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

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**CARLOS JAVIER PENAGOS ROBLES**

Detainee with Alien Case File Number 

Petitioner,

v.

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

Respondents.

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Civil Action Case No.1:25-cv-1578

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**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 **CARLOS JAVIER PENAGOS ROBLES** (“Petitioner” or “Mr. PENAGOS ROBLES”) is a non-mandatory civil detainee held by ICE at North Lake Correctional Facility in Baldwin, Michigan. Petitioner and his family filed a timely application for asylum shortly after entering the country without prior authorization for the express purpose of seeking asylum for immediate dangers faced by himself and his family members. Respondent U.S. Department of Homeland Security (“DHS”) initiated removal proceedings against petitioner after he demonstrated a credible fear of persecution in the event of his return to his native Colombia to the satisfaction of the DHS Supervisory Asylum Officer (“SAO”) following a Credible Fear Screening conducted on February 23rd, 2024, shortly after he entered the country near Yuma, Arizona, on February 9th, 2024.
2. Respondent Defendant DHS had previously allowed Petitioner prior supervision under the Alternative To Detention program (per Petitioner’s Form **I-220A/Alternative To Detention** (“ATD”)) following his Credible Fear Screening, as Petitioner and his family have *bona fide* asylum claims pending before the Chicago Immigration Court of the Executive Office of Immigration Review (EOIR), a constituent agency of the U.S. Department of Justice whose chief executive is Respondent U.S. Attorney General PAMELA BONDI. Respondent BONDI is also responsible for the proper promulgation of and implementation of immigration regulations authorized and required by the Immigration and Nationality Act (“INA”) [8 U.S.C. §§ 1101 et seq.].
3. Respondent KRISTI NOEM is Secretary of the Department of Homeland Security (“DHS”) responsible for the proper exercise of legal authority delegated to DHS and

to its respective agents and agencies under the INA. She is sued in her official capacity.

4. Respondent TODD M. LYONS is the Director of U.S. Immigration and Customs Enforcement (“ICE”) responsible for the programs and operations of its respective Field Offices and Officers. He is sued in his official capacity.
5. Respondent ROBERT LYNCH is the Field Office Director of ICE’s Detroit Field Office, Enforcement and Removal Operations. Mr. Lynch would be the official in charge of DHS’s continued detention of Petitioner and is sued in his official capacity.
6. Respondent WARDEN of the North Lake Immigration Processing Center is responsible for operations conducted at the facility including those affecting the conditions of Petitioner’s confinement, acting at the behest of Respondents DHS, DHS SECRETARY NOEM, ICE DIRECTOR LYONS, and DETROIT FIELD OFFICE DIRECTOR LYNCH.
7. Petitioner is a *bona fide* asylum-seeker with **no criminal history** and **no immigration proceedings or attempted entries into the United States** prior to his fleeing Colombia seeking and applying for asylum, after which had been living at a fixed address with family ties and extensive community support in Blue Island, Illinois since approximately February 2024.
8. Following his Credible Fear Screening conducted by an Asylum Officer (“AO”) and a Supervising Asylum Officer (“SAO”) the SAO issued a Notice to Appear (“NTA”) following the screening which determined Petitioner’s fears of persecution were credible, Petitioner was subject to removal proceedings before the Chicago Immigration Court under § 240 of the **Immigration and Nationality Act** (“INA”) [8 U.S.C. § 1229a] charging him under **INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I)** [8

U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(1)]. Those proceedings are still pending adjudication before the Chicago Immigration Court at the time of this filing.

9. Notwithstanding Petitioner's compliance with the INA and his removal proceedings in Chicago, notwithstanding his family's asylum application which is still pending, and notwithstanding the lack of any prior administrative arrest warrant or reasonable suspicion of Petitioner's non-compliance with the terms of his custody, or any assessment by Respondents and their agents of his flight risk prior to arrest, Petitioner was stopped and arrested by Respondents DHS and ICE on October 4th, 2025 without incident at a checkpoint on an interstate expressway in or near Chicago, while legally working driving his employer's commercial vehicle. Petitioner was subsequently detained and transferred by Respondent DHS to the North Lake Immigration Processing Center located at 1805 West 32nd Street in Baldwin, Lake County, Michigan, subject to the physical and administrative control and erstwhile legal custody of Respondents ICE Director TODD M. LYONS and ICE ERO Detroit Field Office Director ROBERT LYNCH.
10. Following his arrest and detention, Petitioner's duplicative removal proceedings were initiated before the Detroit Immigration Court ("Detroit IC"), a constituent agency of the EOIR and the U.S. Department of Justice whose chief executive is Respondent U.S. ATTORNEY GENERAL PAMELA BONDI, who is sued in her official capacity.
11. Following a request for bond and a hearing to redetermine Petitioner's custody filed on November 7th, 2025, with evidence sufficient to make such a determination, the Detroit IC denied Petitioner's bond **for lack of jurisdiction** on November 14th, 2025. In so doing, it erroneously treated custody determinations as falling as outside of the scope of its statutory authority as a matter of law under INA § 236(a) [8 U.S.C. 1226(a)] to make such determinations, and failed to discharge its duty to weigh

Petitioner's liberty interest and fundamental freedoms on the basis of the totality of the circumstances including considering the actual evidence before it any applying the custody determination factors that the law requires be applied on the basis of that evidence.

12. Serious errors of law and fact led to Petitioner's being deprived of access to any meaningful opportunity to present the case for his own release, by assessing his risk of flight, community ties, good moral character, and prior compliance with immigration laws and proceedings, in order to properly weigh his liberty interest and determine whether less-restrictive means of ensuring compliance with the INA is called for under the circumstances. Petitioner had already been found to have a credible fear of persecution by agents of Respondent DHS, and thus clearly establishing a *prima facie* credible and bona fide asylum claim, which makes the case for the need to keep him detained even less tenable.
13. In finding it lacks jurisdiction to decide Petitioner's custody as a matter of law without any predicate fact-finding necessary to support its purported lack of subject-matter jurisdiction, the Detroit IC relied entirely on an erroneous decision, **In Re Yajure Hurtado**, by the Board of Immigration Appeals ("BIA"), an administrative appeal body within the EOIR, a constituent agency operating under the auspices of Respondent U.S. Attorney General Pamela BONDI and the U.S. Department of Justice. The BIA's findings in **Yajure Hurtado** are wrong as a matter of law, at variance with the clear language and framework of the INA statute, and at variance with binding U.S. Supreme Court precedent regarding the same, and as such its logic has been rejected by nearly every federal court reviewing it in similar habeas petitions filed under analogous circumstances throughout these United States. For that reason, any further appeal to that body would be futile and prejudicial to

Petitioner's legitimate liberty interest and need to support himself and his family while they seek refuge from lethal danger in the United States, for which same reason any risk of flight is minimal.

14. The government has offered no evidence to justify Petitioner's continued detention, nor has it been required to so provide when Petitioner was arrested while working and cooperating with his immigration proceedings. He has submitted extensive evidence attesting to his good character and his significant ties to his community, as well as the employment that he was forced to abandon as a result of his continued unnecessary detention, thus causing extreme hardship and contributing to the impoverishment of Petitioner's own family as a result of that loss of income. Petitioner's due process rights are also detrimentally impacted as he is limited in his ability to freely access and confer with his legal counsel, in his ability to prepare and present further evidence in support of his and his family's joint *bona fide* asylum application.
15. Petitioner's asylum proceedings and his family unit have both been forcibly separated for no other apparent reason than an arbitrary, warrantless arrest at a highway checkpoint, for which pattern and practice of arguably illegal stops and arrests Respondent DHS has already been sanctioned by other federal district courts for its policy of issuing blank I-200 "warrants" to collateral agents in the field without the concurrent or prior issuance of an NTA. Petitioner's arrest was among the arrests Respondent DHS conducted arguably without proper legal and statutory authority in violation of an active standing consent decree to "ensur[e] that immigration officers perform warrantless arrests only when they have probable cause as to the individual's unlawful presence and likelihood of escape;" see Nava v. Dep't of Homeland Sec., 2025 U.S. Dist. LEXIS 198295 at 53-54, 69.

16. At the same time Respondent DHS and its agents have eschewed their obligations to establish probable cause, to independently assess an individual's risk of flight and/or obtain an administrative warrant prior to stopping, arresting, and detaining an asylum-seeker who has committed no crime and presents no danger to the public. Petitioner has been deprived of any opportunity to have evidence challenging the legality of his arrest and continued detention heard and properly considered, causing ongoing harm without legal justification.

### **Jurisdiction and Venue**

17. 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).

18. 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 INA § 236(a) [8 U.S.C. § 1226(a)] as governing detention).

19. 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**”).
20. Petitioner seeks (a) a declaration that his detention is governed by INA § 236(a) and continued detention 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 show why Petitioner’s individual circumstances justify the need for continued detention, as opposed to less-restrictive Alternatives To Detention (“ATDs”) more-narrowly tailored to achieve the government’s objectives without depriving law-abiding asylum-seekers of their due process rights, or the liberties and freedoms provided for by the Laws, Treaties, and Constitution of the United States.

### **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, Michigan**) 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 **CARLOS JAVIER PENAGOS ROBLES** is a Colombian 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, are his legal custodians exercising authority over the fact and circumstances of his detention while purportedly operating under color of law.
12. Respondents **Robert Lynch, Todd M. Lyons, Kristi Noem, and Pamela Bondi** are collectively responsible for Petitioner's detention and the circumstances governing it.

### **Relevant Facts**

13. DHS initiated § 240 proceedings; the NTA charges § 212(a)(6)(A)(i). Petitioner has resided in the U.S. since February 9th, 2024, and his credible fear of persecution in his home nation of Colombia was assessed and corroborated *prima facie* following Respondent DHS's Asylum Officers (AOs) interview on February 23rd, 2024, and subsequently timely filed a formal asylum application via DHS Form I-589. The asylum application filed by Petitioner and his family members, wife Diana Marleny Espinel Cortes and step-daughter remains pending before the Chicago Immigration Court with the next hearing scheduled for December 15th, 2025.

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) (“**Yajure Hurtado**”).

### **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, which have almost universally rejected the logic of **Yajure Hurtado's** analysis.
20. Petitioner is a victim of Respondent DHS and ICE's arguably-illegal pattern and practice of conducting warrantless traffic stops in violation of the INA and the protections of the 4th Amendment wherein they arrested and detained him without probable cause while he was working and already complying with his proceedings and the terms and conditions which Respondents had already subjected him to, after Respondent's own agents already determined Petitioner's fear of persecution to be credible, and thus his asylum claim to be *prima facie* valid. Under the circumstances Petitioner should be eligible for release from custody and entitled to a custody redetermination hearing in which to present evidence and arguments for the same.
21. 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).

22. 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, and thereby absolving itself of any obligation to decide Petitioner’s eligibility for release on the merits of the evidence before it that the INA and its implementing regulations require.

## COUNT II

Fifth Amendment Procedural Due Process: Prolonged Civil Detention Without a Meaningful Opportunity to Consider Petitioner’s Eligibility for Less-Coercive Alternatives to Detention

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 to evaluate the legality of ongoing 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” without any predicate fact-finding beyond the fact of their being in removal proceedings and the citation of the BIA’s incurably flawed **Yajure Hurtado** decision..

### **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 Petitioner presents a danger to the community or flight risk, by **clear and convincing evidence** based on an individualized factual assessment on the basis of evidence;
  2. The IJ must consider whether **less-restrictive alternatives** and the **Petitioner’s ability to pay** any bond could not meet the same purposes without compromising the

integrity of Petitioner's family, their ability to continue to jointly pursue their asylum claims together, or Petitioner's other liberties, fundamental freedoms, and due process rights under the U.S. Constitution and other applicable Laws and Treaties of the United States; and

3. The IJ must make **individualized findings** addressing Petitioner's evidence on the record, with fact-finding specific to his individual circumstances and specific to any basis for finding a lack of subject-matter jurisdiction on custody determinations, and must apply the appropriate legal standard for such determinations (the **Guerra** factors) to that evidence in conjunction with any custody redetermination hearing.

C. **Enjoin Respondents from transferring Petitioner** outside this District pending the hearing and final disposition of this petition, except to release him into the care of his family and sponsor subject to whatever conditions the Court may deem appropriate security for Petitioner's continued compliance with his immigration proceedings;

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

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

Respectfully submitted by Petitioner's undersigned Counsel on this, the 26th day of November, 2025,

/s/ William Shipley

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