UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

WILLIAM ALEXANDER SEVILLANO-DIAZ,

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
JOSH JOHNSON, in his official capacity as Acting Director of the Dallas Field Office of ICE, Enforcement and Removal Operations;
WARDEN OF THE PRAIRIELAND DETENTION CENTER; and
DAREN K. MARGOLIN, Director of the Executive Office for Immigration Review,

Respondents.

Civil Action No. 3:25-cv-03362

Immigration No. A [redacted]

PETITIONER'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner WILLIAM ALEXANDER SEVILLANO-DIAZ (A# [redacted]) is a native and citizen of Peru who has resided in the United States for several years, most recently in the North Texas region. He is now subject to arbitrary and indefinite detention following his sudden apprehension by ICE in Texas and is currently detained at the Prairieland Detention Center in Alvarado, Texas, within the jurisdiction of this Court. *See* Ex. A, Proof of Detention in ICE Custody.

2. Mr. Sevillano-Díaz has been placed into removal proceedings under INA § 240, 8 U.S.C. § 1229a, after ICE officers unexpectedly re-detained him in or around October 2025—despite his prior release on recognizance and full compliance with all conditions of supervision. *See* Ex. B, Documentation of Immigration Court Case. EOIR later moved his case to the detained docket and scheduled a hearing for December 4, 2025, before Immigration Judge Danielle Garten. *See* Ex. D, EOIR Automated Case Information System.

3. In recent months, immigration judges have routinely denied bond hearings to individuals in circumstances substantially similar to Mr. Sevillano-Díaz's, citing a purported lack of jurisdiction. These denials rely on recent Board of Immigration Appeals ("BIA") precedent—*Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—which assert that individuals in § 240 proceedings may nevertheless be subject to mandatory detention under § 235(b). *See* Ex. C, Recent BIA Decisions on Bond. However, numerous federal district courts, including within the Fifth Circuit, have held that noncitizens detained under INA § 236(a) are entitled to individualized custody redetermination hearings.

4. Despite this legal landscape, immigration judges continue to refuse to provide noncitizens such as Mr. Sevillano-Díaz with bond hearings, citing the erroneous reasoning of *Q. Li* and *Yajure Hurtado*. This refusal violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act ("APA"), because detention in § 240 proceedings is governed by INA § 236(a)—a statute that unequivocally grants the right to seek release on bond.

5. Mr. Sevillano-Díaz therefore respectfully petitions this Court for habeas corpus relief under 28 U.S.C. § 2241, and seeks immediate injunctive relief. Petitioner further intends to file a Temporary Restraining Order ("TRO") requesting that the Court order his immediate release, or alternatively, direct Respondents to provide him with an individualized bond hearing within seven (7) days.

II. JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. This Court also has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to hear habeas petitions filed by persons held in custody in violation of federal law or the Constitution. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. § 1651.

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

8. Venue is proper in this District, and in the Dallas Division, because Petitioner is detained at the Prairieland Detention Center in Alvarado, Texas, which lies within the

jurisdiction of the United States District Court for the Northern District of Texas. Petitioner's immigration detention is operationally controlled by the Dallas Field Office of ICE – Enforcement and Removal Operations. *See* Ex. A, Proof of Detention in ICE Custody.

III. PARTIES

9. Petitioner, WILLIAM ALEXANDER SEVILLANO-DÍAZ ("Mr. Sevillano-Díaz"), is a citizen and national of Peru who has lived in the United States for several years, residing most recently in the North Texas area. He was taken into ICE custody and transferred to the Prairieland Detention Center in Alvarado, Texas, where he remains detained. Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a (INA § 240). Although he received his Notice to Appear and was previously released on recognizance—with his case assigned to the immigration court's non-detained docket and scheduled for a Master Calendar Hearing on June 8, 2027—EOIR has now moved his case to the detained docket following his re-detention in or around October 2025. *See* Ex. D, EOIR Automated Case Information System.

10. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is sued in her official capacity.

11. Respondent TODD LYONS is the Acting Director of Immigration and Customs Enforcement ("ICE"), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

12. Respondent JOSH JOHNSON is the Acting Director of the Dallas Field Office of ICE – Enforcement and Removal Operations ("ERO"), which has jurisdiction over

Petitioner and determines Petitioner's place of custody. He is sued in his official capacity as Petitioner's local custodian and DHS's local decisionmaker.

13. Respondent, WARDEN OF THE PRAIRIELAND DETENTION CENTER, is responsible for the day-to-day custody and care of non-citizens detained under the authority of the U.S. Immigration and Customs Enforcement ("ICE") – Enforcement & Removal Operations at the Prairieland Detention Center, 1209 Sunflower Lane, Alvarado, Texas 76009, within the jurisdiction of the United States District Court for the Northern District of Texas. Respondent is sued in his official capacity as Petitioner's immediate physical custodian as of the filing of this petition.

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

15. Respondents Noem and Lyons, who represent DHS and ICE, are properly included herein as the executives of federal agencies within the meaning of the Administrative Procedure Act ("APA").

IV. FACTUAL BACKGROUND

16. Petitioner William Alexander Sevillano-Díaz is a citizen and national of Peru, born in 1993. He has lived in the United States for approximately three years, continuously residing in the North Texas area since his arrival. *See* Ex. B, Documentation of Petitioner's Immigration Court Case. During this time, he has developed significant ties to his community, resides with family members whose immigration matters were coordinated with his, and has pursued protection under U.S. immigration law.

17. Petitioner was placed into removal proceedings after the Department of Homeland Security ("DHS") issued and served upon him a Notice to Appear ("NTA") charging him as removable under INA § 212(a)(6)(A)(i) for entry without inspection. *See* Ex. B. After issuance of the NTA, Petitioner was released from ICE custody on his own recognizance, and his case—apparently linked with his family members' matters—was placed on the immigration court's non-detained docket. EOIR subsequently issued a Master Calendar Hearing Notice scheduling his hearing for June 8, 2027, at the Dallas Immigration Court. *See* Ex. G, Supporting Documentation.

18. Since his release, Petitioner complied fully with all conditions of his supervision, reported as directed, and attended every appointment required by ICE. *See* Ex. B (Order of Release on Recognizance). At no time did he violate any immigration condition, miss a court appearance, or engage in any conduct that would justify revocation of his release.

19. In or around October 2025, Petitioner was unexpectedly re-detained by officers of ICE – Enforcement and Removal Operations ("ERO"). The record contains no indication of new criminal charges, violations, or immigration-related misconduct, and instead reflects that ICE unilaterally returned him to custody despite his full compliance with prior release conditions. Following this arrest, the EOIR Case Information System updated Petitioner's hearing to December 4, 2025, before Immigration Judge Danielle H. Garten, now on the detained docket. See Ex. D, EOIR Automated Case Information System.

20. Shortly after his apprehension, ICE transferred Petitioner to the Prairieland Detention Center in Alvarado, Texas, a facility under the jurisdiction of the Northern

District of Texas. The ICE Detainee Locator confirms Petitioner's custody there. See Ex. A, Proof of Detention in ICE Custody.

21. Prior to his sudden detention, Petitioner had lived stably in the North Texas region, maintaining strong family and community connections. He has no criminal history, no record of violence, and no disqualifying conduct that would justify mandatory custody under INA § 236(c). His re-detention in October 2025 did not stem from any criminal activity or violation of supervision, but from ICE's discretionary choice to reincarcerate a compliant individual.

22. As of the filing of this petition, Petitioner remains detained at Prairieland Detention Center. Although DHS previously placed him in § 240 removal proceedings and scheduled him on the non-detained docket for a 2027 hearing, he is now categorically barred from seeking a bond hearing under the current policies of ICE and EOIR. Under these policies—which incorrectly classify him under the § 235(b) mandatory detention framework—Petitioner is denied access to the custody review Congress provided under INA § 236(a). This renders his detention indefinite, ultra vires, and constitutionally infirm.

23. Petitioner's continued detention has caused significant emotional and financial hardship to his family members, who rely on him for stability and support. Given the government's refusal to permit him any bond hearing under INA § 236(a), Petitioner respectfully seeks injunctive relief through this habeas filing, and will separately seek a Temporary Restraining Order directing his immediate release or, in the alternative, requiring Respondents to provide him an individualized custody redetermination before an immigration judge.

24. DHS originally lodged Petitioner's NTA with the immigration court and placed him into § 240 removal proceedings, at which time he was appropriately assigned to the non-detained docket—reflecting the government's recognition that Petitioner posed no danger or flight risk. *See* Ex. B. That posture remained unchanged until ICE suddenly re-arrested him in October 2025, despite his compliance and continued eligibility for release.

25. ICE's decision to place Petitioner on the detained docket fails to account for his substantial ties to Texas, years of residence, and positive compliance history. Under the INA, individuals in § 240 proceedings are entitled to due process protections—particularly the statutory right to a § 236(a) bond hearing. Yet Petitioner is now treated as though he were an "arriving alien" newly seeking admission, despite his long-standing presence in the United States and established equities.

26. This reclassification derives from ICE and EOIR's reliance on the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. C, Recent BIA Decisions on Bond. These decisions—issued without notice-and-comment rulemaking and in tension with the plain language of the INA—purport to eliminate immigration-judge authority to adjudicate bond requests for individuals like Petitioner, despite their placement in § 240 proceedings and clear statutory eligibility for bond under § 236(a).

27. As a result, Petitioner now finds himself confined in a remote detention facility and held under restrictive conditions indistinguishable from those imposed on individuals with serious criminal convictions—despite having no criminal record and no conduct that would justify mandatory detention. Each day of confinement exacerbates the harm,

separating him from family, impeding his ability to prepare his case, and inflicting the psychological strain associated with prolonged and unnecessary civil detention.

28. In sum, Petitioner is an individual with strong roots in the United States, no criminal history, and established eligibility for bond review under INA § 236(a). His re-detention—based solely on non-binding agency interpretations that contradict statutory text and recent district court decisions—has resulted in arbitrary, indefinite, and unconstitutional confinement. His continued detention is unlawful, arbitrary, and profoundly unjust. *See* Ex. H, Recent Federal District Court Decisions.

V. LEGAL FRAMEWORK

A. Statutory Framework for Immigration Custody Determinations.

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

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

31. The Supreme Court has confirmed the distinction between these statutory schemes. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining differences between § 235(b) mandatory detention and § 236(a) discretionary custody).

The Board of Immigration Appeals itself recognized for decades that individuals in § 240 proceedings after entry without inspection were eligible for custody redeterminations. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

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

33. In recent months, a multitude of district courts from across the country have directly addressed the Government's efforts to expand § 1225(b)(2)(A) beyond its intended scope by assessing habeas petitions for noncitizens in similar circumstances and have repeatedly concluded that the clear and unambiguous language of Section 236 of the INA permits noncitizens who arrived without inspection—persons in precisely the same legal circumstances as Mr. Sevillano-Díaz —are eligible to request bond hearings before the immigration court.

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

35. Similarly, recent decisions from district courts within the Fifth Circuit, such as *Lopez v. Hardin*, 2025 U.S. Dist. LEXIS 188368 (N.D. Tex. 2025), and *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (S.D. Tex. 2025), further confirm that courts are rejecting agency efforts to apply § 1225(b)(2)(A) to individuals who are properly subject to § 1226(a). *See also Buenrostro-Mendez v. Bondi*, No. 4:25-cv-3726, slip op. at 3 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112, slip op. at 3-4 (S.D. Tex. Oct. 8, 2025) (reviewing new detention policy). This Court should follow suit.

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

VI. CLAIMS FOR RELIEF

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

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

38. Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and the recent decisions of multiple federal district courts from around the country, including courts within the Fifth Circuit.

39. INA § 236(a), 8 U.S.C. § 1226(a), provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and that the Attorney General "may continue to detain the arrested alien" or "may release the alien on—(A) bond of at least

$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole."

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

41. In interpreting the plain language of Section 236(a), various federal district courts confirmed that noncitizens detained under Section 236(a) are statutorily eligible for individualized bond determinations before an immigration judge. Thus, the Attorney General must consider bond application by detained aliens pending the outcome of their removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

42. Although Mr. Sevillano-Díaz remains detained at the Prairieland Detention Center after several years of residence in the United States, and despite the fact that DHS has placed him in § 240 removal proceedings through the issuance and filing of a Notice to Appear, Respondents continue to treat him as though his detention were governed by INA § 235, a provision applicable only to individuals at the threshold of entry. The record, however, makes clear that Mr. Sevillano-Díaz has lived in the United States for years, was previously released on his own recognizance, and was scheduled for a non-detained Master Calendar Hearing in 2027. Consequently, his custody is governed by § 236(a) of the INA—not § 235(b)—and he is entitled to seek an individualized bond hearing before an immigration judge.

43. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a), despite failing to file the NTA and turning a blind eye to Petitioner's immigrant visa case history, Respondents have acted contrary to

statutory authority requiring consideration of such bond application. This policy supports the conclusion that the filing of a bond application with the immigration courts is currently a futile endeavor. Petitioner's continued detention without access to an individualized custody redetermination violates the INA and must be corrected through habeas relief.

44. Accordingly, this Court should grant the writ and order that Petitioner receive an individualized bond hearing under INA § 236(a), as recently made clear by the decisions of multiple federal district courts to examine these issues around the country.

Count II – Fifth Amendment Due Process Violation

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

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

47. The Supreme Court has long recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is civil in nature, but it nonetheless implicates this fundamental liberty interest.

48. Because Petitioner is detained by ICE at the Prairieland Detention Center, he is categorically barred from presenting evidence that he is not a danger to the community and that he poses no risk of flight. Respondents' blanket refusal to provide Petitioner with access to a bond hearing deprives him of the individualized custody determination

required by due process and by the unequivocal text of INA § 236(a), which governs detention for individuals in § 240 removal proceedings.

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

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

51. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a), despite failing to file the NTA and turning a blind eye to Petitioner's immigrant visa case history, Respondents have acted contrary to statutory authority requiring consideration of such bond application. Respondents have attempted to circumvent the ordinary processing of his immigrant visa application.

52. Petitioner has lived in the United States for several years and has developed strong family and community ties in North Texas. There has been no finding that he is a danger to the community or a flight risk, and indeed, ICE previously determined that he was suitable for release on an Order of Recognizance—a determination he honored by fully complying with all conditions of supervision. Yet solely because of recent, erroneous BIA decisions—decisions that are not binding in this Circuit—Petitioner has

now been categorically denied the process to which he is entitled. This amounts to an arbitrary deprivation of liberty in violation of the Fifth Amendment.

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

Count III – Unlawful Agency Action (APA)

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

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

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

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests);
- *In re L-E-V-H-*, AXXX-XXX-504 (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");

- *In re A-R-S-*, AXXX-XXX-161 (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien");
- *In re M-D-M-*, AXXX-XXX-797 (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

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

58. The APA requires agencies to engage in reasoned decision-making, and prohibits arbitrary or capricious action. 5 U.S.C. § 706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very definition of arbitrary and capricious action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

59. Although Petitioner has not filed a bond application since being re-detained by ICE in or around October 2025, doing so would be futile, as immigration judges are currently refusing to exercise bond jurisdiction for individuals in his position, expressly relying on the recent shift in BIA precedent, and even refuting the validity of a recent

class action injunction issued by the United States District Court for the Central District of California in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025). *See* Ex. F. Sample IJ Bond Decision Denying Bond. By treating aliens such as Petitioner as subject to mandatory detention under INA § 235(b)—despite their arrest in the interior of the United States and their placement in § 240 removal proceedings and even despite a federal court order—Respondents have adopted an unlawful and arbitrary interpretation of the statute that contradicts the plain language of INA § 236(a) and lacks any reasoned administrative justification.

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

VII. REQUEST FOR INJUNCTIVE RELIEF

61. Petitioner respectfully requests that this Court issue an injunction directing Respondents immediately to release him under reasonable conditions of supervision, or, in the alternative, to provide him with an immediate individualized custody redetermination hearing under INA § 236(a) within seven (7) days. As explained hereinabove, Petitioner also intends to seek a Temporary Restraining Order through a separate motion that is forthcoming, and upon a final hearing, Petitioner asks for permanent injunctive relief as appropriate.

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

A. Mr. Sevillano-Díaz Is Likely to Succeed on the Merits of His Petition.

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

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

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

66. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success is the most critical factor in evaluating interim relief. Here, Petitioner's claim is exceptionally strong.

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

67. If this Court does not grant immediate relief, Mr. Sevillano-Díaz will continue to suffer irreparable harm. The Supreme Court has recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Constitution. *Zadvydas v.*

Davis, 533 U.S. 678, 690 (2001). Every day Mr. Sevillano-Díaz remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

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

C. Balance of Equities Weighs in Mr. Sevillano-Díaz's Favor.

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

70. There is no evidence that Petitioner poses a danger to the community or a risk of flight, and the dismissal of his recent criminal indictment further diminishes any legitimate basis for continued detention. In contrast, every additional day of unlawful confinement inflicts significant harm on Petitioner. When weighed against each other, the equities clearly support granting immediate relief.

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

71. Finally, the public interest strongly supports the issuance of an injunction. The Supreme Court in *Nken* explained that when the government is the opposing party, the

balance of equities and the public interest merge. 556 U.S. at 435. The public has no interest in perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

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

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

74. For these reasons, this Court should grant injunctive relief at the earliest possible opportunity, requiring Respondents to release Mr. Sevillano-Díaz at once or to provide him with a bond hearing.

VIII. PRAYER FOR RELIEF

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

a. Issue an Order for Respondents to show cause why a writ of habeas corpus should not be granted order Petitioner's immediate release;

b. Set this case for a habeas hearing and grant such relief following said hearing;

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

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

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

f. Grant permanent injunctive relief as appropriate;

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

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

DATE: December 2, 2025.

Respectfully submitted,

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By: */s/ John M. Bray*
John M. Bray
Texas Bar No. 24081360
ATTORNEY FOR PETITIONER

VERIFICATION

My name is DANAE ORTIZ ("Declarant"), and my name is included in the foregoing document as Petitioner's wife. I am above the age of twenty-one (21) years of age, I am of sound mind, and I am in all ways competent to execute this verification. I hereby declare pursuant to 28 U.S.C. § 1746 that I am familiar with the substance of the foregoing document, that I have personal knowledge of the facts contained therein, and that the factual statements contained therein above are true and correct to the best of my knowledge and belief.

/s/ Danae Ortiz
DANAE ORTIZ,
Declarant

DATE: December 2, 2025.