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**UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF MICHIGAN — SOUTHERN DIVISION**

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**FAIBER LEONARDO LEAL GUZMAN**

Detainee with Alien Case File Number 

Petitioner,

v.

**U.S. DEPARTMENT OF HOMELAND SECURITY (DHS);**  
**WARDEN, NORTH LAKE IMMIGRATION PROCESSING CENTER;**  
**TODD M. LYONS**, Director, U.S. Immigration and Customs Enforcement (ICE);  
**ROBERT LYNCH**, Detroit Field Office Director, DHS ICE ERO;  
**KRISTI NOEM**, Secretary, U.S. Department of Homeland Security; and  
**PAM BONDI**, Attorney General of the United States (in their official capacities),

Respondents.

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Civil Action Case No.1:25-cv-1531

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**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

(Non-mandatory civil immigration detention; INA § 236(a); Due Process)

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## Introduction

1. Petitioner **FAIBER LEONARDO LEAL GUZMAN** (“Petitioner” or “Mr. Leal-Guzman”) is a non-mandatory civil detainee held by ICE at North Lake Correctional Facility in Baldwin, Michigan. DHS placed him in removal proceedings under the **Immigration and Nationality Act** (“INA”) § 240 and charged him under **INA § 212(a)(6)(A)(i)** (entry without inspection). He has **no criminal history**, a fixed address and family/community support in Illinois, prior supervision under **I-220A/ATD**, and a pending, bona fide asylum application on the EOIR docket.
2. The Immigration Judge denied bond **for lack of jurisdiction**—not on danger/flight risk findings or other custody determination factors — erroneously treating custody as outside of INA § 236(a) and finding no jurisdiction to decide Petitioner’s custody as a matter of law without any predicate fact-finding in support of such finding.
3. Under **28 U.S.C. § 2241**, the writ of habeas corpus is the proper vehicle to challenge unlawful civil immigration detention. See e.g. **Soberanes v. Comfort**, 388 F.3d 1305, 1310 (10th Cir. 2004) (“**Soberanes**”) (detention challenges proceed via habeas) (citing **Zadvydas v. Davis**, 533 U.S. 678, 687–88 (2001) (“**Zadvydas**”); **Hamama v. Adducci**, 285 F. Supp. 3d 997, 2018 U.S. Dist. LEXIS 421, 2018 WL 263037 (E.D. Mich.) applying **Zadvydas** at 1013-1014 (“prolonged detention without adequate procedural protections would raise serious constitutional concerns...[e]ven where detention is permissible [under *Zadvydas*], due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint...[absent which] prolonged detention of an alien without an individualized determination of his dangerousness or flight risk would be constitutionally doubtful”) (internal quotations and citations omitted).

4. Recent district decisions within the Sixth Circuit confirm that long-residing EWIs in § 240 proceedings are detained, if at all, under **INA § 236(a)**, and are entitled to individualized custody determinations—**not** categorical detention. See **Pizarro Reyes v. Raycraft**, No. 2:25-cv-12546, 2025 U.S. Dist. LEXIS 175767 (E.D. Mich. Sept. 9, 2025) (granting § 2241 habeas); **Beltrán Barrera v. Tindall**, No. 3:25-cv-541-RGJ (W.D. Ky. Sept. 19, 2025) (recognizing § 1226/§ 236(a) as governing detention).
5. After **Loper Bright**, courts **do not defer** to agency *ipse dixit* on which detention statute applies; they must exercise independent judgment. **Loper Bright Enters. v. Raimondo**, 603 U.S. 369, 413 (2024) (“**Loper Bright**”).
6. Petitioner seeks (a) a declaration that his detention is governed by **INA § 236(a)** and is unlawful absent a valid, individualized, fact-based custody determination; and (b) **immediate release** or, in the alternative, a **prompt bond hearing** at which the Government bears the **clear-and-convincing** burden of proof to justify why less-restrictive Alternatives To Detention (“ATDs”) more-narrowly tailored to achieve the government’s objective of an orderly system of immigration without depriving persons seeking asylum of their liberty and freedom unless required by law as applied to the facts of their circumstances pending the outcome of their proceedings.

#### **Jurisdiction & Venue**

7. This Court has jurisdiction under **28 U.S.C. § 2241(c)(3)** because Petitioner is in **custody** within this District and challenges the legality of that custody. See **Soberanes**, 388 F.3d at 1310 (habeas proper to challenge detention).
8. The venue lies in this Division because Petitioner is detained at the **North Lake Immigration Processing Center** (in Baldwin, MI, located in **Lake County**) and his **immediate custodian** is located here.

9. This petition does **not** seek review of a final order of removal; it challenges only detention, which is cognizable in habeas and not barred by 8 U.S.C. § 1252(b)(9) or (g). See, e.g., **Reyes v. Raycraft**, 2025 U.S. Dist. LEXIS 175767 (granting habeas release from detention under § 2241).

#### **Parties**

10. Petitioner **Faiber Leonardo Leal-Guzman** is a Venezuelan national detained by ICE. He has family/community ties in Illinois and a pending Application for Asylum and Withholding of Removal Petition Form I-589.
11. Respondent **Warden, North Lake Immigration Processing Center**, is the immediate physical custodian, and Respondent DHS, and its subagents and agencies, his custodian purportedly operating under color of law.
12. Respondents **Robert Lynch, Todd M. Lyons, Kristi Noem, and Pam Bondi** are responsible for the Petitioner's detention.

#### **Relevant Facts**

13. DHS initiated § 240 proceedings; the NTA charges § 212(a)(6)(A)(i). Petitioner has resided in the U.S. since February 2022, appeared at his Master calendar hearing, filed a timely I-589, the Individual Hearing of which has been calendared (Jan. 6, 2026).
14. ICE previously released Petitioner on recognizance with **ATD (I-220A)**—an agency determination that he could be safely supervised—before re-detaining him at North Lake (ROP exhibits referenced in the Bond Evidence filing).
15. Petitioner moved for a bond hearing under § 236(a), submitting letters of support, proof of address/ID, and other *Guerra* factors. The **IJ denied for “No jurisdiction.”**

### **Exhaustion / Ripeness**

16. Petitioner sought custody redetermination in Immigration Court and submitted a full evidentiary proffer. Further administrative relief is futile (IJ disclaimed jurisdiction) and inadequate to prevent ongoing constitutional injury from prolonged detention. See **Santos v. Warden**, 965 F.3d 203 (3d Cir. 2020) (as detention prolongs, due process requires a hearing). Furthermore, the IJ determination of Lack of Jurisdiction is grounded on the agency determination on this issue on *Matter of Jonathan Javier Yajure Hurtado*, 29 I&N Dec 216 (BIA 2025).

### **Claims for Relief**

#### **COUNT I**

Unlawful Detention Under the INA: Petitioner Is Detained, if at All, Under INA § 236(a); Agency Misclassification and the IJ's "No Jurisdiction" Ruling Are Contrary to Law

17. Where DHS places a noncitizen into § 240 proceedings as an EWI long-resident, custody is governed by **INA § 236(a)** (8 U.S.C. § 1226(a)), not § 235(b). District courts within the Sixth Circuit have so held, granting § 2241 relief or recognizing § 236(a) as the operative custody provision. See **Reyes v. Raycraft**, No. 2:25-cv-12546, 2025 U.S. Dist. LEXIS 175767, at \*1–\*2 (E.D. Mich. Sept. 9, 2025) (granting habeas); **Beltrán Barrera v. Tindall**, No. 3:25-cv-541-RGJ, 2025 U.S. Dist. LEXIS 184356, at \*12–13 (W.D. Ky. Sept. 19, 2025) (recognizing § 1226 applies).

18. The IJ's denial "**for lack of jurisdiction**" contradicts this statutory framework and these decisions without any predicate findings of fact in support of this summary conclusion. It is therefore **arbitrary and contrary to the law**.

19. Post-**Loper Bright**, courts owe **no Chevron deference** to an agency's view of which detention statute applies; instead, they must exercise **independent judgment** to identify the statute's **best reading**. **Loper Bright**, 603 U.S. at 413. Under that approach, § 236(a) governs here, as does the jurisprudence of the federal courts.
20. Because § 236(a) applies, detention is **discretionary** and must rest on individualized findings of **danger** and **flight risk**, evaluated using the **Guerra** factors (fixed address, length of residence, family/community ties, employment, prior appearances, criminal history, immigration violations, attempts to flee, manner of entry) and finding of fact appertaining thereto; see *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). Petitioner's record overwhelmingly satisfies these factors, yet the Immigration Court abdicated its role as a finder of fact by declaring itself without jurisdiction to make such findings as applicable laws and regulations require it to make.

## COUNT II

### Fifth Amendment Procedural Due Process: Prolonged Civil Detention Without a Meaningful, Burden-Proper Bond Hearing

21. The Due Process Clause protects against unlawful or arbitrary detention. **Zadvydas**, 533 U.S. at 690; see also **Santos**, 965 F.3d at 213–19 (detention becoming unreasonably prolonged requires a bond hearing at which the Government bears the clear-and-convincing burden and the court considers alternatives to detention).
22. Petitioner has been detained for months despite no criminal history, prior compliance under ATD, strong family/community ties, and a pending asylum case—facts that eliminate danger and sharply reduce flight risk. The agency's refusal to provide a meaningful bond hearing with the proper burden on the Government violates due process. See **Reyes** (granting habeas under § 2241 to correct unlawful detention);

**Barrera** (recognizing § 1226 framework while evaluating lawfulness of continued custody).

23. The agency's position that an IJ "lacks jurisdiction" to conduct a § 236(a) redetermination, coupled with continued detention, is constitutionally inadequate and inconsistent with the individualized determination the Fifth Amendment requires.

### **COUNT III**

Suspension Clause (Alternative Canon of Constitutional Avoidance and Backstop)

24. The **Suspension Clause** guarantees a **meaningful opportunity** to challenge unlawful detention; any construction of the INA that would foreclose habeas review or meaningful bond process for prolonged civil detention would raise serious constitutional concerns. **Boumediene v. Bush**, 553 U.S. 723, 739–71 (2008); **INS v. St. Cyr**, 533 U.S. 289, 300–14 (2001).
25. Consistent with **Boumediene** and **St. Cyr**, this Court should construe the INA to preserve § 2241 review and to require procedures adequate to test the legality/necessity of continued confinement—particularly where the IJ has denied relief solely for "no jurisdiction."

### **Requested Relief**

#### **Petitioner respectfully asks this Court to:**

- A. **Declare** that Petitioner's detention is governed by **INA § 236(a)** and that continued detention absent an individualized determination consistent with due process is unlawful;

B. **Grant the writ and order immediate release** under appropriate conditions (including ATD/reporting), or, **in the alternative, order a prompt bond hearing** by a date certain at which:

1. The **Government bears the burden** to prove by **clear and convincing evidence** that detention remains necessary due to danger or flight risk;
2. The IJ must consider **less-restrictive alternatives** and the **Petitioner's ability to pay** any bond; and
3. The IJ must make **individualized findings** addressing the **Guerra** factors.

C. **Enjoin transfer** outside this District pending the hearing and final disposition of this petition;

D. **Award fees and costs** where authorized; and

E. Grant such other relief as the Court deems just and proper.

#### **Verification**

I, Faiber Leonardo Leal Guzman, declare under penalty of perjury that the facts stated herein are true and correct to the best of my knowledge and belief.

Date: \_\_\_\_\_

Faiber Leonardo Leal Guzman, Petitioner



Respectfully submitted, this 21st day of November, 2025

/s/ **William Shipley**

William B. Shipley, Esq.

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