UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LUIS ALEJANDRO VEZGA LEON, Petitioner, v. KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; BRET BRADFORD, in his official capacity as Director of the Houston (Conroe) Field Office Enforcement and Removal Operations; RAYMOND THOMPSON, Warden of the Joe Corley Processing Center; and DAREN K. MARGOLIN, in his official capacity as Director of the Executive Office for Immigration Review, Respondents.	Civil Action No. 4:25-CV-05521 Immigration No. A [redacted] **PLAINTIFF'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF**

I. INTRODUCTION

1. Petitioner LUIS ALEJANDRO VEZGA LEON, (A# [redacted] is a native and citizen of Venezuela who has resided in the United States since May 2021, most recently in the Dallas–Fort Worth metropolitan area. On October 8, 2025, agents of U.S. Immigration and Customs Enforcement – Enforcement and Removal Operations ("ICE ERO") re-detained Mr. Vezga in Texas and subsequently transferred him to the Joe Corley Processing Center, 500 Hilbig Road, Conroe, Texas 77301, where he remains detained under ICE authority. *See* Ex. A, Proof of Detention in ICE Custody.

2. In recent months, immigration judges have routinely denied requests for a bond hearing to individuals in situations substantially similar to that of Mr. Vezga, due to a perceived lack of jurisdiction. These denials have relied on recent Board of Immigration Appeals ("BIA") precedent in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See Ex. C, Recent BIA Decisions on Bond.* However, numerous federal district court, including some from within the jurisdiction of the United States Court of Appeals for the Fifth Circuit, have made clear that noncitizens detained under INA § 236(a) are entitled to individualized bond hearings.

3. Despite this posture, immigration judges continue to refuse to provide noncitizens such as Mr. Vezga with an individualized custody redetermination hearing, asserting a lack of jurisdiction based on erroneous Board of Immigration Appeals precedent. The refusal to provide such a hearing violates the INA, the Due Process Clause of the Fifth Amendment, and the APA, because detention in § 240 proceedings is governed by INA § 236(a), which clearly provides that noncitizens are entitled to bond hearings.

4. Mr. Vezga therefore petitions this Court for habeas relief under 28 U.S.C. § 2241, and seeks preliminary injunctive relief, directing Respondents to provide him with an individualized bond hearing or to release him from custody under any conditions the Court deems necessary without delay.[1]

II. JURISDICTION AND VENUE

5. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. This Court also has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to

[1] Petitioner hereby informs the Court that Petitioner intends to seek a Temporary Restraining Order through a separately filed motion subsequent to the initiation of this action.

hear habeas petitions filed by persons held in custody in violation of federal law or the Constitution. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. § 1651.

6. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor does he seek class-wide relief. Detention-based habeas claims are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or *ultra vires* attempts to switch a non-final INA § 240 case into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as "*Reno v. AADC*"). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

7. Venue is proper in this District, and in the Houston Division, because Petitioner is detained at the Joe Corley Processing Center, 500 Hilbig Road, Conroe, Texas 77301, which lies within the jurisdiction of the United States District Court for the Southern District of Texas. Petitioner's detention is administered by the Conroe Field Office of ICE – Enforcement and Removal Operations. *See* Ex. A, Proof of Detention in ICE Custody.

III. PARTIES

8. Petitioner LUIS ALEJANDRO VEZGA-LEON (A# [redacted] is a citizen and national of Venezuela who has resided in the United States since May 2021, most recently in the Dallas–Fort Worth metropolitan area. On October 8, 2025, agents of U.S. Immigration and Customs Enforcement – Enforcement and Removal Operations ("ICE

ERO") re-detained Mr. Vezga and transferred him to the Joe Corley Processing Center, 500 Hilbig Road, Conroe, Texas 77301, where he remains in custody. He is currently in active removal proceedings under 8 U.S.C. § 1229a (INA § 240) before the Dallas Immigration Court.

9. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is sued in her official capacity.

10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), an agency within DHS responsible for carrying out immigration detention and removal operations. He is sued in his official capacity.

11. Respondent Bret Bradford is the Field Office Director of ICE – Enforcement and Removal Operations for the Houston (Conroe) Field Office and is the local DHS decision-maker responsible for Petitioner's custody. He is sued in his official capacity.

12. Respondent Raymond Thompson, Warden of the Joe Corley Processing Center, is responsible for the daily operation and physical custody of individuals detained at that facility, including Petitioner. He is sued in his official capacity as Petitioner's immediate physical custodian.

13. Respondent Daren K. Margolin is the Director of the Executive Office for Immigration Review ("EOIR"), responsible for directing and coordinating policy for the United States Immigration Courts, including policies governing immigration bond applications and custody-redetermination requests. He is sued in his official capacity.

14. Respondents Noem and Lyons are properly included herein as the executive heads of federal agencies within the meaning of the Administrative Procedure Act ("APA").

IV. STATEMENT OF FACTS

A. Background Information and Apprehension by ICE.

1. Petitioner LUIS ALEJANDRO VEZGA-LEON ("Mr. Vezga") is a twenty-seven-year-old citizen and national of Venezuela (A-Number 220-185-784) who has resided in the United States since May 2021. He is presently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Joe Corley Processing Center, 500 Hilbig Road, Conroe, Texas 77301, under the authority of ICE Enforcement and Removal Operations ("ERO"). *See* Ex. A, Proof of Detention in ICE Custody.

2. Mr. Vezga fled Venezuela after years of political persecution at the hands of security forces aligned with the Maduro regime. He entered the United States near McAllen, Texas, on or about May 6, 2021, without inspection, and was immediately apprehended by Border Patrol officers. *See* Ex. B, Documentation of Immigration Court Case (Notice to Appear and Form I-830).

3. While detained at the Port Isabel Detention Center in Los Fresnos, Texas, Mr. Vezga expressed a fear of return to Venezuela and was referred to U.S. Citizenship and Immigration Services for a credible-fear interview. On June 1, 2021, he appeared before Asylum Officer Ricardo Rios of the Houston Asylum Office, who found that Mr. Vezga had established a credible fear of persecution. *See* Ex. E, Group Exhibit: Pre-2025 Unpublished BIA Bond Decisions (containing Matter of Guerra, 24 I&N Dec. 37 (BIA 2006) and related bond precedents).

4. Following that determination, Mr. Vezga was placed into regular removal proceedings under INA § 240. On July 13, 2021, ICE released him on interim parole and filed a Notice to EOIR (Form I-830) listing his address as 13824 Canyon Ranch Road,

Roanoke, Texas 76262. *See* Ex. B, Documentation of Immigration Court Case (Form I-830) He has lived and worked in Texas ever since, appearing for all scheduled hearings and complying with ICE supervision.

5. On May 21, 2025, through counsel, Mr. Vezga filed an amended Form I-589 application for asylum, withholding of removal, and Convention Against Torture protection before the Dallas Immigration Court. His case remains pending before Immigration Judge Sarah M. Ellison, with a Master Calendar Hearing scheduled for June 17, 2026, at 1:00 p.m. CT. *See* Ex. D, EOIR Automated Case Information System (Notice of Hearing and Status of Proceedings).

6. Despite his lawful release and ongoing § 240 proceedings, ICE agents from the Conroe Field Office arrested Mr. Vezga on October 8, 2025, without any criminal charges or alleged violations of supervision. He was transferred to the Joe Corley Processing Center on October 10, 2025. *See* Ex. A, Proof of Detention in ICE Custody.

7. The ICE Notice to EOIR confirms that Mr. Vezga was not arrested by state or local authorities but detained solely for immigration purposes. He has no criminal record in the United States or abroad and poses no danger to the community. *See* Ex. B.

8. Mr. Vezga is presently confined within the Southern District of Texas, Houston Division. Under current policy, ICE claims he is mandatorily detained and ineligible for a custody redetermination before an immigration judge—despite his active asylum case and his history of compliance. His ongoing civil detention violates the Immigration and Nationality Act and the Fifth Amendment's guarantee of due process.

9. In sum, Mr. Vezga is a law-abiding Venezuelan asylum seeker who has been re-detained without cause after more than four years of lawful presence under ICE

supervision. He now seeks the Court's intervention through a writ of habeas corpus to obtain release and restore his statutory right to a bond hearing.

B. Current Policy Prevents Certain Immigrants from Seeking Bond.

10. DHS has charged Mr. Vezga as removable under INA § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)] for entry without inspection. His case remains pending before the Dallas Immigration Court, where he is seeking asylum and related relief. *See* Ex. B.

11. When DHS filed the Notice to Appear and served it on Mr. Vezga, he was placed squarely into § 240 removal proceedings. Accordingly, he is entitled to the full due-process protections afforded under the INA, including a bond hearing under § 236(a), not the summary detention reserved for "arriving aliens." *See* Ex. E.

12. Nevertheless, ICE and EOIR have categorically refused to entertain bond requests for individuals like Mr. Vezga, relying on recent Board of Immigration Appeals decisions—*Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—which purport to reclassify non-citizens in § 240 proceedings as "applicants for admission" under § 235(b). These administrative decisions, issued without notice-and-comment rulemaking and contrary to Fifth Circuit precedent, have stripped immigration judges of authority to grant bond hearings to otherwise eligible respondents.

13. As a result, Mr. Vezga remains confined in civil detention alongside individuals with criminal records, despite no finding that he is a danger to the community or a flight risk. His continued detention impedes his ability to consult with counsel, prepare his asylum case, and maintain his mental health. Each day of unnecessary confinement inflicts irreparable harm on him and his family.

14. In short, Mr. Vezga is detained solely because of a recent and unlawful interpretation by the BIA that conflicts with statute and binding judicial authority. He seeks this Court's intervention to restore his right to an individualized bond hearing and to end his unlawful detention.

V. LEGAL FRAMEWORK

A. Statutory Framework for Immigration Custody Determinations.

15. Immigration detention is governed primarily by two provisions of the INA: Section 235(b) [8 U.S.C. § 1225(b)] and Section 236(a) [8 U.S.C. § 1226(a)]. Whereas Section 236(a) of the INA authorizes the Attorney General to release noncitizens on bond pending removal proceedings, in contrast, Section 235(b) applies to certain categories of "arriving aliens" and mandates detention pending completion of expedited or threshold screening.

16. Congress designed § 236(a) to govern the detention of individuals who, like Petitioner, are in regular removal proceedings under § 240. The statutory text expressly provides for release on bond, subject only to conditions ensuring appearance and protecting the community.

17. The Supreme Court has confirmed the distinction between these statutory schemes. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining differences between § 235(b) mandatory detention and § 236(a) discretionary custody). The Board of Immigration Appeals itself recognized for decades that individuals in § 240 proceedings after entry without inspection were eligible for custody redeterminations. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

18. Despite this clear statutory scheme, DHS has invoked recent BIA decisions (*i.e.*, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)) to strip immigration judges of bond authority in cases such as those of Petitioner. Those decisions, however, cannot override the plain language of the statute.

19. Recently, multiple district courts in 2025 have addressed the Government's efforts to expand § 1225(b)(2)(A) beyond its intended scope by assessing habeas petitions for noncitizens in similar circumstances and have repeatedly concluded that the clear and unambiguous language of Section 236 of the INA permits noncitizens who arrived without inspection—persons in precisely the same legal circumstances as Mr. Vezga—are eligible to request bond hearings before the immigration court. *See* Ex. G.

20. For example, in *Santos v. Noem*, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the court emphasized that habeas relief is proper to correct statutory misclassification and to preserve the petitioner's due process rights. In *Kostak v. Trump*, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the court ordered bond eligibility under § 1226(a), rejecting the Government's assertion that § 1225(b) applied. Likewise, in *Salazar v. Dedos*, 2025 U.S. Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under § 1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause.

21. Similarly, *Lopez v. Hardin*, 2025 U.S. Dist. LEXIS 188368 (N.D. Tex. 2025), and *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (S.D. Tex. 2025), further confirm that courts are rejecting agency efforts to apply § 1225(b)(2)(A) to individuals who are properly subject to § 1226(a).

22. These holdings reflect a growing consensus that district courts retain jurisdiction to intervene where detention rests on a statutory misapplication and results in ongoing constitutional harm. The cumulative weight of these decisions underscores that Mr. Vezga is entitled to bond consideration under § 1226(a).

VI. CLAIMS FOR RELIEF

Count I – Violation of INA § 236(a) [8 U.S.C. § 1226(a)]

23. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

24. Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and controlling precedent of the United States Court of Appeals for the Fifth Circuit.

25. INA § 236(a), 8 U.S.C. § 1226(a), provides that "[o]n 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," and that the Attorney General "may continue to detain the arrested alien" or "may release the alien on—(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole."

26. By its plain text, Section 236(a) applies to all noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 236(c) applies.

27. In interpreting the plain language of Section 236(a), various federal district courts confirmed that noncitizens detained under Section 236(a) are statutorily eligible for individualized bond determinations before an immigration judge. Thus, the Attorney General must consider bond application by detained aliens pending the outcome of their

removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

28. Petitioner is now in removal proceedings under Section 240 of the INA [8 U.S.C. § 1229a], and his case has been placed on the detained docket of the Dallas Immigration Court. Because Petitioner is detained in the context of ongoing removal proceedings, his custody is governed by § 236(a), not § 235(b).

29. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a), Respondents have acted contrary to statutory authority requiring consideration of such bond application. This policy supports the conclusion that the filing of a bond application with the immigration courts is currently a futile endeavor. Petitioner's continued detention without access to an individualized custody redetermination violates the INA and must be corrected through habeas relief.

30. Accordingly, this Court should grant the writ and order that Petitioner receive an individualized bond hearing under INA § 236(a), in line with decisions of other federal district courts in this Circuit.

Count II – Fifth Amendment Due Process Violation

31. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

32. Petitioner's continued detention without access to an individualized custody redetermination hearing also violates the Due Process Clause of the Fifth Amendment. Prolonged detention without bond review is arbitrary, punitive, and unconstitutional.

33. The Supreme Court has long recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the

heart of the liberty" protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is civil in nature, but it nonetheless implicates this fundamental liberty interest.

34. Because Petitioner is detained by ICE at the Joe Corley Processing Center, he is categorically barred from presenting evidence that he is not a danger to the community and that he poses no flight risk. The blanket denial of access to a bond hearing strips Petitioner of the individualized determination required by due process and by the plain language of Section 236(a).

35. Unlike noncitizens subject to mandatory detention for serious criminal offenses under Section 236(c) [8 U.S.C. § 1226(c)], Petitioner has no qualifying convictions that justify a categorical denial of release. His only arrest was conducted by ICE as a result of perceived alienage. The government has no legitimate basis to insist that Petitioner's detention be mandatory, yet he remains confined with no opportunity for release.

36. Denying Petitioner any access to a bond hearing deprives him of procedural protections guaranteed by the Due Process Clause. Moreover, prolonged detention without meaningful review violates the substantive limits of due process, as articulated in *Zadvydas* and *Demore v. Kim*, 538 U.S. 510 (2003).

37. Petitioner has lived continuously in the United States since 2021, having established his life and livelihood in North Texas after being released from ICE custody on parole. Over the past four years, he has developed deep community roots, maintained a stable residence, and diligently complied with all reporting requirements before both ICE and the Dallas Immigration Court. There has been no finding—nor any evidence—that he poses a danger to the community or a risk of flight. Yet, solely because of the

government's reliance on the recent and erroneous *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025)—decisions that are not binding within this Circuit—Mr. Vezga has been categorically denied the individualized custody determination guaranteed by law. His renewed detention, unsupported by any lawful basis, constitutes an arbitrary deprivation of liberty in violation of the Fifth Amendment's Due Process Clause.

38. Accordingly, the Court should grant habeas relief on constitutional grounds and order that Petitioner be afforded an immediate bond hearing, or that he be released from custody pending the final outcome of his Section 240 removal proceedings.

Count III – Unlawful Agency Action (APA)

39. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

40. Respondents' continued detention of Petitioner without affording him a bond hearing also constitutes unlawful agency action under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706. The abrupt departure from longstanding precedent without reasoned explanation violates the Administrative Procedure Act.

41. For decades, Immigration Judges exercised bond jurisdiction over individuals detained under INA § 236(a), including those who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *see also* Ex. E, Pre-2025 Unpublished BIA Bond Decisions. That framework allowed for individualized custody determinations consistent with both statutory text and constitutional principles. These cases include, without limitation, the following:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests);
- *In re L-E-V-H-*, AXXX-XXX-504 (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");
- *In re A-R-S-*, AXXX-XXX-161 (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien");
- *In re M-D-M-*, AXXX-XXX-797 (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

42. In 2025, the BIA issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that certain noncitizens who entered without inspection are subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b). These decisions abruptly stripped immigration judges of bond authority for a large class of detainees, including Petitioner, without notice-and-comment rulemaking and without reasoned explanation for abandoning prior precedent.

43. The APA requires agencies to engage in reasoned decision-making, and prohibits arbitrary or capricious action. 5 U.S.C. § 706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very

definition of arbitrary and capricious action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

44. Although Petitioner did not file a new bond redetermination application following his October 2025 re-detention, the record establishes that such a request would have been futile. Immigration judges within the Fifth Circuit, including those in the Dallas and Houston courts, have expressly declined to exercise jurisdiction over custody redeterminations in light of the Board's decisions in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). As reflected in recent judicial opinions, including *Aparicio v. Noem*, No. 3:25-cv-2858-L-BN (N.D. Tex. Nov. 6, 2025), requiring noncitizens to seek a bond hearing before an immigration judge would only exacerbate their constitutional injury—continued detention without access to an individualized custody determination. Accordingly, exhaustion of administrative remedies is not required where, as here, the agency has predetermined that no bond jurisdiction exists. By treating individuals such as Petitioner as subject to mandatory detention under Section 235(b), Respondents have applied an unlawful and arbitrary interpretation of the statute that conflicts with the plain language of Section 236(a) and deprives Petitioner of the procedural safeguards guaranteed by the Fifth Amendment.

45. Accordingly, Respondents' refusal to provide Petitioner an individualized custody redetermination hearing constitutes unlawful agency action under the APA, and this Court should grant habeas relief to remedy the violation.

VII. APPLICATION FOR INJUNCTIVE RELIEF

46. Petitioner respectfully requests that this Court issue a preliminary injunction directing Respondents to provide him an individualized custody redetermination hearing

under INA § 236(a) within as soon as practicable, or, in the alternative, to release him under reasonable conditions of supervision. Petitioner would also note that he further intends to request a Temporary Restraining Order in a forthcoming motion.

47. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Petitioner satisfies each of these factors.

A. Mr. Vezga Is Likely to Succeed on the Merits of His Petition.

48. Mr. Vezga has a strong likelihood of success on the merits of his claims. As explained more fully hereinabove, numerous district courts including some from within the Fifth Circuit, have already determined that noncitizens in circumstances substantially similar to that of Mr. Vezga, who are detained under Section 236(a), are entitled to individualized bond hearings before an immigration judge.

49. Current BIA policy prohibiting immigration judges from exercising jurisdiction over any immigration bond request that Mr. Vezga might file—due to the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—cannot override the clear and unambiguous language of Section 236(a).

50. Additionally, Mr. Vezga raises a constitutional claim under the Fifth Amendment, as prolonged detention without any opportunity for individualized custody review violates due process.

51. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009),

likelihood of success is the most critical factor in evaluating interim relief. Here, Petitioner's claim is exceptionally strong.

B. Mr. Vezga Will Suffer Irreparable Harm If an Injunction Does Not Issue.

52. If this Court does not grant immediate relief, Mr. Vezga will continue to suffer irreparable harm. The Supreme Court has recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Everyday Mr. Vezga remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

53. Even if Mr. Vezga were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—loss of liberty, disruption of family life, psychological strain, and reputational damage—could never be undone. As *Nken* instructs, irreparable harm cannot be speculative; it must be actual and concrete. 556 U.S. at 435. Mr. Vezga's ongoing detention without a lawful hearing meets that standard.

C. Balance of Equities Weighs in Mr. Vezga's Favor.

54. The balance of equities tips decisively in Petitioner's favor. On his side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government's side, the only asserted interest is administrative convenience in applying the BIA's recent, and in this Circuit nonbinding, precedents.

55. There is no evidence that Petitioner poses a danger to the community or a risk of flight, and the dismissal of his recent criminal indictment further diminishes any

legitimate basis for continued detention. In contrast, every additional day of unlawful confinement inflicts significant harm on Petitioner. When weighed against each other, the equities clearly support granting immediate relief.

D. There Is Strong Public Interest In Maintaining the Pre-2025 Status Quo.

56. Finally, the public interest strongly supports the issuance of a preliminary injunction. The Supreme Court in *Nken* explained that when the government is the opposing party, the balance of equities and the public interest merge. 556 U.S. at 435. The public has no interest in perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

57. Granting Petitioner an individualized bond hearing promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the arbitrary deprivation of liberty. Protecting fundamental due process rights is not just in Petitioner's interest, but in the interest of the public at large.

58. Each factor of the equitable test weighs heavily in Mr. Vezga's favor. He has shown a substantial likelihood of prevailing on the merits based on the interpretation of Section 236(a) by various federal district courts and the Due Process Clause; he faces irreparable harm each day he remains detained without lawful process; the equities tilt overwhelmingly toward protecting his liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.

59. For these reasons, this Court should issue a preliminary injunction at the earliest possible opportunity, requiring Respondents to provide Mr. Vezga an immediate bond hearing or release.

VIII. PRAYER FOR RELIEF

60. For the above and foregoing reasons, Petitioner respectfully requests that this Court take the following actions:

a. Issue a writ of habeas corpus ordering Respondents to provide Petitioner with an individualized bond hearing under INA § 236(a), 8 U.S.C. § 1226(a) within seven (7) days of the Court's order;

b. Grant a preliminary injunction requiring such an individualized bond hearing, or alternatively, ordering Petitioner's immediate release;

c. Issue a declaration that DHS may not initiate or pursue expedited removal against Mr. Vezga while his § 240 removal proceedings remains non-final and while he seeks relief from removal before an Immigration Judge;

d. Issue a declaration that the plain language of INA § 236(a) permits immigration judges to consider bond requests of noncitizens who are present without admission and are not classified as arriving aliens;

e. Grant permanent injunctive relief as appropriate;

f. Award Plaintiff reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and

g. Grant such other relief as this Court deems just and proper.

DATE: November 18, 2025.

Respectfully submitted,

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VERIFICATION

STATE OF TEXAS §
§
COUNTY OF DALLAS §

I, John Michael Bray ("Declarant"), am Petitioner's counsel. I am over the age of twenty-one (21) years of age, of sound mind, and in all ways competent to execute this verification. I have read the substance of the foregoing document, I have personal knowledge of the facts contained herein, and that the factual statements contained herein above are true and correct to the best of my knowledge and belief.

Pursuant to 28 U.S.C. § 1746, I hereby declare that the foregoing is true and correct under penalty of perjury under the laws of the United States of America.

/s/ John Michael Bray
JOHN MICHAEL BRAY,
Declarant