

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Jayson Tikum MBABID,

Petitioner,

v.

NIKITA BAKER, Acting Director of the U.S. Immigration and Customs Enforcement Baltimore Field Office; MATTHEW ELLISTON, Deputy Assistant Director for Field Operations, Eastern Division, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; and PAMELA BONDI, Attorney General of the United States, in their official capacities,

Respondents.

Case No: 8:25-cv-3505

AMENDED PETITION FOR WRIT OF HABEAS CORPUS

This is a petition for a writ of habeas corpus filed on behalf of Mr. Jayson Tikum Mbabid (“Mr. Mbabid”) seeking relief to remedy his unlawful detention. Respondents are detaining Mr. Mbabid in violation of his constitutional due process rights. Further, by subjecting Mr. Mbabid to indefinite detention, Respondents also violate his Eighth Amendment rights by inflicting cruel and unusual punishment.

Mr. Mbabid has fully cooperated with Respondents in their pursuit of his arrest and detention. Mr. Mbabid is not a flight risk or a danger to the community. Prior to his detention, Mr. Mbabid had been attending all of his immigration court hearings and ICE check-ins. Mr. Mbabid has no criminal convictions.

On or about October 23, 2025, Mr. Mbabid went to his scheduled ICE check-in. Upon arriving and completing the check in, ICE officers detained Mr. Mbabid. He was subsequently transferred to the ICE Enforcement and Removal Operations (“ERO”) field office in Baltimore, Maryland. On October 28, 2025, the ICE Detainee Locator was updated to reflect that Mr. Mbabid had been transferred to ERO El Paso Camp East Montana.

Approximately one month before Mr. Mbabid’s detention he was experiencing active tuberculosis symptoms. He was previously diagnosed with tuberculosis. Mr. Mbabid sought medical care and was instructed to isolate and prescribed oral medication, Prednisone and Levofloxacin, for treatment. He had a follow up appointment on October 8, 2025, with the Prince George’s County Health Department’s Tuberculosis Control Program. His detention presents an immediate risk to his health.

Recent Board of Immigration Appeals (“BIA”) precedent, namely *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), strips the government of jurisdiction to issue a bond in Mr. Mbabid’s case. Thus, Mr. Mbabid’s detention could be indefinite if he pursues all forms of relief from removal available to him. In effect, Mr. Mbabid’s indefinite detention creates a chilling effect to deter Mr. Mbabid from pursuing all forms of relief from removal, as litigating his case may take years. His continued detention also hinders his ability to work with his counsel to mount a zealous defense against removal.

Petitioner submits that his prolonged detention is in violation of his constitutional rights. His detention is not justified under the Constitution or the Immigration and Nationality Act (“INA”). Petitioner seeks an order from this Court declaring his continued detention unlawful and ordering Respondents to hold a bond hearing or release Petitioner on parole or his own recognizance.

CUSTODY

1. Petitioner is in physical custody of Respondents Matthew Elliston, Field Office Director

for Detention and Removal, DHS-ICE, DHS generally, and Nikita Baker, Acting Director of the U.S. ICE Baltimore Field Office located in Baltimore, Maryland. At the time of the filing of this petition, Petitioner was detained at the U.S. ICE Baltimore Field Office in Baltimore, Maryland. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), as Mr. Mbabid is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

4. Venue is proper in the United States District Court for the District of Maryland, the judicial district in which Respondents, Matthew Elliston and Nikita Baker reside and where Mr. Mbabid was detained when the initial petition was filed. 28 U.S.C. § 1391(e). Venue remains proper under 28 U.S.C. § 1391(e), as it remains the judicial district where the defendants in the action reside, it is the location where a substantial part of the events giving rise to the claim occurred, and the plaintiff normally resides in the judicial district.

PARTIES

5. Petitioner is a national and citizen of Cameroon who resides in Prince George’s County, Maryland. Respondents have detained him pursuant to 8 U.S.C. § 1225, which permits DHS to detain

certain noncitizens pending a decision on whether the noncitizen is removable from the United States.

6. Respondent Baker is sued in her official capacity as the Acting Director of the U.S. ICE Field Office of Baltimore, Maryland, and she has immediate physical custody of Petitioner pursuant to the agency's authority to detain noncitizens. She is a legal custodian of Petitioner.

7. Respondent Ellis is sued in his official capacity as the Deputy Assistant Director for Field Operations, Eastern Division, for Enforcement and Removal Operations within ICE. Respondent Ellis is a legal custodian of Petitioner and has authority to release him.

8. Respondent Kristi Noem is sued in her official capacity as the Secretary of U.S. DHS. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

9. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals ("BIA"). Respondent Bondi is a legal custodian of Petitioner.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. Petitioner has exhausted his administrative remedies to the extent required by law.

11. Mr. Mbabid has fully cooperated with Respondents and has not delayed or obstructed his detention.

12. Even if Respondents contend that Petitioner has not exhausted his administrative remedies because he did not file a bond request, the Court should waive the exhaustion requirement as he raises serious constitutional concerns and there is no section in the INA requiring exhaustion of administrative remedies. *See Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022) ("[W]here Congress had not clearly required

exhaustion, sound judicial discretion governs”) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); see also *Guitard v. U.S. Secretary of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) (“Exhaustion of administrative remedies may not be required when ... a plaintiff has raised a ‘substantial constitutional question’”).

13. Further, Petitioner’s detention is causing him irreparable harm, and the administrative agency has predetermined the issue that Petitioner would appeal, making his pursuit of this remedy futile. See *McCarthy v. Madigan*, 503 U.S. 140, 146-48 (noting exceptions to the exhaustion requirement include “irreparable harm” to the petitioner, where there is “some doubt as to whether the agency was empowered to grant effective relief,” or where it would be futile because “the administrative body is shown to be biased or has otherwise predetermined the issue before it”).

14. On May 15, 2025, the Board of Immigration Appeals (“BIA”) published *Matter of Q. Li*, which held that the detention of a noncitizen who is detained and arrested at or near the border and placed into expedited removal proceedings is not governed by § 1226(a) but rather by § 1225(b). 29 I&N Dec. 66, 69 (BIA 2025). Individuals detained under § 1225(b) do not have a statutory or regulatory right to a bond hearing before an immigration judge.

15. In *Matter of Q. Li*, the BIA also held that a noncitizen who is initially arrested under § 1225(b) and subsequently paroled into the United States under § 1182(d)(5), continues to be subject to detention under § 1225(b) if their parole grant is terminated. *Id.*

16. On September 5, 2025, the Board of Immigration Appeals (“BIA”) published *Matter of Yajure Hurtado*, which found that any noncitizen present in the United States without having been inspected and admitted is subject to detention under 8 U.S.C. § 1225(b)(2), rather than 8 U.S.C. § 1226(a). 29 I&N Dec. 216 (BIA 2025). This decision effectively strips immigration judges of their authority to issue bond.

17. An Immigration Judge is bound by *Yajure Hurtado* and would declare they had no authority to issue a bond. If Petitioner were to appeal this decision to the BIA, the BIA would rely on its own precedent to deny the appeal.¹

18. This administrative remedy is clearly futile as the BIA has predetermined this issue and bound itself and all Immigration Judges to follow its authority on this matter.

19. Finally, Petitioner would remain in detention during the pendency of his appeal, subject to an intolerable delay, which would exacerbate the harm he is facing while he is detained.

20. Petitioner's only remedy is by way of this judicial action.

LEGAL FRAMEWORK

21. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

22. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

23. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

24. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

25. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

¹ The exhaustion requirement serves to “[protect] administrative agency authority and [promote] judicial efficiency.” *Kurfees v. INS*, 275 F.3d 332, 336 (4th Cir. 2001). These purposes would not be served by requiring Petitioner to file a potentially frivolous appeal concerning an issue on which the BIA has already issued a definitive ruling less than two months prior.

Interpretation of 8 U.S.C. §§ 1225 and 1226

26. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

27. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

28. The IIRIRA also created a truncated removal process called “expedited removal” for certain people coming to the United States who were inadmissible because they engaged in fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or they lack the necessary documents for admission, 8 U.S.C. § 1182(a)(7). *See* 8 U.S.C. § 1225(b)(1).

29. The IIRIRA authorized the use of expedited removal for individuals who were applying for admission at a port of entry. *See* 8 U.S.C. § 1225(b)(1).

30. The IIRIRA also allowed the Attorney General to apply expedited removal to individuals who had entered the country but had never been officially admitted—i.e., individuals who had crossed the border without presenting themselves for inspection. *See* 8 U.S.C. § 1225(b)(1). Under that provision, the Attorney General could apply expedited removal to noncitizens residing anywhere in the United States who cannot prove to an immigration officer’s “satisfaction” that they have been continuously physically present for two years and were lawfully admitted or paroled into the country. *See* 8 U.S.C. § 1225(b)(1)(A)(iii)(II), 8 C.F.R. § 235.3(b)(6).

31. Thus, in the decades that followed, most people who entered without inspection and were

placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at 1252(a)).

Matter of Yajure-Hurtado and DHS Policy on Detention

32. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

33. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended.

34. On September 5, 2025, the BIA adopted this same position in its published decision, *Matter of Yajure Hurtado*. There, the Board departed from three decades of statutory interpretation, holding that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2), regardless of whether the noncitizens encounter with immigration officials was when they were “arriving” or whether they have been physically present in the United States for more than two years. *Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

Chevron Overruled – Independent Statutory Interpretation Required

35. For decades, courts deferred to reasonable agency interpretations of ambiguous statutes under *Chevron* deference. On June 8, 2024, the U.S. Supreme Court overturned *Chevron U.S.A., Inc. v. NRDC* in *Loper Bright Enterprises v. Raimondo*, holding that the Administrative Procedure Act requires courts to exercise their own independent judgment in deciding whether an agency has acted within its statutory authority. 603 U.S. 369 (2024). In its decision, the Court emphasized that judges may not defer to an agency interpretation merely

because a statute is ambiguous; instead, the courts must decide the best interpretation, giving respectful consideration - but not deference - to the Executive Branch. *Id.*

STATEMENT OF FACTS

36. Mr. Mbabid is a national and citizen of Cameroon who entered the United States in August of 2024. He was detained for nearly two months.

37. On September 12, 2024, Petitioner was issued a Notice to Appear (“NTA”) in Immigration Court. The NTA alleges “You are an alien present in the United States who has not been admitted or paroled.”

38. On October 10, 2024, Petitioner was paroled into the United States pursuant to § 1182(d)(5).

39. He subsequently filed an application for asylum and withholding of removal.

40. On or about October 23, 2025, Respondents’ agents arrested Petitioner during his regularly scheduled ICE check in. The agents did not provide Petitioner with a reason for his detention or a warrant for his arrest. He was later transferred to the Baltimore ERO field office.

41. Petitioner was held at the Baltimore ICE Office in Baltimore, Maryland until October 27, 2025, when ICE moved him to El Paso Camp East Montana.

42. Petitioner is not a danger to the community or a flight risk. He has no criminal convictions. Petitioner also has a strong interest in remaining in the area to pursue relief in immigration court, which if granted, would eventually permit him to pursue permanent residence status.

43. Petitioner was diligently attending his regular ICE check-ins when he was detained and attending all of his immigration court hearings. Petitioner was scheduled for an individual hearing (merits hearing or trial) on May 14, 2026, before the Hyattsville Immigration Court to resolve his pending asylum application. As a result of his detention, that hearing has been cancelled and he is now scheduled for a master calendar hearing on December 16, 2025, in El Paso, Texas.

44. Prior to his detention, Petitioner was diagnosed with a tuberculosis recurrence and prescribed medication, Prednisone and Levofloxacin, to manage the infection.

45. Prior to his detention, Petitioner was unemployed and isolating to prevent inadvertently spreading tuberculosis to his family members.

46. After his detention, Petitioner's brother brought his tuberculosis medication to the Baltimore ERO field office. Petitioner's brother requested that Petitioner be isolated out of concern for his health.

47. Respondents' decision to detain Petitioner is not legally justifiable and is capricious and arbitrary. There is no better time for the Court to consider the merits of Petitioner's request for release.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the INA

48. Petitioner incorporates by reference all preceding paragraphs.

49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country, were detained and subsequently released, and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a).

50. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT TWO

Violation of Fifth Amendment Right to Procedural and Substantive Due Process

51. Petitioner incorporates by reference all preceding paragraphs.

52. Petitioner's detention under 8 U.S.C. § 1225 violates his procedural and substantive due process rights under the Fifth Amendment to the United States Constitution as it subjects him to arbitrary detention.

53. "Government detention violates the Fifth Amendment "unless the detention is ordered in a

criminal proceeding with adequate procedural protections or, in certain special and narrow nonpunitive circumstances where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydus v. Davis*, 553 U.S. 678, 690 (2001) (internal citations and quotations omitted).

54. Here, there is no “special justification” which allows the Respondents to deny Petitioner the liberty to which he is entitled. Respondents have not alleged any “special justification” to support Petitioner’s continued detention.

55. Further, the BIA’s decision in *Matter of Yahure Hurtado* claims that the immigration judge lacks the jurisdiction to grant bond to any noncitizen who has entered the United States without being inspected and admitted or paroled based on 8 U.S.C. § 1225. According to the BIA, anyone who entered without inspection or parole, no matter how long present in the United States before encountering immigration authorities, are essentially subject to mandatory detention. 29 I&N Dec. at 228.²

56. Detention for the duration of removal proceedings is only proper when the noncitizen (1) has been convicted of certain enumerated offenses or (2) presents national security concerns, neither of

² Importantly, several federal district courts have rejected this argument as well as the arguments from *Matter of Yahure Hurtado*’s predecessor, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). See *Maldonado de Leon v. Baker*, 2025 WL 2968042 (D.Md. Oct. 21, 2025); *Luna Quispe v. Crawford*, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Hasan v. Crawford*, 2025 WL 268225 (E.D. Va. Sept. 19, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Pena v. Hyde*, 2025 WL 2108913 (D. Mass. July 28, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Orellana Juarez v. Moniz*, 2025 WL 1698600 (D. Mass. June 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez-Campos v. Raycroft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Cortes Fernandez v. Lyons*, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Palma Perez v. Berg*, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Jacinto v. Trump*, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Escalante v. Bondi*, 2025 WL 2212104 (D. Minn. July 31, 2025); *Zaragoza Mosqueda et al. v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Vasquez Garcia et al. v. Noem*, 25025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

which apply to Petitioner. *See* 8 U.S.C. § 1226(c).

57. Petitioner's continued detention grossly deprives the Petitioner of his procedural due process rights. This court applies the three-factor balancing test set out in *Mathews v. Eldridge* in the context of civil immigration detention. *See, e.g., Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025). The three factors are (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

58. Here, the factors weigh heavily in favor of the petitioner. First, the Petitioner has a significant private interest at stake. Freedom from bodily restraint "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 at 630. The petitioner is being detained away from his family and without access to counsel.

59. As to the second factor, there is an enormous risk of the erroneous deprivation of Petitioner's liberty interest. In fact, it has already occurred.

60. Regarding the third *Mathews* factor, the government does not have a significant interest at stake in Petitioner's detention pursuant to termination of his parole. Petitioner is not a danger to the community or a flight risk. Petitioner has every incentive to show up to his immigration court proceedings as he is seeking asylum and fears returning to his home country. In contrast to the enormous interest at stake for the Petitioner, the government's interest is miniscule. On balance, the *Mathews v. Eldridge* factors weigh heavily in favor of the Petitioner.

61. Substantive due process also affords Petitioner "a right to adequate food, shelter, clothing, and medical care . . . [and to] safety and freedom from bodily restraint." *See Youngberg v. Romeo*, 457 U.S. 307, 315-18 (1982).

62. Petitioner's detention is not reasonably related to a legitimate government interest. He was paroled into the United States and in the process of seeking asylum before the Hyattsville Immigration Court at the time of his detention.

63. Moreover, at the time of his detention, Petitioner was actively being treated for tuberculosis. His detention presents an urgent threat to his health because it is necessary for him to take his medications exactly as prescribed so that he does not become more unwell and so the TB germs do not become drug resistant. *About Active Tuberculosis Disease*, U.S. Center for Disease Control, <https://www.cdc.gov/tb/about/active-tuberculosis-disease.html> (last accessed Oct. 29, 2025).

64. Due process requires that Petitioner receive a constitutionally adequate bond hearing before an Immigration Judge.

65. Without federal court action, Petitioner will likely remain detained for months.

COUNT THREE

Violation of Eighth Amendment Right to Protection from Cruel and Unusual

Punishment

66. Petitioner incorporates all preceding paragraphs by reference.

67. Petitioner has a history of tuberculosis. Prolonged detention could negatively impact his medical condition. Petitioner was prescribed Prednisone and Levofloxacin to treat his tuberculosis. Prednisone is a corticosteroid medicine that can weaken the immune system. *Prednisone*, <https://www.drugs.com/prednisone.html> (last accessed Oct. 29, 2025). Individuals taking Prednisone are advised to avoid contact with individuals who are sick because they are at greater risk of contracting an infection. *Id.* Levofloxacin is an antibiotic "only used for bacterial infections that cannot be treated with safer antibiotics." *Levofloxacin*, <https://www.drugs.com/levofloxacin.html> (last accessed Oct. 29, 2025). It can cause serious side effects. *Id.* Among other symptoms, Petitioner was provided an advisal alerting him that his medicines place him at greater risk of a tendon rupture. **Exh.**

A, Petitioner's Medical Documents.

68. The detention facility that Respondents moved Mr. Mbabid to, El Paso Camp East Montana, has come under scrutiny in recent weeks because of the appalling conditions at the facility. A Washington Post article published on September 16, 2025, reported that the detention oversight unit of U.S. Immigration and Customs Enforcement found that individuals held there were “subjected to conditions that violated 60 federal standards for immigrant detention.” Douglas MacMillian et al., *60 violations in 50 days: Inside ICE's giant tent facility at Ft. Bliss*, WASH. POST (Sept. 16, 2025) <https://www.washingtonpost.com/business/2025/09/16/ice-detention-center-immigration-violations/>. This includes failing to “properly monitor and treat some detainees’ medical conditions.” *Id.* “Camp East Montana’s contract states that the facility is meant to hold people ‘for periods of approximately two weeks or less.’” *Id.*

69. The Eighth Amendment to the U.S. Constitution prohibits the government from inflicting cruel and unusual punishment on individuals.

70. To state a cognizable claim under the Eighth Amendment, Petitioner must allege acts or omissions sufficiently harmful to show deliberate indifference to his needs. *See Estelle v. Gamble*, 429 U.S. 97, 106 (1976).

71. Even if no harm has occurred, the lack of safety in Petitioner’s detention conditions is sufficient for judicial intervention. *See Helling v. McKinney*, 509 U.S. 25, 33 (1993) (explaining that the Supreme Court and Courts of Appeals have recognized a remedy for unsafe conditions where a tragic event has not yet occurred, i.e. one need not wait for a traffic event to occur to file a claim for future harm under the Eighth Amendment).

72. Petitioner’s continued unlawful detention also constitutes cruel and unusual punishment under the Eighth Amendment because Petitioner is subject to mandatory, indefinite detention based solely on Respondents’ erroneous interpretation of 8 U.S.C. § 1225(b)(2).

73. Detainees may challenge their confinement's unconstitutional conditions through writs of habeas corpus, an avenue which the U.S. Supreme Court has never explicitly foreclosed. *See Preiser v. Rodriguez*, 411 U.S. 475, 499-500 (1973) (stating that when "a prisoner is put under additional and unconstitutional restraints during his lawful custody, it is arguable that habeas corpus will lie to remove the restraints making the custody illegal.").

74. Respondents' continued custody of Petitioner has transformed civil immigration detention into cruel and unusual punishment. Petitioner has no criminal record in this country. He is also eligible for relief from removal yet is indefinitely held in detention solely due to his manner of entry into the United States.

75. Respondents' continued custody of Petitioner will also impact his ability to continue to manage and treat his tuberculosis, potentially endangering his life.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an order directing Respondents to show cause why the writ should not be granted;
3. Issue an order prohibiting Respondents from moving Petitioner outside of this Court's jurisdiction during the pendency of adjudication of this petition;
4. Issue a writ of habeas corpus ordering Respondents to release Petitioner on his own recognizance or under parole, a low bond, or reasonable conditions of supervision;
5. Alternatively, mandate that Respondents provide Petitioner with a bond hearing;
6. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

/s/ Alexis Turner-Lafving
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Dated: October 29, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Jayson Tikum Mbabid, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Amended Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 29 day of October 2025.

/s/ Alexis Turner-Lafving