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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA (LAS VEGAS)**

12 * * *

13 MANUEL PILAR TORRES

14 Petitioner,

15 vs.

16 KRISTI NOEM, Acting Secretary of the
17 United States Department of Homeland
18 Security;

19 PAM BONDI, Attorney General of the
20 United States;

21 JASON KNIGHT, Salt Lake City Acting
22 Field Office Director, Enforcement and
23 Removal Operations, U.S. Immigration and
24 Customs Enforcement;

25 JOHN MATTOS, Warden at Southern
26 Nevada Southern Detention Center.

27 Respondents.

28 CASE NO.

Agency No. 

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

29 Petitioner, Manuel Pilar Torres, petitions this Court for a writ of habeas corpus to remedy
30 his unlawful detention by Respondents, as follows:

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Introduction

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2 1. This is a Petition for Writ of Habeas Corpus filed on behalf of Manuel Pilar Torres
3 (“Petitioner”) seeking relief to remedy his unlawful detention. Respondents are detaining
4 Mr. Pilar Torres due to their new policy interpreting the provision of 8 U.S.C. §1225 (b)(2)
5 which subjects individuals to mandatory detention to persons that entered the U.S. without
6 inspection and have been residing in the U.S. for years, instead of applying 8 U.S.C.
7 1226(a) which would allow them to seek discretionary release on bond during the pendency
8 of their removal proceedings.¹ The government’s nationwide policy has been affirmed by
9 the Board of Immigration Appeals (“BIA”) precedential decision in *Matter of Yajure*
10 *Hurtado*, 29 I&N Dec. 216 (BIA 2025).
11
12
- 13 2. Notwithstanding this policy and the BIA’s new precedential decision, Mr. Pilar filed a
14 motion requesting that the Immigration Judge issue an alternative bond determination in
15 the event he had jurisdiction. The Immigration Judge declined to do so and denied the bond
16 request for lack of jurisdiction.
17
- 18 3. Prior to this policy and BIA decision, Petitioner would have been eligible for a bond
19 hearing under 8 U.S.C. §1226(a) to assess his danger to the community and risk of flight.
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- 21 4. Furthermore, in the event that an Immigration Judge grants the Petitioner a bond, the U.S.
22 Department of Homeland Security (“DHS or “Department” or “Government”) has been
23 systemically invoking the automatic stay under 8 C.F.R. §1003.19(i)(2), which keeps an
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25 ¹ See Interim Guidance Regarding Detention Authority for Applicants for Admission, available at
26 <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.
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1 individual detained throughout his removal proceedings including the appeals process,
2 even if the individual is successful on the merits of his case.

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4 5. It is immaterial whether the Petitioner appeals his bond denial to the BIA, because in *Matter*
5 *of Yajure Hurtado*, 29 I&N Dec. 216, 220–28 (BIA 2025), the BIA has established
6 precedent which results in the Immigration Judges’ bond determinations and orders
7 continued detention without bond. Consequently, any such appeal would be futile, as the
8 BIA is now uniformly applying this decision to deny bond relief.
- 9
10 6. On October 28, 2025, Mr. Pilar Torres was arrested due to an alleged misdemeanor
11 domestic violence incident in violation of N.R.S. § 200.485.1A. Notably, Mr. Pilar was
12 the one who contacted law enforcement, but he was nevertheless arrested. He is scheduled
13 for an arraignment on December 1, 2025, in the City of North Las Vegas Municipal Court.
14 The following day, officers contacted his wife to ask whether she wished to pursue charges,
15 and she declined. This is Mr. Pilar’s only criminal arrest in his twenty years of residing in
16 the United States.
- 17
18 7. On October 29, 2025, Petitioner was detained on warrant by United States Immigration
19 and Customs Enforcement (“ICE”) and will remain detained indefinitely, even if he
20 prevails on his application for relief from removal.
- 21
22 8. During the two decades that Mr. Pilar Torres has lived in the United States, he has
23 consistently supported his wife who is a beneficiary of Deferred Action for Childhood
24 Arrivals (“DACA”) and they have four U.S. citizen children together. Mr. Pilar Torres has
25 worked diligently in the construction industry. His criminal history is limited to this single
26 arrest.

- 1 9. His unlawful detention is not justified under the Constitution nor the Immigration and
2 Nationality Act (“INA”). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 858-59 (2018) (leaving
3 the door open for Constitutional claims challenging the prolonged detention of immigrant
4 detainees pre-final order of removal); *see also Vazquez v. Feeley*, 2025 U.S. Dist. LEXIS
5 182412, 2025 LX 460110, 2025 WL 2676082 (D. Nev. Sep. 17, 2025); *see also Roman v.*
6 *Noem*, No. 25-CV-01684-RFB-EJY, 2025 WL 2710211 (D. Nev. Sep. 23, 2025).
- 7
8 10. Although no circuit court has yet addressed this precise question, more than one hundred
9 federal district courts have held that applying 8 U.S.C. § 1225(b)(2) to impose mandatory
10 detention is unlawful. *See Mendez v. Noem*, 2025 U.S. Dist. LEXIS 219483, at 3 n.3.
- 11
12 11. A federal court in this District has likewise granted relief in at least twelve similar cases.
13 *See Mendez v. Noem*, 2025 U.S. Dist. LEXIS 219483, at 4 n.4.
- 14
15 12. These courts have recognized that DHS’s new policy and the BIA’s reasoning in *Matter of*
16 *Yajure Hurtado* misapply 8 U.S.C. § 1225(b)(2) to cases like Petitioner’s, when the proper
17 authority lies under 8 U.S.C. § 1226(a). This growing body of authority underscores the
18 fundamental error in treating Petitioner as subject to mandatory detention.
- 19
20 13. The government’s position which has been affirmed by the Board of Immigration Appeals,
21 that Petitioner is an “applicant for admission” subject to mandatory detention under INA §
22 235(b)(2)(A) and ineligible for bond, has resulted in Petitioner remaining detained at the
23 Nevada Southern Detention Center.
- 24
25 14. Petitioner’s continued detention is in violation of the Due Process Clause of the Fifth
26 Amendment. His mandatory detention is not justified under the Constitution or the INA.
27 Mr. Pilar Torres seeks an order from this Court finding that his continued detention is
28

1 unlawful and directing the Respondents to provide Mr. Pilar Torres with a custody hearing
2 within seven (7) days under 8 U.S.C § 1226(a), and to enjoin the government from denying
3 bond on the ground that he is detained under § 1225(b)(2). If the government fails to
4 provide the required bond hearing, Petitioner further requests his immediate release.
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6 15. Furthermore, if the Immigration Judge finds that Mr. Pilar Torres is not a danger to the
7 community or flight risk and is given a bond, that he be allowed to post the bond,
8 prohibiting the U.S. Department of Homeland Security to seek an automatic stay under 8
9 C.F.R. §1003.19(i)(2), or in the alternative provide a status conference to monitor the case.
10

11 16. In the event, Mr. Pilar Torres is successful with his bond request, he further requests the
12 Respondents be enjoined from re-detaining Mr. Pilar Torres throughout his removal
13 proceedings and any appellate process, including judicial review, unless Mr. Pilar Torres
14 is arrested for a new alleged crime and that he be afforded another bond hearing under 8
15 U.S.C. 1226(a); INA 236(a).
16

17 **Custody**

18 17. Petitioner is in the physical custody of Respondents and ICE. At the time of the filing of
19 this petition, Mr. Pilar Torres is detained at the Nevada Southern Detention Center in
20 Pahrump, Nevada. The Nevada Southern Detention Center contracts with DHS to detain
21 aliens such as Mr. Pilar Torres. Mr. Pilar Torres is under the direct control of Respondents
22 and their agents.
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Jurisdiction

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2 18. This action arises under the Constitution of the United States and the Immigration and
3 Nationality Act, 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (“APA”),
4 5 U.S.C. § 701, et seq.

6 19. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States
7 Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in
8 custody under color of authority of the United States, and such custody is in violation of
9 the Constitution, laws, or treaties of the United States.

10
11 20. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All-
12 Writs Act, 28 U.S.C. § 1651. While Section 1226(e) of the INA precludes an alien from
13 challenging a discretionary judgment by the Attorney General or a decision that the
14 Attorney General has made regarding their detention or release, *see Jennings v. Rodriguez*,
15 138 S. Ct. 830, 841 (2018), Section 1226(e) “does not preclude challenges to the statutory
16 framework that permits the alien’s detention without bail.” *Jennings*, 138 S. Ct. at 841.
17 Moreover, this court has already determined in *Vazquez v. Feeley*, that none of the
18 jurisdiction stripping provisions of the INA such as 8 U.S.C. §§1252 (b)(9), 1252(g),
19 1252(a) and 1226(e) are applicable here.
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Venue

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23 21. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 500, 93 S.
24 Ct. 1123, 1132, 35 L. Ed. 2d 443 (1973), venue lies in the United States District Court for
25 Nevada, the judicial district where Petitioner currently is detained, pursuant to 28 U.S.C.
26 §1391(e).
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Parties

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2 22. Petitioner, Manuel Pilar Torres, is a native and citizen of Mexico, who has lived
3 continuously in the U.S. since on or about 2005, who has four (4) U.S. citizen children.
4 Mr. Pilar Torres has been in the custody of Respondents since October 29, 2025.
5

6 23. Respondent Kristi Noem is the Acting Secretary of the Department of Homeland Security.
7 She is responsible for the implementation and enforcement of the Immigration and
8 Nationality Act (INA) and oversees ICE. Mrs. Kristi Noem has ultimate custodial authority
9 over Petitioner.
10

11 24. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible
12 for the implementation and enforcement of the INA, and oversees the Executive Office for
13 Immigration Review (EOIR), which is comprised of the Office of the Immigration Judge
14 and the Board of Immigration Appeals (BIA or Board). She is being sued in her official
15 capacity.
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17 25. Respondent Jason Knight, is the Acting Field Office Director for Salt Lake City Field
18 Office of Detention and Removal Operations, U.S. Immigration and Customs
19 Enforcement, Department of Homeland Security. As such, Respondent Jason Knight is
20 Petitioner's legal custodian, charged with the responsibility of determining whether Mr.
21 Pilar Torres will be detained in ICE custody or released pending the conclusion of his
22 Petitioner for Review and any ensuing immigration removal proceedings. He is being sued
23 in his official capacity.
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1 26. Respondent John Mattos is the Warden and the highest-ranking employee at the Nevada
2 Southern Detention Center and is, therefore, Petitioner's immediate custodian. He is being
3 sued in his official capacity.
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5 **Factual Allegations**

6 27. Petitioner is a 39-year-old citizen and national of Mexico. Petitioner is the father to four
7 children, who are 16, 12, 7, and 5—all of whom are U.S. Citizens. Petitioner's wife and
8 mother of his children has been left to carry the burden of their financial responsibilities
9 and is struggling.
10

11 28. Prior to his detention, Petitioner was employed in the construction industry as a framer.

12 29. Petitioner last entered the United States on or about 2005, and has remained in the U.S.
13 continuously for the past 20 years and has deep community ties.

14 30. On October 29, 2025, Petitioner was arrested by ICE on warrant and served by DHS with
15 a Notice to Appear initiating removal proceedings. Petitioner was charged with violating
16 INA § 212(a)(6)(A)(i) (as an alien present in the United States without being admitted or
17 paroled, or who arrived in the United States at any time or place other than as designated
18 by the Attorney General) and INA §212(a)(7)(A)(i)(I)(as an immigrant who, at the time of
19 application for admission, is not in possession of a valid unexpired immigrant visa, reentry
20 permit, border crossing card, or other valid entry document required by the Act, and a valid
21 unexpired passport, or other suitable travel document, or document of identity and
22 nationality as required under the regulations issued by the Attorney General under section
23 211 (a) of the Act.)
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1 31. On November 13, 2025 an Immigration Judge in Las Vegas held a hearing to determine if
2 he had jurisdiction to hold a custody redetermination hearing and denied the request for a
3 custody redetermination, indicating he had no jurisdiction under *Matter of Yajure Hurtado*,
4 29 I&N Dec. 216, 220–28 (BIA 2025), and declined to provide an alternative bond
5 determination in the event he had jurisdiction.
6

7 32. Mr. Pilar Torres poses no danger to the community. Throughout his twenty years of
8 residence in the United States, he has maintained an exemplary record, with one sole arrest
9 occurring on October 28, 2025, following a misunderstanding related to an alleged
10 domestic violence incident. However, his wife promptly retracted all allegations, and
11 communicated with law enforcement indicating she did not wish to proceed with the
12 prosecution of her husband.
13

14 33. Mr. Pilar Torres has maintained overall good moral character, has longstanding residence
15 in the United States, and has strong equities in the form of family and community ties,
16 employment history, and absence of disqualifying criminal history for a bond.
17

18 34. Further, Mr. Pilar Torres is not a risk of flight. He is prima facie eligible for Cancellation
19 of Removal for Certain Non-Permanent Residents (Form EOIR-42B) under section 8
20 U.S.C. §1229b; I.N.A. §240A(b) of the Immigration and Nationality Act. He has resided
21 in the United States for more than ten years, has maintained good moral character, and has
22 no disqualifying criminal convictions. Removal would cause exceptional and extremely
23 unusual hardship to his qualifying relatives—specifically, his four U.S. citizen children
24 and DACA-recipient wife—who rely on him for emotional and financial support. As a
25 long-term resident of Las Vegas, Nevada, Mr. Torres has built strong family and
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1 community ties and has consistently worked to provide for his family. Accordingly, he
2 meets the statutory requirements for Cancellation of Removal, merits a favorable exercise
3 of discretion, and is likely to succeed on the merits of his application.
4

5 35. Furthermore, on [REDACTED], Mr. Pilar Torres was the victim of an [REDACTED]
6 [REDACTED] He sustained several gunshot wounds
7 to his right leg and was immediately transported by ambulance to the hospital, where he
8 underwent emergency surgery. Mr. Pilar Torres fully cooperated with law enforcement
9 officers from the North Las Vegas Police Department by promptly reporting the incident
10 and providing detailed information during the investigation. As a result, on [REDACTED]
11 [REDACTED], the North Las Vegas Police Department certified his Form I-918, Supplement B.
12 Subsequently, on [REDACTED] Mr. Pilar Torres filed his U Visa application with U.S.
13 Citizenship and Immigration Services, which demonstrates he is prima facie eligible and
14 while this petition remains pending, he is also likely to succeed on this non-immigrant visa
15 which ultimately may lead to his adjustment of status under 8 U.S.C. §1255(m); I.N.A. §
16 245(m).
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19 36. In light of Mr. Pilar Torres's unlawful detention, his strong eligibility for relief under
20 Cancellation of Removal (Form EOIR-42B), and his pending U Visa application based on
21 his cooperation as a crime victim, it is both necessary and appropriate for this Court to
22 exercise its authority to consider the merits of his request for a bond hearing under 8 U.S.C.
23 §1226(a) under the present Petition. Mr. Torres's continued detention serves no legitimate
24 purpose and only exacerbates the hardship already suffered by his U.S. citizen children and
25 DACA-recipient spouse.
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1 **Claims For Relief**

2 **I. STATUTORY VIOLATION**

3 37. Petitioner re-alleges and incorporates by reference paragraphs 1 through 36, above.

4 38. The Department's new position, reaffirmed by the BIA's precedential decision in *Matter*
5 *of Yajure Hurtado* contravenes the plain text of the statute. Section §1226(a), not §1225(b),
6 applies to individuals like the Petitioner.
7

8 39. Section 1226(a) governs by default all individuals in removal proceedings under § 1229a,
9 which determine inadmissibility or deportability. The statute explicitly covers those
10 charged as inadmissible, including entrants without inspection, and ensures they are
11 entitled to bond hearings under subsection (a). On the other hand, § 1225(b) applies only
12 to individuals arriving at ports of entry or immediately after entry, as it is built around
13 inspection of applicants for admission. Thus, the mandatory detention provision of §
14 1225(b)(2) does not extend to the Petitioner.
15

16 40. Therefore, Respondents' continued detention of Petitioner is therefore unlawful and
17 contravenes 8 U.S.C. § 1226(a), and the U.S. Constitution. Accordingly, Respondents'
18 continued detention of Petitioner is contrary to statute.
19

20 **II. VIOLATION OF FIFTH AMENDMENT DUE PROCESS**

21 41. Petitioner re-alleges and incorporates by reference paragraphs 1 through 40, above.

22 42. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and
23 meaningful opportunity to demonstrate that he should not be detained or removed. *See,*
24 *e.g., Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (quoting *Reno v. Flores*, 507 U.S. 292,
25 306 (1993)).
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1 43. Respondents have deprived Mr. Pilar Torres of his right to procedural due process by
2 detaining him since October 29, 2025, prohibiting him from having a bond redetermination
3 hearing under 8 C.F.R. §1003.19.
4

5 **III. SUBSTANTIVE DUE PROCESS VIOLATION**

6 44. Petitioner re-alleges and incorporates by reference paragraphs 1 through 27, above.

7 45. Petitioner's continued detention violates Petitioner's right to substantive due process
8 through a deprivation of the core liberty interest in freedom from bodily restraint.
9

10 46. The Due Process Clause of the Fifth Amendment requires that the deprivation of
11 Petitioner's liberty interest be narrowly tailored to serve a compelling government interest.
12 Any interest Respondents have in detaining Petitioner in order to effectuate removal does
13 not justify the unlawful and prolonged detention of Petitioner, who is not significantly
14 likely to be removed in the reasonably foreseeable future given that he is seeking various
15 applications for relief, is prima facie eligible for Cancellation of Removal and has a
16 pending U visa application, has the right to appeal his case to the BIA and seek further
17 review before the Ninth Circuit Court of Appeals.
18

19 47. Petitioner's continued detention separates him from his four U.S. citizens children and
20 DACA recipient wife. His family suffers in his absence, deprived of the love, guidance,
21 and support they have long depended upon. The conditions of confinement impose further
22 harms, including incarceration in jail-like facilities, inadequate medical care, and other
23 substandard living conditions.
24

25 48. Therefore, his mandatory detention without a bond hearing infringes upon the fundamental
26 liberty interest in freedom from physical restraint. Accordingly, Respondents cannot show
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1 a “sufficiently strong special justification” for continuing to deprive Mr. Pilar Torres of his
2 fundamental human rights.

3
4 **Prayer For Relief**

5 WHEREFORE, Petitioner prays that the Court grant the following relief:

- 6 1) Assume jurisdiction over this matter;
- 7 2) Enjoin Respondents from transferring Petitioner outside of this judicial district
8 pending litigation of this matter or his removal proceedings;
- 9 3) Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an
10 action brought under chapter 153 (habeas corpus) of Title 28;
- 11 4) Pursuant to 28 U.S.C. § 2243 issue an order directing Respondents to show cause why
12 the writ of habeas corpus should not be granted;
- 13 5) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately
14 provide a bond hearing under 8 U.S.C. § 1229(a), and if the Immigration Judge grants
15 a bond, to further enjoin the government from filing an automatic stay under
16 8 C.F.R. § 1003.19(i)(2);
- 17 6) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
18 (EAJA), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis
19 justified under law; and
- 20 7) Grant any other and further relief as the Court deems just and proper.
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25 Dated: November 17, 2025

26 /S/ Sylvia L. Esparza
27 Sylvia L. Esparza, Esq.
28 Attorney for Petitioner

