UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

BRAYAN DAVID MACHUCA-MEJIA,

Petitioner,

v.

MARY DE ANDA YBARRA, in her Official capacity as, Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement, and Removal Operations;
JOHN DOE, in his official capacity as Warden of the El Paso service Processing Center (El Paso Camp East Montana);
KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
PAMELA BONDI, in their official capacity as Attorney General of the United States;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE);
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.

Respondents.

Case NO. 3:25-cv-00641

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Brayan David Machuca-Mejia, submits this Petition for Writ of Habeas Corpus and for Related Relief, by and through undersigned counsel and alleges as follows:

INTRODUCTION

1. Petitioner respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his continued and unlawful detention by United States Immigration and Customs Enforcement ("ICE"). Petitioner seeks immediate release, or in the alternative, a constitutionally adequate bond hearing.

2. Petitioner is a 23-year-old native and citizen of Colombia who entered the United States on May 20, 2023, through a location near Eagle Pass, Texas. ***See* Exhibit A.** Thereafter, he was screened and transferred to a detention center located in Eagle Pass, Texas. Later, on June 4, 2023, Petitioner was paroled by U.S. Immigration and Customs Enforcement (ICE) under section 212 (d)(5)(A). ***See* Exhibit B.**

3. Petitioner was detained on July 18th, 2025, in Miami, Florida, for a traffic violation, and has remained in civil detention in the custody of the Department of Homeland Security's ("DHS") Immigration and Customs Enforcement ("ICE") at the El Paso Camp East Montana. ***See* Exhibit C.**

4. Petitioner has only one criminal arrest: a July 18, 2025 citation for Racing on the Highway and resisting without violence. He was released from local custody the same day and taken directly into federal immigration detention.

5. Petitioner has resided in the United States for approximately two years. Petitioner's permanent address is [redacted] Miami, FL 33186. Petitioner has continuously and uninterruptedly resided in the U.S. since his arrival on May 20, 2023.

6. Prior to his detention, Petitioner was employed as an independent contractor at Pacho's Quality Auto Repair LLC. Petitioner's gainful employment prior to his detention enabled

him to contribute to household expenses he shared with his mother and U.S. citizen stepfather. ***See* Exhibit D.**

7. On October 15, 2025, Petitioner appeared for a bond hearing before Immigration Judge Dean S. Tuckman. The IJ denied bond solely on the basis of "no jurisdiction," citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019). ***See* Exhibit E.**

8. Petitioner therefore did not receive a custody redetermination based on danger, flight risk, family ties, equities, or any individualized factor. Instead, the IJ declined jurisdiction entirely, accepting DHS's assertion that Petitioner's NTA charges under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) automatically place him in § 1225(b)(2)(A) mandatory detention.

9. This mirrors the circumstances addressed in recent Western District of Texas decisions including *Rodriguez Cortina v. De Anda-Ybarra*, EP-25-CV-00523-DB (W.D. Tex. El Paso Div. 2025) where the immigration judge likewise refused jurisdiction under Yajure Hurtado, leaving detainees without any meaningful custody review. In those cases, the federal district court recognized that such refusals deprive noncitizens of the individualized bond process required by the Due Process Clause.

10. As recognized across these Western District opinions, the government's reliance on Yajure Hurtado does not extinguish constitutional safeguards. Petitioner has never received a lawful custody hearing under the INA or the Fifth Amendment. His continued detention now exceeding four months rests entirely on a legal classification, not on any finding that he poses a danger or flight risk.

11. Petitioner is currently in removal proceedings under INA § 240 based on the boilerplate allegations that he lacked valid entry documents under § 212(a)(7)(A)(i)(I) and entered

without admission under § 212(a)(6)(A)(i). These generic charges do not establish dangerousness, do not justify prolonged detention, and do not resolve the proper statutory basis for his custody. As multiple judges in this District have held, such allegations do not automatically place a noncitizen in mandatory detention under § 1225(b).

12. Rather, as in Rodriguez Cortina and other recent cases in this District, Petitioner's detention persists solely because DHS has classified him as an "applicant for admission" and the IJ believed he lacked authority to review custody. This classification has repeatedly been found insufficient to justify prolonged, unreviewed civil confinement, especially where, as here, the detainee was arrested within the United States and his proceedings are being conducted under INA § 240.

13. ICE's continued detention of Petitioner despite his lack of criminal history, strong family support, confirmed residence, and pending asylum application violates both the INA and the Fifth Amendment. ***See*** **Exhibit F.** The INA authorizes only reasonable, non-punitive detention tied to legitimate immigration purposes. Continued incarceration without individualized assessment serves no such purpose.

14. Petitioner's detention has become unreasonably prolonged and punitive, contrary to fundamental due-process principles. Civil detention may not continue indefinitely where it ceases to further a legitimate governmental interest and instead functions as punishment, especially where DHS has refused to provide the very process the Constitution requires.

15. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order his immediate release under appropriate conditions of supervision. In the alternative, Petitioner requests that this Court order a constitutionally adequate custody hearing, at which (1) the Government bears the burden of establishing danger or flight risk by clear and

convincing evidence, and (2) the adjudicator must consider less restrictive alternatives to detention.

16. In light of the ongoing and irreparable harm caused by Petitioner's unlawful and unreviewed detention and the complete absence of any available administrative remedy following the IJ's jurisdictional denial, Petitioner further requests injunctive relief, including a Temporary Restraining Order ("TRO") directing Respondents to provide him an individualized custody hearing without delay or to release him forthwith pending resolution of this habeas action. Continued detention under these circumstances serves no legitimate governmental purpose and violates both statutory and constitutional guarantees.

JURISDICTION AND VENUE

17. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal immigration custody within this District and challenges the legality of his continued civil detention in violation of the Constitution and laws of the United States. *See Jennings v. Rodriguez,* 583 U.S. 281, 294–95 (2018) (holding that § 1252(b)(9) does not bar detention-based challenges brought in habeas).

18. Jurisdiction also exists under 28 U.S.C. § 1331 (federal question), the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651, which authorizes federal courts to issue all writs necessary in aid of their jurisdiction and to prevent irreparable constitutional harm.

19. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this action. Petitioner does not challenge a final order of removal, nor does he seek class-wide relief. His claims concern only the legality of his ongoing detention. Detention challenges fall outside §

1252(b)(9). *See Jennings v. Rodriguez,* 583 U.S. 281, 294–95 (2018). Section 1252(g) is "narrow" and applies only to the Attorney General's decision to commence, adjudicate, or execute removal proceedings, not to challenges to the legality of immigration detention. *See Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999). Individual injunctive relief remains available under § 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

20. Venue is proper in the Western District of Texas, El Paso Division, because Petitioner is detained at the El Paso Camp East Montana, located at 6920 Digital Road, El Paso, Texas 79936, which lies within this Division. Petitioner's detention is overseen by ICE Enforcement and Removal Operations in the El Paso Field Office, which further underscores that venue is proper in this Court.

PARTIES

21. **BRAYAN DAVID MACHUCA-MEJIA** is a citizen and national of **Colombia,** born on [redacted] He entered the United States on or about May 20, 2023, and has continuously resided in this country for more than two years. Petitioner filed his Application for Asylum and Withholding of removal on April 19, 2024. Petitioner is currently detained at El Paso Camp East Montana; he has been detained since July 18, 2025. He is in the custody, and under the direct control, of Respondents and their agents.

22. Respondent **MARY DE ANDA YBARRA** is sued in her official capacity as the Field Office Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations. Respondent Ybarra exercises authority over Petitioner's detention, transfer, and potential release.

23. Respondent **JOHN DOE,** in his official capacity as Warden of the El Paso Service Processing Center (El Paso Camp East Montana). As such, he is the immediate physical custodian of Petitioner.

24. Respondent **KRISTI NOEM** is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent **NOEM** is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent NOEM is a legal custodian of Petitioner.

25. Respondent **TODD LYONS** is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement and as such is the legal custodian of Petitioner.

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

27. Respondent **U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)** is the agency directly responsible for Petitioner's detention and custody.

28. Respondent **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW ("EOIR")** is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

29. There is no statutory requirement that a noncitizen exhaust administrative remedies before challenging immigration detention in federal court by way of habeas corpus. *See* 8 U.S.C. § 1252(d)(1) (requiring exhaustion only for "a final order of removal"); see also, e.g., *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) (explaining that, under the INA, exhaustion is mandated only for judicial review of final removal orders, not detention-based habeas claims).

30. In any event, Petitioner has already sought the only meaningful custody relief available in the immigration system. On October 15, 2025, he requested a bond redetermination hearing before an Immigration Judge in El Paso. Judge Dean S. Tuckman denied bond solely on the ground that he lacked jurisdiction under *Matter of Yajure Hurtado*, and *Matter of M-S-*, without making any individualized findings regarding danger, flight risk, or alternatives to detention. Having been refused a custody hearing on jurisdictional grounds, Petitioner has no adequate administrative mechanism to obtain review of his ongoing detention.

31. The Supreme Court has recognized that exhaustion is not required when a detained person "may suffer irreparable harm if unable to secure immediate judicial consideration of [the] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). That is precisely the situation here: Petitioner raises constitutional and statutory challenges to the legal basis and duration of his civil detention, claims that the Immigration Judge and Board of Immigration Appeals lack authority to remedy, particularly where they treat Yajure Hurtado as controlling and therefore decline jurisdiction over bond.

32. Even if exhaustion were considered as a prudential matter, further pursuit of administrative remedies would be futile. The immigration courts and BIA are bound by *Matter of*

Yajure Hurtado and *Matter of M-S-* and have repeatedly interpreted those decisions to bar custody redetermination for noncitizens, like Petitioner, whom DHS classifies as applicants for admission under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). Requiring Petitioner to seek additional bond requests or appeals in that system would simply reproduce the same jurisdictional denial and would not address the constitutional and statutory defects in his prolonged detention. See *McCarthy*, 503 U.S. at 147–48 (exhaustion not required where the agency lacks institutional competence to resolve the type of claim presented or where the challenge is to the adequacy of the agency's own procedures).

33. Because there is no statutory exhaustion requirement for detention-based habeas claims, because Petitioner has already pursued and been denied bond by an Immigration Judge, and because any further attempts to obtain custody review within the immigration system would be futile and inadequate to prevent ongoing irreparable harm to his liberty, habeas corpus is an appropriate and necessary avenue to vindicate his constitutional and statutory rights and to restore his liberty.

LEGAL FRAMEWORK

34. Federal courts have long recognized that noncitizens may invoke the writ of habeas corpus under 28 U.S.C. § 2241 to challenge immigration detention that is alleged to violate the Constitution or the immigration laws. Detention-based habeas petitions are a proper vehicle to test whether civil immigration custody has become arbitrary, prolonged, or otherwise unlawful. *See*, e.g., *Zadvydas v. Davis*, 533 U.S. 678 (2001).

35. The Fifth Amendment's Due Process Clause applies to "all persons" within the United States, including noncitizens regardless of immigration status. Due process protects against arbitrary civil confinement and requires that immigration detention bear a reasonable relation to

its permissible purposes. Civil immigration detention is constitutionally permissible only so long as it serves legitimate governmental purposes, such as preventing flight and protecting the community; when detention is no longer reasonably related to those purposes, it raises serious due process concerns. *Id. at 690–91.*

36. Congress implemented these constitutional limits through a statutory scheme that distinguishes between mandatory detention for certain arriving aliens and discretionary custody with bond for individuals in regular removal proceedings. Section 235(b) of the INA, 8 U.S.C. § 1225(b), governs specific categories of "arriving" noncitizens and provides for mandatory detention during expedited or threshold screening. By contrast, Section 236(a), 8 U.S.C. § 1226(a), governs detention of individuals in § 240 removal proceedings and expressly authorizes release on bond or other conditions, subject only to concerns about flight risk and danger. The Supreme Court has confirmed this distinction between § 1225(b) mandatory detention and § 1226(a) discretionary custody. *See Jennings v. Rodriguez,* 583 U.S. 281, 294–95 (2018).

37. For years, the Board of Immigration Appeals recognized that noncitizens placed into § 240 proceedings after entry without inspection were detained under § 236(a) and therefore eligible to seek bond from an Immigration Judge. See *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). More recently, however, DHS and the immigration courts have relied on decisions such as *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019), *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), to classify noncitizens in § 240 proceedings as "applicants for admission" under 8 U.S.C. § 1225(b)(2)(A) and to deny bond jurisdiction altogether. When that interpretation is used to foreclose any individualized custody determination particularly where, as here, the Immigration Judge denies bond solely on "no

jurisdiction" grounds, continued detention rests on a statutory misclassification and results in prolonged, unreviewed confinement that raises serious due process concerns.

38. In this posture, habeas corpus serves its traditional role: providing a federal forum to determine whether the government is detaining a person under the correct statutory authority and in a manner consistent with constitutional limits. Where a noncitizen in § 240 proceedings has been denied any meaningful bond hearing based on an asserted lack of jurisdiction, § 2241 permits this Court to review the legality of that detention, to determine whether § 236(a) rather than § 1225(b) governs custody in such proceedings, and, if it so finds, to order either release or a constitutionally adequate bond hearing at which the Government bears the burden of justifying continued confinement.

COUNT 1

Violation of Fifth Amendment Right to Due Process

(against all Respondents)

39. Petitioner incorporates by reference all preceding paragraphs as if fully set forth herein.

40. "[T]he Due Process Clause applies to all "persons" within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas,* 533 U.S. at 693. Freedom from physical restraint "lies at the heart of the liberty that the [Due Process] Clause protects." Id. at 690; *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (freedom from physical detention is "the most elemental of liberty interests").

41. To determine whether civil detention comports with due process, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976), which considers: (1) the private

interest affected; (2) the risk of erroneous deprivation under existing procedures and the value of additional safeguards; and (3) the government's interest and the burdens of additional procedures. See id. at 335.

42. All three Mathews factors favor Petitioner. First, Petitioner's private interest is profound: he has been detained for more than four months, separated from his mother and U.S. citizen stepfather, unable to work or support his household, and confined in a remote detention facility despite having a fixed address in Miami and a pending asylum application. *See Zadvydas*, 533 U.S. at 690; Hamdi, 542 U.S. at 529.

43. Second, the risk of erroneous deprivation of liberty is extraordinarily high given the procedures used. Petitioner requested a bond hearing, but the Immigration Judge categorically refused jurisdiction based on *Matter of Yajure Hurtado* and *Matter of M-S-*, without considering any individualized factors such as danger, flight risk, family support, work history, parole history, or alternatives to detention. Petitioner has therefore never received a meaningful opportunity to be heard on whether his detention is necessary, nor an opportunity to contest DHS's statutory classification of him as subject to mandatory detention. Additional safeguards specifically, an individualized custody hearing under the correct statutory authority, would substantially reduce the risk of erroneous deprivation.

44. Third, any governmental interest in continuing to detain Petitioner without an individualized custody determination is minimal. Petitioner has no criminal convictions, only a single arrest for a traffic-related incident and resisting without violence; he was previously paroled into the United States; he has a stable residence, family support, and lawful employment history; and he is actively pursuing his asylum claim in ongoing § 240 proceedings. Reasonable alternatives

to detention such as bond, supervision, or other conditions can adequately address any concerns about appearance or public safety.

45. In these circumstances, Petitioner's continued civil detention based solely on DHS's statutory classification and the Immigration Judge's refusal to exercise bond jurisdiction does not bear a reasonable relation to any legitimate purpose of immigration detention, such as ensuring appearance at proceedings or protecting the community. See *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001).

46. Accordingly, Petitioner's ongoing detention is unconstitutional. He respectfully requests that this Court order his immediate release under appropriate conditions of supervision, or, at minimum, direct that he receive a prompt, constitutionally adequate custody hearing at which the Government bears the burden of establishing danger or flight risk and the adjudicator considers less restrictive alternatives to detention.

COUNT 2

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT

8 U.S.C. §§ 1225, 1226

(against all Respondents)

47. Petitioner incorporates by reference all preceding paragraphs as if fully set herein.

48. The Immigration and Nationality Act authorizes immigration detention only for narrow, lawful purposes: to ensure attendance at removal proceedings and to protect the community. Detention beyond those limited purposes, or under an incorrect statutory provision,

exceeds the authority Congress conferred and raises serious constitutional concerns. *See Zadvydas*, 533 U.S. at 690–91.

49. Congress established distinct detention schemes in 8 U.S.C. §§ 1225(b) and 1226(a). Section 1225(b) governs certain "arriving" noncitizens in expedited or threshold screening and provides for mandatory detention during that limited process. By contrast, 8 U.S.C. § 1226(a) (INA § 236(a)) governs the detention of individuals in § 240 removal proceedings and expressly authorizes release on bond or other conditions, subject only to concerns about flight risk and danger. The Supreme Court has recognized this distinction between § 1225(b) mandatory detention and § 1226(a) discretionary custody. *See Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018).

50. For years, the Board of Immigration Appeals recognized that noncitizens, like Petitioner, who are in § 240 proceedings after entering the United States without inspection, are detained under § 236(a) and are eligible to seek bond from an Immigration Judge. *See Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). Petitioner is currently in standard § 240 removal proceedings in El Paso based on boilerplate allegations under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I); he has no final order of removal and no serious criminal history.

51. Despite this statutory scheme, DHS has classified Petitioner as an "applicant for admission" subject to 8 U.S.C. § 1225(b)(2)(A), and the Immigration Judge relied on *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019), and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), to deny bond jurisdiction altogether. As a result, Petitioner has been held in mandatory detention without any individualized custody determination, even though his proceedings are being conducted under INA § 240 and his circumstances fall within § 1226(a).

52. This statutory misclassification treating Petitioner as subject to § 1225(b) mandatory detention rather than § 1226(a) discretionary custody contradicts the structure and text of the INA, which authorize bond consideration for noncitizens in Petitioner's position. It also mirrors the situation addressed in recent Western District of Texas cases, including *Rodriguez Cortina v. De Anda-Ybarra* where the immigration judge refused bond jurisdiction under Yajure Hurtado and federal courts intervened to restore custody review under § 1226(a).

53. Because Petitioner is properly detained, if at all, under 8 U.S.C. § 1226(a), Respondents lack statutory authority to subject him to prolonged mandatory detention without bond under § 1225(b)(2)(A). His continued confinement on that basis exceeds the detention authority Congress conferred and violates the INA.

54. Accordingly, Petitioner's ongoing detention is unlawful under the immigration statutes. He respectfully requests that this Court (a) declare that § 1226(a) governs his custody; and (b) order his immediate release under appropriate conditions, or, in the alternative, require a prompt, individualized bond hearing at which the Government bears the burden of justifying continued detention and the adjudicator considers reasonable alternatives to confinement.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court assume jurisdiction over this Petition and Complaint and grant the following relief:

I. Declare unlawful Petitioner's continued civil immigration detention as a violation of the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act, including 8 U.S.C. §§ 1225 and 1226, as set forth in Counts 1 and 2 of this Petition;

II. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from immigration custody under appropriate conditions of supervision, including but not limited to release on recognizance, parole, or a reasonable bond;

III. In the alternative, order that Petitioner receive a prompt, individualized custody bond hearing before a neutral adjudicator at which:

a. The Government bears the burden of proving by clear and convincing evidence that Petitioner poses a danger to the community or a flight risk sufficient to justify detention; and

b. The adjudicator is required to consider and make findings on the record regarding all reasonable, less restrictive alternatives to detention, including release on bond, recognizance or supervision, and may order Petitioner's release subject to such conditions;

IV. Pending final resolution of this action, issue temporary and/or preliminary injunctive relief, including a Temporary Restraining Order and/or Preliminary Injunction:

a. Prohibiting Respondents from transferring Petitioner outside the Western District of Texas, El Paso Division, absent prior order of this Court; and

b. Requiring Respondents to either promptly release Petitioner under appropriate conditions or provide him with the individualized custody hearing described above;

V. Award such other and further relief as the Court deems just and proper.

Dated: 10th , December, 2025

Respectfully submitted,
/s/ Veronica Semino
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(Application for admission pro hac vice forthcoming.)

28 U.S.C. § 2242 VERIFICATION STATEMENT

I represent Petitioner, Brayan David Machuca-Mejia, and submit this verification on his behalf. I hereby verify under penalty of perjury that the factual statements made in the foregoing Petition for writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed this day of December, 10th 2025.

/s/ Veronica Semino
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