humanitarian parole under INA §235(b) [8 USC §1225(b)]. It extricated him from purported mandatory custody provisions of INA §235(a) and (b)(2)(A) [8 USC §1225(a) and (b)(2)(A).

20. On January 19, 2023, the USCIS, after inspecting the petitioner, authorized and approved his petition for Special Immigrant Status and therein invoked INA §245(h) [8 USC §1255(h)], which changed his purported humanitarian parole status under INA §235 [8 USC §1225] into that of an alien paroled or admitted into the United States for the purpose of adjusting his status under INA §245(a) [8 USC §1255(a)]. INA §245(h) [8 USC §1255(h)] reads: "*In applying this section to a special immigrant described in section 101(a)(27)(J), such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States;*". INA §101(a)(27)(J) [8 USC §1101(a)(27)(J)] describes the term Special Immigrant Juvenile.

21. The USCIS's approval of the petitioner's I-360 petition for SIJ status, by statute, constitutes a parole or a grant of lawful entry into the United States after inspection and authorization by an immigration officer, and thereby converts his last entry into an entry with inspection. Nevertheless, the respondent Bondi's IJs refuse to take jurisdiction to redetermine custody because the BIA in *Yajure-Hurtado* mandates the IJ to find aliens who **first entered** without inspection to be "applicants for admission" in which case the IJ lacks jurisdiction to determine custody status, and the alien must be detained, while in INA section 240 proceeding (see INA §235(b)(2)(A) [8 USC 1225(b)((2)(A)]. The estimated wait period for an SIJ immigrant visa for the petitioner, as a Guatemalan citizen, is 1.5 years, which translates into a mandatory detention period of approximately two years before the IJ can adjudicate his application for adjustment of status.

22. The petitioner claims that the respondents' detention of him for nearly two years, before he can adjust his status to that of a legal permanent resident, is a violation of the liberty provision of the U.S. Constitution's 5th Amendment.

II. The BIA in *Yajure-Hurtado* wrongly interpreted the term "admission" in the phrase "applicant for admission" as used in INA §235(a) and (b)(2)(A) [8 USC 1225(a) and (b)(2)(A)].

23. When the BIA in *Yajure-Hurtado* labeled aliens who enter without inspection as "applicants for admission", they failed to apply the definition for the term "admission" as it is defined in INA §101(a)(13)(A) [8 USC §1101(a)(13)(A) which is "... ***the lawful entry of the alien into the United States after inspection and authorization by an immigration officer***". The BIA's interpretation of the term "admission" as used in INA §235 [8 USC §1225] cannot carry forth its (a)(13)(A) meaning because it makes the phrase "applicant for admission" unintelligible.

INA §235(a)(1) [8 USC §1225(a) reads in relevant part:

> "(a) **Inspection**. –
> (1) **Applicants treated as applicants for admission**. –
> An alien present in the United States who has not been admitted or who arrives in the United States (whether at a designated port of arrival ...) shall be deemed for purposes of this Act an applicant for admission."

INA 235§(b)(2)(A) [8 USC §1225(b)(2)(A) reads in relevant part:

> "... in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an **alien seeking admission** is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 240."

The BIA's interpretation of "admission" in INA §235(b)(2)(A) [8 USC §1225(b)(2)(A)] is irrational because aliens who have entered without inspection and are encountered after evading inspection for decades cannot fit within the definition of **an applicant seeking "the lawful entry into the United States after inspection and authorization by an immigration officer**". The 11th Circuit Court of Appeals and a majority of the other Courts of Appeal have required the term "admission", when used in the Act, to conform to its

unambiguous meaning in INA §101(a)(13)(A) [8 USC §101(a)(13)(A)], which is "*the lawful entry of the alien into the United States after inspection an authorization by an immigration officer.*" (see *Lanier v. U.S. Attorney General*, 631 F.3rd 1363 (11th Cir. 2011), and *Ortiz-Bouchet v. U.S. Attorney General*, 714 F.3d 1353 (11th Cir. 2013), and *Medina Rosales v. Holder*, 778 F.3d 1140, 1144-1146 (10th Cir. 2015) referencing other Courts of Appeals). The BIA in *Yajure-Hurtado*, 29 I. & N. 216 (BIA 2025) failed to address the significance of applying §101(a) directive to use the meaning in (13)(A) when interpreting the term "admission" as used in INA 235§(b)(2)(A) [8 USC §1225(b)(2)(A).

III. INA §235(b) [8 USC §1225(b) proceedings end when the alien is released from its mandatory detention provisions without a credible fear determination and placed in INA §240 [8 USC §1229a] proceedings.

24. The respondents' March 2021 release of the petitioner from mandatory detention violated the mandatory detention provisions on INA §235(b) [8 USC §1225(b)], which required them to detain him until they removed him or he indicated an intention to apply for asylum or a fear of persecution. (see INA §235(b)(1)(A)(i) [8 USC §1225(b)(1)(A)(i)]. Because he did not indicate an intention to file for asylum or a fear of persecution if returned to Guatemala, INA §235(b)(1)(B)(iii)(I) and (iv) [8 USC §1225(b)(1)(B)(iii)(I) and (iv)] required the respondents to order the respondent removed. They did not order him removed. Instead, they released him and placed him in INA §240 [8 USC §1229a] proceedings. These actions foreclosed their INA §235(b) [8 USC §1225(b) jurisdiction to determine custody status and granted it by default to the Immigration Judge in INA §236 [8 USC §1226].

CLAIM FOR RELIEF:

Issuance of A Writ of Habeas Corpus for the unlawful restraint of the petitioner in violation of his liberty interest protected by the Due Process Clause of the 5th Amendment of the U.S. Constitution and the laws and regulations of the Immigration and Nationality Act.

The petitioner requests that the Court issue an order forthwith, directing the respondents to show cause why the requested Writ of Habeas Corpus should not be granted.

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Verification by Someone Acting on the Petitioner's Behalf Pursuant to 28 USC § 2242

I, Vincent James Benincasa, am submitting this verification on behalf of the petitioner because I am the petitioner's attorney. I have discussed the events described in the petition with the petitioner. Based on those discussions, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: 11-13-2025

Vincent James Benincasa

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