

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLORADO**

Civil Action No. 1:25-cv-03860 MERCHAN-PACHEO v. Noem et al

DENIIS MERCHAN-PACHEO,

Petitioner,

V.

KRISTI NOEM, Secretary, U.S. Department of Homeland Security,
PAM BONDI, U.S. Attorney General,
TODD M. LYONS, Acting Director, U.S. Immigration and Customs
Enforcement,
ROBERT GUADIAN, Denver Field Office Director, U.S.
Immigration and Customs Enforcement,
JUAN BALTAZAR, Warden of Denver Contract Detention Facility,

Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF**

INTRODUCTION

1. Petitioner Deniis Samuel Merchan Pacheco, a 20-year-old native and citizen of Ecuador, has been unlawfully detained by U.S. Immigration and Customs Enforcement ("ICE") in Colorado for nearly four months without a meaningful opportunity for release. He entered the United States as a 16-year-old unaccompanied child ("UAC") in 2021, who was released into the custody of his mother by the Office of Refugee Resettlement ("ORR") and has lived here continuously since, pursuing asylum. Despite an immigration judge's recent order granting Petitioner release on bond and despite Petitioner's family

posting the \$25,000 bond, the Department of Homeland Security ("DHS") refuses to release him, filing a form EOIR-43 (Notice of ICE Intent to Appeal Custody Redetermination) based on a baseless theory that he is an arriving alien subject to mandatory detention. Petitioner is not an arriving alien because he has been present in the United States for over four years since he was a child, and by no stretch of logic can he be deemed to be arriving in 2025. Consequently, his detention is governed by 8 U.S.C. § 1226, which entitles him to a bond hearing and release on bond pending removal proceedings, rather than by the 8 U.S.C. § 1225 mandatory detention scheme for recent border arrivals. The Department of Homeland Security's misclassification of Petitioner under 8 U.S.C. § 1225 is contrary to the Immigration and Nationality Act, decades of practice, and the near-unanimous view of federal courts. In addition, continuing to confine Petitioner, who is a young asylum seeker with strong family and community ties, without honoring his bond or providing prompt individualized review violates the Due Process Clause of the Fifth Amendment.

2. Petitioner respectfully requests that this Court grant the writ of habeas corpus and order his immediate release. At a minimum, the Court should enforce the immigration judge's bond grant, which the Department of Homeland Security has improperly stayed, or require an immediate bond hearing where the government must justify Petitioner's detention. There is no lawful or constitutional basis to keep Petitioner imprisoned. His continued detention is arbitrary, indefinite, and unsupported by any finding that he poses a flight risk or danger. It should be swiftly remedied by this Court.

CUSTODY

3. Petitioner is within the physical custody of Respondent ROBERT GUADIAN, Field Office Director, Director of Denver Field Office, U.S. Immigration and Customs Enforcement, Department of Homeland Security. Upon information and belief, today, November 24, 2025, Petitioner is detained in Aurora, Colorado. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION AND VENUE

4. This action arises under the Constitution of the United States and the Immigration and

5. Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. 1 § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, 28 U.S.C. § 1361, and 5 U.S.C. § 702. This action arises under the Due Process clause of the Fifth Amendment of the United States Constitution, and under the Immigration and Nationality Act of 1952 (INA). The 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. Congress has preserved judicial review of challenges to mandatory immigration detention. *See, e.g., Nielsen v. Preap*, 139 S. Ct. 954, 961-62 (2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (distinguishing reviewable statutory claims from unreviewable discretion under 8 U.S.C. § 1226(e)).

7. Although 8 U.S.C. § 1226(e) bars review of the Attorney General's discretionary judgments in releasing or detaining aliens, it does not preclude judicial review of questions of law or constitutional claims arising from immigration detention. Petitioner is not asking

this Court to second-guess an immigration judge's discretionary bond determination; rather, he challenges the Department of Homeland Security's legal authority to subject him to mandatory detention in the first place, and the constitutionality of his prolonged detention without bond. Such claims are squarely within the scope of habeas review. Indeed, the Supreme Court and Tenth Circuit have long recognized that federal courts retain habeas jurisdiction to review the statutory and constitutional bases of immigration detention despite jurisdiction-stripping provisions, as such review is a core Great Writ function. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

8. Venue is proper in the District of Colorado because a substantial part of the events and omissions giving rise to Petitioner's claims occurred in the district. 29 U.S.C. § 1391(b)(2). Petitioner is also currently confined at the Denver Contract Detention Facility in Aurora, Colorado, in the District.

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the Petitioner(s) is/are not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift*

and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

11. The Court has inherent power to release Petitioner pending review of their petition. *See Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986).

PARTIES

12. Petitioner, Deniis Samuel Merchan Pacheco, is a 20-year-old native and citizen of Ecuador, an asylum seeker, and currently detained at the Denver Contract Detention Facility in Aurora, Colorado. He is held in civil immigration custody without criminal charges and having a bond grant of \$25,000. Prior to his detention, he resided in Orlando, Florida, with his mother and younger siblings.

13. Respondent Kristi Noem is the U.S. Secretary of Homeland Security and is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and overseeing Immigration and Customs Enforcement and the Office of Refugee Resettlement.

14. Respondent Pamela Bondi is the United States Attorney General. She oversees immigration judges and the Board of Immigration Appeals.

15. Respondent Todd Lyons is the Acting Director for ICE and is responsible for ICE’s policies, practices, and procedures, including those relating to the detention of noncitizens during their removal procedures.

16. Respondent Robert Guadian is also a Denver Field Office Director for Immigration and Customs Enforcement, sharing responsibility for local operations.

17. Respondent JUAN BALTAZAR is the Warden of the Denver Contract Detention Facility,

the immediate custodian of Petitioner.

18. All respondents are named and sued in their official capacities.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

19. Petitioner Dennis Samuel Merchan Pacheco was born in [REDACTED] Ecuador, on [REDACTED] [REDACTED] 2005. He grew up in a community ravaged by violence. Petitioner's [REDACTED] [REDACTED] bravely acted as a whistleblower against a criminal organization, but when she refused further cooperation, the gang turned on her family. They threatened to harm Petitioner and his brother in retaliation, attempting to coerce the boys into gang activity. Local authorities offered no protection. Fearing for their lives, Petitioner's mother fled Ecuador on October 10, 2018, to seek refuge in the United States. Petitioner, then 13, remained behind with his brother. Over the next three years, the gang's threats and intimidation toward Petitioner escalated, placing him in imminent peril. Finally, on August 31, 2021, at age 16, Petitioner fled Ecuador alone. He traveled through Mexico and, on September 7, 2021, presented himself at the U.S. border near Eagle Pass, Texas, seeking safety.

20. Because Petitioner was only 16 and had no parent or legal guardian with him, U.S. authorities classified him as an Unaccompanied Alien Child under the law. Per federal statute, the Department of Homeland Security could not subject him to expedited removal or prolonged border detention; instead, immigration officers transferred Petitioner to the custody of the Office of Refugee Resettlement, a subdivision of the Department of Health and Human Services. See 6 U.S.C. § 279; 8 U.S.C. § 1232. The Office of Refugee Resettlement determined that Petitioner met the Unaccompanied Alien Child criteria and

initiated reunification procedures. After vetting his mother, the Office of Refugee Resettlement approved her as Petitioner's sponsor.

21. On September 20, 2021, the Office of Refugee Resettlement released Petitioner into his mother's care, as documented by an Office of Refugee Resettlement Verification of Release. Petitioner was inspected and paroled into the United States through this process, thereby allowing him to have physical presence in the United States while his immigration case proceeded. He moved into his mother's home at 5923 Bamboo Dr., Orlando, Florida, where she provided a stable, caring environment.

22. Notably, Petitioner's release was mandated by the special statutory protections for unaccompanied minors, not by the ordinary discretionary parole statute. The Office of Refugee Resettlement's reunification of Petitioner with his mother was carried out under 6 U.S.C. § 279 and 8 U.S.C. § 1232, which require that unaccompanied children be placed in the least restrictive setting in their best interest. Petitioner's Office of Refugee Resettlement release was not a grant of Department of Homeland Security parole under 8 U.S.C. § 1182(d)(5); rather, it was a transfer of custody to a family sponsor as required by Congress for Unaccompanied Alien Children. This distinction is critical, as discussed below. After reunification, Petitioner diligently pursued legal protection in the United States.

23. On September 17, 2023, the Department of Homeland Security issued Petitioner a Notice to Appear in immigration court, commencing removal proceedings under 8 U.S.C. § 1229a. Petitioner sought refuge through the asylum process.

24. On March 5, 2025, he was added as a derivative beneficiary on his mother's timely-

filed Form I-589 asylum application. Wishing to secure relief in his own right, Petitioner later filed an independent asylum application in his own name.

25. In early August 8, 2025, before his detention, Petitioner submitted a Form I-589 naming himself as the principal applicant. Because of Petitioner's Unaccompanied Alien Child designation, initial jurisdiction over his asylum claim lies with U.S. Citizenship and Immigration Services, and Petitioner has accordingly re-filed his application with U.S. Citizenship and Immigration Services, which remains pending. Throughout this period, Petitioner lived openly with his mother in Florida, complied with the law, and posed no danger or flight risk. He has no criminal history. He was on the path of lawful process, awaiting his opportunity to present his asylum claim.

26. On August 8, 2025, Petitioner was stopped by the Florida Highway Patrol without cause. He was not cited or charged with any crime. However, the state trooper questioned Petitioner's immigration status and contacted federal authorities. Immigration and Customs Enforcement officers arrived and took Petitioner into custody, apparently on the belief that he was present without lawful status. Petitioner's detention by Immigration and Customs Enforcement marked the first time since his entry as a child that he was in immigration custody. Immigration and Customs Enforcement served Petitioner with a Warrant for Arrest of Alien (Form I-200) and a Notice of Custody Determination (Form I-286) on or about August 8, 2025. Notably, those documents cited INA § 236 (8 U.S.C. § 1226), the provision governing the arrest and detention of aliens already in the United States.

27. On August 14, 2025, Petitioner was lodged in immigration detention at the Denver

Contract Detention Facility in Aurora, Colorado, within this Court's jurisdiction.

CUSTODY REDETERMINATION PROCEEDINGS BEFORE THE EXECUTIVE

OFFICE FOR IMMIGRATION REVIEW (“EOIR”)

28. On August 27, 2025, Immigration Judge Melanie Corrin issued an order withdrawing Petitioners' bond request and indicating she would not reconsider jurisdiction. Petitioner's counsel argued that jurisdiction properly lies under INA § 236, not § 235, because the Department of Homeland Security itself initially detained Petitioner under § 236, as shown by the arrest warrant and custody form, and because Petitioner's Unaccompanied Alien Child status and Office of Refugee Resettlement parole/release in 2021 place him within the protections of 8 U.S.C. § 1232(c)(2)(B), requiring least-restrictive setting for former Unaccompanied Alien Children, and outside the class of true arriving aliens.

29. Petitioner filed a second bond request on September 29, 2025. Once again, the Department of Homeland Security contended the immigration court lacked jurisdiction to grant bond, insisting Petitioner was an arriving alien. Rather than have the request denied, Petitioner withdrew the September 29 bond request, preserving the issue for a later date.

30. On October 16, 2025, he filed a Form I-589 asylum application with U.S. Citizenship and Immigration Services, which, due to Petitioner's Unaccompanied Alien Child designation, was the proper venue. With a U.S. Citizenship and Immigration Services asylum application pending, Petitioner filed a third bond request on November 14, 2025.

31. On November 19, 2025, Judge Corrin granted Petitioner's bond request, finding that Petitioner is properly detained under 8 U.S.C. § 1226 and merits release on bond. She ordered bond set at \$25,000. In reaching this decision, the judge implicitly rejected the Department of Homeland Security's position that Petitioner was an unbondable arriving alien, instead recognizing that because Petitioner entered as an Unaccompanied Alien Child and had long been residing in the United States, his custody falls under INA § 236(a), which permits release on bond, rather than INA § 235(b).

32. On November 19, 2025, Petitioner's family, with help from a local church, relatives, and friends, immediately secured the \$25,000. That same day, they posted the full bond through a bondsman, anticipating Petitioner's imminent release.

33. In an extraordinary act, the Department of Homeland Security moved to prevent Petitioner's release. On November 20, 2025, the Department of Homeland Security filed a notice of intent to appeal the bond decision to the Board of Immigration Appeals. Under 8 C.F.R. § 1003.19(i), the Department of Homeland Security's appeal invoked an automatic stay of the immigration judge's bond order, a controversial regulation that effectively allows the Department of Homeland Security to unilaterally suspend an immigration judge's release order. As a result, despite the bond having been paid, Petitioner was not released. He remains detained at Aurora solely because the Department of Homeland Security refuses to honor the immigration judge's bond grant.

34. Absent this Court's intervention, Petitioner faces indefinite civil incarceration even though an impartial judge decided he should be free on bond.

LEGAL FRAMEWORK

GENERAL FRAMEWORK OF MANDATORY v. NON-MANDATORY DETENTION

35. Under the INA, two statutes govern the detention of noncitizens who do not yet have a final order of removal: 8 U.S.C. §§ 1225 and 1226¹.

36. Section 1226 governs the detention of noncitizens in “standard” removal proceedings under 8 U.S.C. § 1229a. Such individuals are entitled to a bond hearing absent the applicability of certain criminal inadmissibility provisions. See 8 U.S.C. § 1226(a), (c).

37. On the other hand, mandatory detention – meaning detention without bond – applies to

38. those designated arriving aliens and who are subject to the procedures for the credible fear process described in 8 U.S.C. § 1225(b)(1) as well as to other recent arrivals “seeking admission” described in 8 U.S.C. § 1225(b)(2). See 8 U.S.C. § 1225(b)(1)(B)(IV); 8 U.S.C. § 1225(b)(2)(A).

39. As described below, Petitioner’s custody is squarely under the framework of 8

¹ See also, within the Tenth Circuit: *Arostegui-Maldonado v. Baltazar*, No. 1:25-cv-02205, 2025 WL 2280357 (D. Colo. Aug. 8, 2025) (granting habeas in part and ordering a bond hearing under § 1226(a), with the government bearing the burden); *Garcia Cortes v. Noem*, No. 1:25-cv-02677-CNS, 2025 WL 2652880 (D. Colo. Sept. 16, 2025) (granting habeas in part; directing a § 1226(a) bond hearing and enjoining denial of bond based on § 1225(b)(2)(A)); *Loa Caballero v. Baltazar*, No. 1:25-cv-03120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025) (granting habeas in part; ordering a prompt § 1226(a) bond hearing, or immediate release); *Nava Hernandez v. Baltazar*, No. 1:25-cv-03094-CNS (D. Colo. Oct. 24, 2025) (granting habeas; ordering a § 1226(a) bond hearing within seven days); *Artola Arauz v. Baltazar*, No. 1:25-cv-03260-CNS (D. Colo. Oct. 31, 2025) (granting habeas; requiring a § 1226(a) bond hearing within seven days or immediate release); *Moya Pineda v. Baltazar*, No. 1:25-cv-02955-GPG (D. Colo. Oct. 20, 2025) (granting habeas in part; ordering a § 1226(a) bond hearing and enjoining denial of bond based on § 1225(b)(2)(A)); *Velasquez Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025) (granting habeas; ordering a § 1226(a) bond hearing or release within seven days); *Pu Sacvin v. Anda-Ybarra*, No. 2:25-cv-01031-KG-JFR (D.N.M. 2025) (granting habeas; holding § 1226 governs detention and directing a § 1226(a) bond hearing with the government bearing the burden).

U.S.C. § 1226(a), as his unaccompanied minor designation when he entered the U.S., prohibits him from being subject to the expedited removal or credible fear process.

**THE FRAMEWORK GOVERNING DETENTION AND RELEASE OF INDIVIDUALS
INITIALLY ENCOUNTERED AS UNACCOMPANIED CHILDREN**

40. An “unaccompanied alien child” or “UC” is defined as a child who, when initially encountered by DHS, has no lawful immigration status, has not yet attained 18 years of age, and who is not accompanied by a parent or legal guardian. 6 U.S.C. § 279.

41. Pursuant to the Trafficking Victims Protection Reauthorization Act (“TVPRA”), any unaccompanied minor sought to be removed from the United States by DHS, except for certain unaccompanied minors from contiguous countries, shall be placed in removal proceedings under 8 U.S.C. § 1229a. 8 U.S.C. § 1232 (a)(5)(D)(i). Therefore, the TVPRA prohibits unaccompanied minors from non-contiguous countries from being placed in expedited removal proceedings and subject to the credible fear process, where they can be removed without a hearing. 8 U.S.C. §§ 1232(a)(2)(B), (a)(3), (a)(5)(D); *cf.* 8 U.S.C. § 1225(b).

42. The detention and release of those who enter the U.S. as UCs are governed by 8 U.S.C. § 1226 and its implementing regulations at 8 C.F.R. part 236. Regardless of how a UC is initially encountered by DHS, their detention is governed by 8 C.F.R. § 236.3: “Processing, detention, and release of alien minors,” which lays out procedures for determining UC (or “UAC”) classification and rules governing their apprehension and

custody². For UCs, custody and release is always governed by the scheme laid out in 8 C.F.R. § 236.3(f) and 8 U.S.C. § 1232(b), (d). There is no exception to this rule for UCs who may have been designated as an arriving alien on their original Notice to Appear. See 8 U.S.C. § 1232(a)(2)(D); 8 U.S.C. § 1225(b)(1)(B)(IV) (stating only arriving aliens who are subject to the credible fear process are subject to mandatory detention).

43. Furthermore, while certain individuals considered “seeking admission” are subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A), this can never be true for a UC, even after turning 18 years of age. The language of 8 U.S.C. § 1232(c)(2)(B) orders that UCs who reach the age of 18 and are in DHS custody be placed in “the least restrictive setting available after taking into account the alien’s danger to self, danger to the community, and risk of flight.” To find that a UC, after turning 18, could become an applicant for admission and thereby subject to mandatory detention would render the statute at 8 U.S.C. § 1232(c)(2)(B) void contrary to principles of statutory interpretation. See, e.g., *Lopez v. Sessions*, No. 18-cv-4189-RWS, 2018 WL 2932726, at *10, 13 (S.D. NY June 12, 2018). This statutory and regulatory framework clearly places Petitioner’s custody outside of the realm of mandatory detention and under 8 U.S.C. § 1226(a).

44. That Petitioner’s initial detention and release were governed by 8 U.S.C. § 1226 is consistent with the fact that Petitioner was re-detained in August 2025 on a warrant pursuant to 8 U.S.C. § 1226(a) and issued an I-286 Notice of Custody Determination citing his detention as falling under INA § 236 (8 U.S.C. § 1226). *Gomes v. Hyde*, No.

² Note that while several provisions of 8 C.F.R. § 236.3 were enjoined from taking effect, 8 C.F.R. § 236.3(f) was allowed to take effect. *Flores v. Rosen*, 984 F.3d 720, 737 (9th Cir. 2020).

1:25-cv-11571-JEK, 2025 WL 1869299, at *7 8 (D. Mass. July 7, 2025) (finding that detention with a warrant is governed by 8 U.S.C. § 1226); *Martinez v. Hyde*, No. 1:25-cv-11613, 2025 WL 2084238, at *4 n.11 (D. Mass. July 24, 2025) (finding that, the issuance of an I-286 Notice of Custody Determination constitutes “clear evidence” that DHS at some point found Petitioner subject to the authority of 8 U.S.C. § 1226).

**THE IMMIGRATION JUDGE LAWFULLY CONDUCTED THE NOVEMBER 19, 2025,
BOND HEARING**

45. The Due Process Clause of the Fifth Amendment protects both citizens and noncitizens. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (Fifth Amendment protections apply to noncitizens “whether their presence here is lawful, unlawful, temporary, or permanent”).

46. Due Process safeguards are essential to someone in immigration detention, which results in deprivation of liberty and separation from one’s family, and because such detention is “frequently prolonged.” *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 30 (1st Cir. 2021). For these reasons, the minimum Due Process required for those in immigration detention is that a detainee receive an individualized bond hearing to determine whether they can be released on bond or must be detained due to flight risk or dangerousness. *See Hernandez-Lara*, 10 F.4th at 41.

47. As someone whose custody falls under 8 U.S.C. § 1226(a), who has resided in the United States for almost a decade, and arrived as a UAC, Petitioner filed an I-589 with EOIR and USCIS, and was entitled to the due process of an individualized bond hearing. *Id.*

THE ENTRY OF THE DISCRETIONARY STAY OF BOND CANNOT SATISFY DUE PROCESS

48. The procedure, or lack thereof, by which the immigration bond was stayed does not, however, comport with the due process safeguards to which Petitioner is entitled. Regulations provide for two mechanisms by which an immigration judge's custody order may be stayed, such that a noncitizen must remain in custody even after the granting of bond.

49. Under the first mechanism, discretionary stay, DHS files a motion and must persuade the BIA that a stay is warranted. See 8 C.F.R. § 1003.19(i)(1). The BIA serves as a neutral adjudicator and weighs the merits of DHS's position. The BIA ultimately makes the decision about whether to grant the stay. DHS could have used that mechanism in this case, but did not.

50. Second, DHS may unilaterally stay the bond by filing a Form EOIR-43, in which

³ See, e.g., Ashley v. Ridge, 288 F. Supp. 2d 662, 675 (D.N.J. 2003) (vacating the automatic stay triggered by DHS's filing of Form EOIR-43 as violative of due process and ordering release absent an emergency BIA stay); Bezmen v. Ashcroft, 245 F. Supp. 2d 446, 453–54 (D. Conn. 2003) (granting habeas; dissolving automatic stay invoked via Form EOIR-43 and directing release absent a BIA emergency stay); Almonte-Vargas v. Elwood, No. 02-CV-2666, 2002 WL 1471555, at 5 (E.D. Pa. June 28, 2002) (granting habeas; concluding the government's use of the EOIR-43 automatic-stay procedure effected unconstitutional detention); Günaydin v. Trump, No. 0:25-cv-01151, 2025 WL 1459154, at 9 (D. Minn. May 21, 2025) (granting habeas and ordering immediate release on the IJ's bond; holding the EOIR-43 automatic-stay procedure violates procedural due process as applied); Mohammed v. Trump, No. 0:25-cv-01576 (D. Minn. May 5, 2025) (ordering release after finding detention based solely on the EOIR-43 automatic stay arbitrary and constitutionally infirm); Jacinto v. Trump, No. 4:25-cv-03161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025) (granting habeas; finding § 1003.19(i)(2) violates due process and is ultra vires; ordering release upon posting the IJ-set bond); Ozuna Carlton v. Kramer, No. 4:25-cv-03178 (D. Neb. Sept. 11, 2025) (granting habeas; holding detention under the EOIR-43 automatic stay unlawful and ordering immediate release upon re-posting bond); Leal-Hernandez v. Noem, No. 1:25-cv-02428 (D. Md. Aug. 24, 2025) (granting habeas; concluding the EOIR-43 automatic stay results in arbitrary detention and ordering release subject to the IJ's bond conditions); Sampiao v. Hyde, No. 1:25-cv-11981, 2025 WL 2607924, at *9–12 (D. Mass. Sept. 9, 2025) (granting habeas; holding the automatic stay under § 1003.19(i)(2) violates procedural due process and ordering release on the IJ's bond); Alvarez Martinez

DHS only needs to write the noncitizen's name, alien number, bond amount, and date. See 8 C.F.R. § 1003.19(i)(2). Instead, it allows the prosecutor, who lost before the immigration judge, to unilaterally stay the immigration judge's decision; here, DHS used this mechanism.

51. Regulations state that DHS's automatic stay will lapse in 90 days absent a BIA decision on the appeal. See 8 C.F.R. § 100.36(c)(4). However, there are several options for extending it. For instance, if the BIA does not issue a decision within the 90-day period, DHS can request an additional discretionary stay from the BIA. See 8 C.F.R. § 1003.6(c)(5). The automatic stay continues for another 30 days while the BIA considers whether to grant a discretionary stay. *Id.*

52. Likewise, even if the BIA rules in Petitioner's favor on appeal and authorizes his release on bond, that release is automatically stayed for an additional five business days to give DHS a chance to refer the case to the Attorney General. See 8 C.F.R. § 1003.6(d). Then, if DHS refers the case to the Attorney General, the automatic stay is extended for another 15 days. *Id.* The Attorney General may then stay release for the pendency of the case. *Id.* There is no prescribed time limit for final resolution of the custody determination, meaning an individual may remain in detention indefinitely.

53. In sum, Petitioner has no way of knowing how long the automatic stay will last and no opportunity to challenge it. In practice, the automatic stay regulation renders the IJ's custody decisions ineffectual. If DHS disagrees with a custody decision, it can keep

v. Noem, No. 5:25-cv-01007 (W.D. Tex. Sept. 8, 2025) (granting TRO; dissolving the EOIR-43 automatic stay and directing release absent a BIA emergency stay).

Petitioner detained for a minimum of 90 days without a truly discernible endpoint.

54. Federal district courts across the country have already found that in the case of a typical noncitizen separated from his family and whose posting of bond already minimizes flight risk, the *Mathews* factors counsel that the automatic stay process violates procedural due process. See *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S. Ct. 893, 902 (1976); *Sampiao v. Hyde*, No. 1:25-cv-11981, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025). Here, the unlawful imposition of the automatic stay upon Petitioner's detention was placed one day after the immigration judge granted his release.

DUE PROCESS AND FIFTH AMENDMENT VIOLATIONS

55. The Due Process Clause of the Fifth Amendment guarantees that no person in the United States shall be deprived of liberty without due process. See U.S. Const. amend. V. These substantive and procedural due process protections apply to all people, including noncitizens, regardless of their immigration status. *Trump v. J.G.G.*, 604 U.S. --145 S. Ct. 1003, 1006 (2025) (per curiam) ("It is well established that the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings." (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993))). The automatic stay of Petitioner's release violates his rights to substantive and procedural due process.

56. The automatic stay regulation is also an *ultra vires* regulation that unlawfully grants authority to DHS that Congress has delegated only to the Attorney General.

SUBSTANTIVE DUE PROCESS

57. The Due Process Clause provides heightened protection against government

interference with certain fundamental rights, and freedom from detention lies at the heart of the Due Process Clause's protections. Detention by the government violates due process in civil proceedings unless "a special justification ... outweigh[s] the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, (2001). The automatic stay regulation was originally enacted in October 2001, in response to the September 11 terrorist attacks, without any opportunity for public comment. Its enactment marked a significant change in practice. Before the automatic stay, there was only one route to stay an IJ's custody decision—a discretionary stay from the BIA. The Immigration and Nationality Service (DHS's predecessor) had to show the BIA that it was likely to win on the merits and that it would suffer irreparable harm in the meantime. The automatic stay created a second, much simpler method, just filing a short Form EOIR-43, without requiring an adjudicator to weigh in.

58. The purported purpose of the automatic stay is to protect the public and "enhance agencies' ability to effect removal should that be the ultimate final order in a given case." *Executive Office of Immigration Review; Review of Custody Determination*, 71 Fed. Reg. 57873, 57874 (Oct. 2, 2006).

59. In Petitioner's case, DHS did not provide evidence or argue that he poses a flight risk or a threat to the community. DHS reserved the right to appeal; however, after a full hearing, the immigration judge ruled that Petitioner is not a danger or a significant flight risk. To the extent the government has concerns about safety or flight risk, the immigration judge has already addressed them.

60. The government lacks any special or compelling reason to keep detaining Petitioner, and certainly no interest that outweighs Petitioner's right to avoid government restraint. See *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1077 (N.D. Cal. 2004) ("The regulation, which permits unilateral government detention of individuals without a case-by-case determination after a reasoned finding that they do not pose a threat to safety or a risk of flight, violates the Due Process Clause because no special justification exists that outweighs the individual's constitutionally protected interest in avoiding physical restraint."); *Ashley v. Ridge*, 288 F. Supp. 2d 662, 669 (D.N.J. 2003) ("[T]he Government has not shown that any 'special justification' exists which outweighs Petitioner's constitutional liberties so as to justify his continued detention without bail.").

61. Finally, a less restrictive means exists for DHS to obtain a stay. The discretionary stay regulation requires DHS to seek an emergency stay from the BIA. See 8 C.F.R. § 1003.19(i)(l). That regulation protects DHS's interest in obtaining a stay without unduly infringing on Petitioner's liberty. See, e.g., *Dep't of State v. Munoz*, 602 U.S. 899, 910 (2024) ("When a fundamental right is at stake, the government can act only by narrowly tailored means that serve a compelling state interest.").

62. The government's application of the automatic stay regulation and continued detention of Petitioner violate his substantive due process rights.

PROCEDURAL DUE PROCESS

63. Due process also requires an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S. Ct. 893, 902 (1976). Petitioner received no such opportunity. Although he received a full bond

hearing before the IJ, the prosecutor's unilateral stay of the IJ's order rendered that hearing meaningless.

64. To determine whether government conduct violates procedural due process, the Court weighs three factors: (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures. *Id.* at 335.

PRIVATE INTEREST

65. Petitioner's private interest is the right to be free from government detention. This interest holds the highest constitutional significance.

66. Petitioner's conditions of detention further weigh in his favor. *See Giinaydin v. Trump*, F.Supp. 3d __, File No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *7 (D. Minn. May 21, 2025). He is in custody 1,841 miles from his home and family, and his family has to drive 23 hours to visit him.

67. Despite being in custody for a civil offense, he is held under the same conditions as those imprisoned for criminal offenses. He cannot move freely, sleep in his own bed, or spend time with loved ones. His privacy is severely limited. He faces months of continued detention while awaiting the bond appeal.

68. The private interest here is essential, being freedom from detention. It weighs heavily in the *Mathews* factors.

RISK OF ERRONEOUS DEPRIVATION

69. Similarly, the risk of erroneous deprivation of Petitioner's liberty is substantial.

Petitioner prevailed at the bond redetermination hearing. The stay is not based on any new evidence, finding of legal error, or finding of likelihood of success on appeal.

70. Its application permits prosecuting officials who participated in the adversarial process and lost to override the adjudicator's decision unilaterally. "Such a rule is anomalous in our legal system," and it represents a basic conflict that has been disapproved of in this context and others. *Giinaydin*, 2025 WL 1459154, at *8; see also *Marcello v. Bonds*, 349 U.S. 302, 305-06, 75 S. Ct. 757 (1955) (holding that officer adjudicating immigration case cannot undertake prosecutorial role in the same matter); *Ashley*, 288 F. Supp. 2d at 671 ("It produces a patently unfair situation by taking the stay decision out of the hands of the judges altogether and giving it to the prosecutor who has by definition failed to persuade a judge in an adversary hearing that detention is justified.") (citation altered).

71. The automatic stay contradicts the usual judicial process. A stay is an extraordinary remedy. In the civil context, a stay is never granted as of right. Rather, the movant must show a likelihood of success on the merits, a risk of irreparable harm, and that the balance of interests tips in the movant's favor. In contrast, the automatic stay regulation does not require the government to make any showing to an adjudicator. The risk here is greater than in typical civil cases because detention is involved. Petitioner is facing a loss of liberty.

72. Petitioner also lacks a way to challenge the automatic stay decision. He is at DHS's mercy with no real opportunity for review. Under these procedures, the risk of wrongful deprivation is high.

73. At the same time, there is a readily available alternative procedure that could mitigate these risks: DHS could seek an emergency discretionary stay from the BIA pursuant to 8 C.F.R. § 1003.19(i)(I).

GOVERNMENT INTEREST

74. The government's interest here carries little weight in comparison.

75. The stated purpose of the automatic stay provision is to prevent the noncitizen from fleeing and protect the public from potential harm. But the IJ already made specific findings that Petitioner is not a flight risk nor a danger to the community. To the extent the government has concerns about safety or flight, the IJ already addressed them.

76. On balance, the private interests affected and the risk of erroneous deprivation under the current procedures greatly outweigh the government's interest. The process is not meaningful when a prosecutor who loses before an IJ can unilaterally override the IJ's decision. *See Ashley*, 288 F. Supp. at 668 ("[T]he automatic stay provision renders the Immigration Judge's bail determination an empty gesture.").

ULTRA VIRES

77. The automatic stay regulation exceeds the authority granted to the Attorney General by Congress and unlawfully deprives IJs of their discretionary authority to make custody decisions.

78. Congress gave the Attorney General discretion to decide whether to release detained noncitizens pending removal proceedings if they have not been convicted of certain criminal offenses and are not linked to terrorist activities. *See* 8 U.S.C. § 1226(a), (c). The Attorney General has delegated this authority to IJs, who have

discretion to determine whether to release these noncitizens on bond. See 8 C.F.R. §§ 1003.19, 1236.1; see also 28 U.S.C. § 510 (permitting the Attorney General to delegate her function to officers or employees within the Department of Justice).

79. Congress has not delegated this authority to DHS. There is no statutory authority for DHS to stay an IJ's bond determination unilaterally. DHS's use of the automatic stay is an unlawful use of the discretionary power granted to the Attorney General and "has the effect of mandatory detention of a new class of aliens, although Congress has specified that such individuals are not subject to mandatory detention." *Zavala*, 310 F. Supp. 2d at 1079; see also *Ashley*, 288 F. Supp. 2d at 673 ("As Congress specifically exempted aliens like Petitioner from the mandatory detention of § 1226(c), it is unlikely that it would have condoned this back-end approach to detaining aliens like Petitioner through the combined use of § 1226(a) and § 3.19(i)(2)."). Here, the IJ determined that Petitioner is not a danger to the community or a sufficient flight risk and ordered DHS to release him on bond.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

VIOLATION OF RIGHT TO PROCEDURAL AND SUBSTANTIVE DUE PROCESS

80. Petitioner realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

81. Petitioner remains in the custody of Respondents under or by color of the authority of the United States – that is, subject to ICE custody at the direction of Respondents.

82. The Due Process Clause of the Fifth Amendment to the United States Constitution provides that “[n]o person shall...be deprived of life, liberty, or property, without due process of law.” See U.S. Const. amend V.

83. It is undisputed that Petitioner has a right not to be detained arbitrarily. See *Hernandez- Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021) (any “civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protections”) (quoting *Addington v. Texas*, 441 U.S. 418, 425 (1979)) (emphasis in original).

84. The U.S. Constitution establishes the right to due process for all persons within the United States, including noncitizens, whether their presence here is lawful or unlawful.

85. This Court’s due process “inquiry is guided by the three-part balancing test articulated in *Mathews v. Eldridge*[,]” 424 U.S. 319, 335 (1976). *Id.* at 27. The result of this balancing test should be that the stay of the immigration judge’s custody order as it occurred in this case is unconstitutional as applied to Petitioner, who is neither a danger to the community nor a flight risk, as demonstrated by the government’s own lack of interest in redetaining him until it became administratively convenient for them when Florida Highway Patrol handed over Petitioner. See *Sampiao*, 2025 WL 2607924 at *9-12 (finding identical interests under the Mathews test counseled in favor of release in the context of the automatic stay provision).

86. Substantive due process asks whether a person’s life, liberty, or property is deprived without a sufficient purpose. There is no question that Petitioner has been

deprived of his liberty.

87. The government's continued detention of Petitioner is not supported by any special interest or compelling justification that outweighs his liberty interest. The application of the automatic stay violates Petitioner's substantive due process rights, which require the opportunity to be heard at a meaningful time and in a meaningful manner. Petitioner has not received that opportunity here.

88. The stay imposed in Petitioner's case violates his procedural and substantive due process rights under the Fifth Amendment of the U.S. Constitution, especially considering the protections from mandatory detention that Congress intended for UACs and the due process protections intended for asylum seekers. See 8 U.S.C. §§ 1232; 8 C.F.R. § 236.3.

SECOND CAUSE OF ACTION

***ULTRA VIRES* REGULATION**

89. Petitioner realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

90. Congress gave the Attorney General authority to detain or release noncitizens, pending their removal proceedings. The Attorney General has delegated that authority to IJs.

91. The automatic stay regulation, 8 C.F.R. § 1003.19(i)(2), purports to give DHS the authority to override the IJ's decision unilaterally. It is unlawful and *ultra vires*.

THIRD CAUSE OF ACTION

VIOLATION OF THE ACCARDI DOCTRINE WITH RESPECT TO 8 C.F.R. §

287.8(C)(2)(i) and (ii)

92. Petitioner realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

93. The United States has also failed to follow immigration-specific arrest and processing regulations. Regulations governing immigration enforcement require that warrantless arrests comply with the standards outlined in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present in the United States illegally. 8 C.F.R. § 287.8(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is “likely to escape before a warrant can be obtained.” 8 C.F.R. § 287.8(c)(2)(ii).

94. At the time of the arrest and at all times since, Petitioner had a valid pending I-589 with EOIR, arrived in the United States as a UAC, and had no criminal record; he fled no authority; and he posed no danger to any person or to the community at large.

95. Therefore, Petitioner’s arrest and continued detention contravene regulations governing immigration arrests in violation of the *Accardi* doctrine

PRAYER FOR RELIEF

96. Petitioner respectfully requests that this Court grant the following:

Assume jurisdiction over this matter;

- 1) Order the immediate release of Petitioner pending these proceedings, pursuant to the Court’s inherent power;
- 2) If Petitioner is not immediately released, order Respondents not to transfer

Petitioner out of this District during the pendency of these proceedings, to preserve jurisdiction;

- 3) Order Respondents to respond to the instant Petition promptly;
- 4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, is ultra vires, and violates the *Accardi* doctrine;
- 5) Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order Respondents to immediately release Petitioner from custody in accordance with the bond order from IJ, or, in the alternative, order Respondents to show cause why this Petition should not be granted within three days;
- 6) Award Petitioner his costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
- 7) Grant any further relief the Court deems just and proper.

Dated: November 30, 2025

Respectfully Submitted,

/s/ Luis Angeles

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2112 Broadway St NE STE 225
#53
Minneapolis, MN 55413
T: (321) 334-0568
Luis@abogadoangeles.com
Attorney for Petitioner

EXHIBIT

EXHIBIT A	NOTICE TO APPEAR (NTA)	02 - 04
EXHIBIT B	DHS WARRANT FOR ARREST OF ALIEN	06 - 08
EXHIBIT C	NOTICE OF CUSTODY DETERMINATION	10 - 12
EXHIBIT D	ADMISSION RECORD SHOWING DATE OF DETENTION & MEDICAL PROVIDER INFORMATION	14 - 32
EXHIBIT E	ORR VERIFICATION OF RELEASE	34 - 34
EXHIBIT F	LEGAL RESOURCES GUIDE	36 - 50
EXHIBIT G	IJ BOND ORDER	52 - 54
EXHIBIT H	BIA STAY ORDER	56 - 56

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

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

Dated: November 30, 2025

/s/Luis Angeles
Luis Angeles

CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2025, I filed the foregoing petition for Writ of Habeas Corpus electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

/s/Luis Angeles
Luis Angeles

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS MERCHAN-PACHEO</p> <p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> SEE ATTACHED</p>	<p>DEFENDANTS Noem et al. (SEE ATTACHED)</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input checked="" type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <p><i>(For Diversity Cases Only)</i></p> <table style="width:100%;"> <tr> <td style="width:30%;">Citizen of This State</td> <td style="width:5%;">PTF <input type="checkbox"/> 1</td> <td style="width:5%;">DEF <input type="checkbox"/> 1</td> <td style="width:40%;">Incorporated or Principal Place of Business In This State</td> <td style="width:5%;">PTF <input type="checkbox"/> 4</td> <td style="width:5%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2</td> <td>DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td>PTF <input type="checkbox"/> 5</td> <td>DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3</td> <td>DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6</td> <td>DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6
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IV. NATURE OF SUIT <i>(Place an "X" in One Box Only)</i>				
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input checked="" type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION	TAX SUITS
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
				<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district *(specify)*
 6 Multidistrict Litigation
 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
 28 U.S.C. § 2241

Brief description of cause: AP Docket

NON-CITIZEN DESIGNATED AS Unaccompanied Alien Child WITH PENDING I-589 UNLAWFULLY DETAINED

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

DATE: 11/28/2025 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ATTACHMENT TO CIVIL COVER SHEET

MERCHAN-PACHEO v. Noem et al.

I(c) – Attorneys for Plaintiffs:

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Attorney for Petitioner

I – Defendants: **Kristi Noem**, Secretary of the Department of Homeland Security;
Pamela Bondi, Attorney General of the United States; **Todd Lyons**, Acting Director
and Senior Official Performing the Duties of the Director of U.S. Immigration and
Customs Enforcement; **ROBERT GUADIAN**, in his official capacity as Field Office
Director for U.S. Immigration and Customs
Enforcement, Enforcement and Removal Operations; **JUAN BALTAZAR**, in his
official capacity as Warden of Denver Contract Detention Facility.