UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROY GUTIERREZ-PEREIRA, Petitioner-Plaintiff, v. MATTHEW W. BAKER, Assistant Field Office Director, ERO Houston, TX, RAYMOND THOMPSON, Warden, Joe Coreley Processing Center; TODD LYONS, Acting Director, U.S. Immigrations and Customs Enforcement; Daren K. Margolin. Director, Executive Office For Immigration Review; PAMELA BONDI, U.S. Attorney General; and KRISTI NOEM, U.S. Secretary of Homeland Security of Homeland Security, Respondents-Defendants.	§ § § § § § § § § § § § § § § § § §	Case No. _____

PETITION FOR WRIT OF HABEAS CORPUS AND FOR DECLARATORY JUDGEMENT

1. The recent Board of Immigration Appeals decision of *Matter of Yajurure-Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025) has stripped Immigration Judges of jurisdiction to provide bond hearings to the majority of aliens in removal proceedings, including those who initially entered the U.S. without inspection. This includes those who were previously classified by The U.S. Department of Homeland Security ("DHS") and the U.S. Department of Justice ("DOJ") as bond eligible and are now being arbitrarily and capriciously reclassified to mandatory detention, which abruptly and unlawfully reversed decades of settled immigration practice in order to deny immigration bonds to potentially millions of people nationwide, including to potentially many thousands in Texas.

2. DHS and DOJ are systemically misclassifying people arrested *inside* the United

States. These people are generally subject to the detention provisions of 8 U.S.C. § 1226, which usually (for non-criminal aliens) allows for release on bond during the pendency of immigration proceedings. Now, DHS and DOJ are misclassifying these people as subject to 8 U.S.C. § 1225, which does not allow for release on bond. This misclassification is contrary to almost 30 years of settled law and practice, and it is unlawfully premised solely upon the manner in which the person initially entered the country—in some cases, decades ago, contrary to well-settled law.

3. As of this time, this misclassification policy has been uniformly adopted by DHS and DOJ, and it is being applied to all civil immigration detainees and in all Immigration Courts, including people arrested, detained, and/or in immigration proceedings in Texas. *Matter of Yajurure-Hurtado*, *supra*. As a result, DHS is currently arresting vast numbers of people within Texas and unlawfully detaining them in jails without any possibility of release and without any due process protections even though they are legally required to receive a bond hearing and are eligible for release on bond *and in many cases have been in compliance with said bond orders*.

4. This lawless deprivation of liberty to people who had previously been on *non-detained immigration court dockets* with scheduled immigration hearings, including merits hearings set for a year or more in the future to having less than 30 days under the detained docket to prepare their cross-service (evidence) filing for the immigration court. Your plaintiff is among those whose case timeline has been rocketed, providing him with less than 30 days before his filings are all due to the immigration court before the merits hearing.

5. The unlawful actions of DHS and DOJ have resulted in a proliferation of independent federal lawsuits to protect the constitutional rights of noncitizens. Scores of federal judges have already ruled that DHS and DOJ are breaking the law. *See, e.g.*, Memorandum and Order (D.E. 22), *Hilario Rodriguez v. Moniz*, No. 25-12358 (D. Mass. Sept. 18, 2025) (Joun, J.); *Rodriguez Vasquez v. Bostock*, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). A federal

district court in Washington rejected the government's interpretation of detention policy, collecting several cases where other federal courts have concluded that the BIA's stance "belies the statutory text".

6. Cases that reject the BIA's *Yajure-Hurtado* decision

- *Hyppolite v. Noem*, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025): Granted relief, finding the BIA's interpretation incorrect and that the individual was entitled to a bond hearing.
- *Guerrero Orellana v. Moniz*, —— F. Supp. 3d ——, 2025 WL 2809996 (D. Mass. Oct. 3, 2025): Found that the BIA decision was based on a flawed interpretation of the law and that a bond hearing was required.
- *Lepe v. Andrews*, —— F. Supp. 3d ——, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025): Granted relief, agreeing with the Ninth Circuit that bond hearings are required despite the BIA's decision.
- *Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025): Granted relief, finding that the BIA decision was not based on a correct understanding of the law and that a bond hearing was necessary.
- *Zaragoza Mosqueda et al. v. Noem*, 2025 WL 2591530 (C.D. Cal. Sept. 2025): Directly addressed the BIA decision and found it to be a misinterpretation of the law, holding that a bond hearing is required.

See also, Sampiao v. Hyde, No. 25-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (Kobick, J.); *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025) (collecting cases).

7. Nevertheless, DHS and DOJ continue to violate the law and detain people without due process in violation of their statutory, regulatory, and constitutional rights.

LEGAL BACKGROUND

8. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). This fundamental principle of our free society is enshrined in the Fifth Amendment's Due Process Clause, which specifically forbids the Government to "deprive[]" any "person . . . of . . . liberty

. . . without due process of law." U.S. Const. Amend. V.

9. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei,* 345 U.S. 206, 212 (1953) ("[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law"). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of liberty" protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 678.

10.. The Supreme Court, "...has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington v. Texas,* 441 U.S. 418, 425 (1979) (collecting cases); *see also Salerno*, *supra*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

11. For decades, the immigration system has implemented this balance through a network of three mutually exclusive detention statutes.

12. First, at the border, individuals "seeking admission" who are placed into removal proceedings are subject to detention without a bond hearing under 8 U.S.C. § 1225(b)(2).[1] *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing § 1225 as relating to "borders and ports of entry"). These individuals may request release through humanitarian parole under 8

[1] Separately, there is also a limited subset of individuals in and around the border who may be placed into the Expedited Removal process and are subject to mandatory detention under 8 U.S.C. § 1225(b)(1). *See Make the Road N.Y. v. Noem*, No. 25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).

U.S.C. § 1182(d)(5)(A).

13. Second, individuals arrested inside the United States are generally placed into removal proceedings under 8 U.S.C. § 1229a, during which an Immigration Judge (an "IJ")—and later potentially the Board of Immigration Appeals ("BIA") and a U.S. Courts of Appeals—will decide whether or not the person should be deported. During these proceedings, a noncitizen may apply for various forms of relief from deportation, such as asylum, withholding of removal, cancellation of removal, and adjustment of status. The IJ usually holds a series of hearings to determine if the person is eligible for deportation and, even if so, whether or not to grant some form of statutory relief from deportation. This process can take months or even years.

14. While this process is ongoing, the individuals are generally subject to the detention authority of 8 U.S.C. § 1226. *See Jennings*, 583 U.S. at 288-89 (describing § 1226 detention as relating to people "inside the United States" and "present in the country"). Most of these individuals are eligible for release on bond and conditions under § 1226(a), and they are consequently entitled to a custody redetermination (colloquially called a "bond hearing") before an IJ to decide whether they should be detained or released. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). A bond hearing with strong procedural protections is *not* mere regulatory grace; it is the baseline Due Process requirement for § 1226 detainees. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021); *Doe v. Tompkins*, 11 F.4th 1, 2 (1st Cir. 2021); *Brito v. Garland*, 22 F.4th 240, 256-57 (1st Cir. 2021) (affirming class wide declaratory judgment).

15. The Supreme Court and First Circuit have recognized only one exception to this constitutional requirement for a bond hearing for § 1226 detainees: In 2003, in *Demore v. Kim*, the Court held that, under 8 U.S.C. § 1226(c), there is a narrow category of people who may be held in mandatory detention for a brief period of time, if the person has conceded removability

and has been convicted of certain crimes following all of the due process afforded by a criminal adjudication.[2] *See DeMore,* supra, 538 U.S. 510, 513 (2003).

16. Third, if an individual completes his removal proceedings and all appeals, and is ordered removed, he is subject to detention under 8 U.S.C. § 1231 (a different INA section) *while the government attempts to remove him.* That statute provides for 90 days of mandatory detention called the "removal period," followed by discretionary detention within certain limits. *See Zadvydas v. Davis*, 533 U.S. 678, 699-700 (2001) (holding § 1231 detention may not continue *at all* if removal is not reasonably foreseeable).

17. This system—in which people arrested inside the United States are generally eligible for a bond hearing and release during immigration proceedings—has existed essentially in its current form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 3003, 110 Stat. 3009-546, 3009-585 to 3009-587 (codified at 8 U.S.C. § 1226). It was basically the law prior to 1996. According to IIRIRA's legislative history, § 1226(a) was intended to "restate the [then-]current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (quoting H.R. Rep. No. 104-469, at 229 (1996)). It also reflected nearly a century of law in the United States of allowing people inside the country to seek release while the government decided whether or not to deport them. *See* 34 Stat. 904-05, § 20 (1907) (providing for release on bond for noncitizens alleged to have entered the United States unlawfully); 39 Stat. 874, 890-91, §§ 19, 20 (1917) (similar); 66 Stat. 163, §§ 241(a)(2), 242(a) (1952) (last codified at 8 U.S.C. § 1252(a)(1) (1994)) (providing for

[2] "Convictions" for immigration purposes includes both formal adjudications of guilt and certain factual admissions of guilt made during the judicial process, such as the Massachusetts procedure for admitting to sufficient facts in order to secure a continuance without a finding ("CWOF"). See 8 U.S.C. § 1101(a)(48)(A); *De Vega v. Gonzalez*, 503 F.3d 45, 48-49 (1st Cir. 2007). In Texas, this is called a Deferred Adjudication.

release on bond, including for noncitizens alleged to have entered the United States without inspection).

18. This eligibility for a bond hearing and potential release has applied to people arrested in the United States, **regardless** of whether they initially entered the country with permission. Indeed, shortly after IIRIRA's enactment, the former Immigration and Naturalization Service and the Executive Office for Immigration Review ("EOIR," which houses the Immigration Courts and BIA) issued an interim rule to implement the statute that expressly stated: "Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

19. Thus, for almost 30 years, all participants in the immigration system have understood that people arrested inside the United States generally fall within § 1226 for detention purposes and are therefore required to receive a bond hearing upon request—even if they initially entered the country without permission. *See Martinez v. Hyde,* No. 25-11613, 2025 WL 2084238, at *4 n.9 (D. Mass. July 24, 2025) (citing the United States Solicitor General's representation to the Supreme Court at oral argument that "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended").

20. However, around late 2022, the Immigration Court in Tacoma, Washington began misclassifying §1226 detainees arrested inside the United States as mandatory detainees under §1225(b)(2) solely because they initially entered the country without permission. *See Rodriguez,* 779 F. Supp. 3d at 1244. The U.S. District Court for the Western District of Washington ruled that this practice was likely illegal in April 2025 and ordered a bond hearing for a wrongfully detained litigant. *See id.* at 1263.

21. Nevertheless, three months later, on July 8, 2025, DHS, "in coordination" with the DOJ adopted the Tacoma Immigration Court's unlawful practice nationwide.[3] Pursuant to the July 2025 Policy, DHS's representatives in the Immigration Courts began to request that Immigration Judges nationwide misclassify bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees and refuse to conduct bond hearings on that basis. Some Immigration Judges complied. As a result, numerous detainees were illegally denied bond hearings and sought relief in the federal courts. Numerous courts rejected DHS's newly invented misclassification as illegal and ordered the detainees to receive a prompt bond hearing. *See Romero*, 2025 WL 2403827, at *1 (collecting cases).

22. As previously noted, the BIA and the Immigration Courts are entities within EOIR, which is part of the DOJ. On September 5, 2025, in *Matter of Yajure-Hurtado*, 29 I&N Dec 216 (BIA 2025) ("*Matter of Hurtado*"), the BIA issued an administratively precedential decision that purports to require all Immigration Judges to misclassify people in this manner. Although the *Yajure-Hurtado* decision is fairly recent, multiple federal courts have already ruled that this BIA decision is *not entitled to any deference* under *Loper Bright Enters. v. Raimondo,* 603 U.S. 369, 412-13 (2024), and have rejected the BIA's decision as contrary to law. *See, e.g., Chogllo Chafla v. Scott*, No. 25-437, 2025 WL 2688541, at *7 (D. Me. Sept. 21, 2025) ("I find Yajure Hurtado to be unavailing . . . ."); Order (D.E. 22), *Hilario Rodriguez*, No. 25-12358, at 4 n.4; *Sampiao*, No. 25-11981, 2025 WL 2607924, at *8 n.11 ("[T]he Court disagrees with the BIA for the reasons given herein."); *Pizarro Reyes*, 2025 WL 2609425, at *7 ("[T]he BIA's decision to pivot from three decades of consistent statutory interpretation and call for [petitioner's] detention under §1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question of statutory interpretation.").

[3] See Interim Guidance Regarding Detention Authority for Applicants for Admission, https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications for-admission.

23. Nevertheless, DHS and DOJ are continuing to systemically misclassify people and unlawfully deny them access to bond hearings and release on bond and conditions during the pendency of their immigration proceedings.

PETITIONER'S FACTS

24. Petitioner Roy Gutierrez-Pereira, a native and citizen of Cuba, born on [redacted], entered the U.S. without inspection on or about September 18, 2022, seeking asylum from Cuba. He was fleeing persecution based on political grounds.

25. Mr. Gutierrez-Pereira is married to a lawful permanent resident, Josefina Mejivar Cruz,kk here in the United States. The couple reside together at [redacted] She has filed an I-130 petition for alien relative for him which is currently pending.

26. CBP Santa Lugo released him pursuant to the statutory authority found in 8 USC 1226a as is evidenced by the documents issued to him upon processing him for Notice to Appear/Release on his own Recognizance, which included: A Notice to Appear, Warrant for Arrest of Alien, a Notice of Custody Determination, Order of Release on Own Recognizance, Record of Deportable/Inadmissible Alien, I-862, I-200, I-286, I-220A, and I-213 which were issued on September 19, 2022.

27. The Notice to Appear issued for Plaintiff was filed with the Immigration Court in Dallas, Texas, thereby commencing removal proceedings against him. The Notice to Appear states that he is inadmissible pursuant to INA § 212(A)(6)(a)(i). His next master hearing is scheduled for January 15, 2026 at 9:30 AM.

28. He filed a timely application for political asylum, withholding of removal and protection under the Convention Against Torture on March 13, 2023. Roy Gutierrez-Pereira

previously had appeared at the Enforcement and Removal Office in Dallas, Texas beginning on October 6, 2022, and then as often as required, pursuant to ERO's direction and the terms of his release on his Order of Release, pursuant to 8 USC §1226.

PETITIONER IS AND HAS BEEN IN THE CUSTODY OF RESPONDENTS

31. Plaintiff appeared on approximately four occasions as directed by ERO for check-ins pursuant to his Supervised Release. In early October 2025, when Petitioner voluntarily appeared for his ICE check-in, U.S. Immigration and Customs Enforcement ("ICE") and/or other federal agents acting on ICE's behalf was took him into custody and imprisoned after arbitrarily and capriciously misclassifying him (without the issuance of any documentation or notice) as detainable pursuant to 8 USC §1225. Under *Yajure-Hurtado*, *supra,* no Immigration Judge will provide him a bond hearing, instead requiring him to be held in no-bond detention for an extended and indefinite period of time, in addition to prejudicing his trial preparation.

32. Petitioner requests of this court an order that his custody be returned to its previous status and order that this not be altered other than to require periodic check-ins in the same manner as previously, to preserve the *status quo ante* and in line with 30 years of policy and precedent.

33. Respondent further requests that no merits hearing be held until he is released from custody, restoring the *status quo ante* and providing him with the time he had relied upon in good faith to complete preparation of his asylum application and submission of supporting evidence.

JURISDICTION, VENUE, AND PARTIES

34. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question for Declaratory Judgement), and Article I § 9, cl. 2 of the U.S. Constitution (Suspension Clause).

35. The Federal Declaratory Judgment Statute (28 U.S. Code § 2201) authorizes federal courts to issue "declarations," which are legally binding rulings on the rights and legal obligations of parties. The statute provides a tool to resolve legal uncertainties and disputes before an actual injury or lawsuit occurs. A key component of the Act is the requirement of an "actual controversy" to avoid issuing mere advisory opinions

36. Venue is proper because the petitioner is in custody in Laredo, Texas. Further, the immigration court hearing is scheduled for Laredo, TX. Venue is also proper under 28 U.S.C. §§ 1391(b)(2), (e). This is within the Houston court's (SDTX) jurisdiction.

37. Respondent RAYMOND THOMPSON, is the Warden for the JOE CORELEY PROCESSING CENTER in Conroe Texas, where Plaintiff is held.

38. Respondent MATTHEW W. BAKER is Assistant Field Office Director for ER0 Houston, TX.

39. Respondent DONALD R. KUSSER is Field Office Director CBP, Laredo, TX.

40. Respondent TODD LYONS is the Acting Director for U.S. Immigration and Customs Enforcement.

41. Respondent DAREN K. MARGOLIN is Director, Executive Office for Immigration Review.

42. Respondent PAMELA BONDI is the Attorney General of the United States and administers the Department of Justice, including EOIR, the BIA, and the Immigration Courts.

43. Respondent KRISTI NOEM is the U.S. Secretary of Homeland Security and administers the Department of Homeland Security.

44. All respondents are named in their official capacities. One or more of the respondents are petitioner's immediate custodians.

CLAIMS FOR RELIEF

COUNT ONE
Violation of 8 U.S.C. § 1226(a) and Associated Regulations

45. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

46. Under § 1226(a) and its associated regulations, petitioner is entitled to a bond hearing. See 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f).

47. Plaintiff has not been and will not be provided with a bond hearing as required by law.

48. Further, under§ 1226(a) and its associated regulations, petitioner's custody status cannot be arbitrarily misclassified and altered, as he has not violated the terms of his release on his own recognizance, without notice and an opportunity to be heard. **The petitioner is entitled to immediate release from custody.**

COUNT TWO
Violation of Fifth Amendment Right to Due Process
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))

49. Because petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment to the United States Constitution requires that he receive a bond hearing with strong procedural protections. *See Hernandez-Lara,* 10 F.4th at 41; *Doe*, 11 F.4th at 2; *Brito*, 22 F.4th at 256-57.

50. Petitioner has not been and will not be provided with bond hearings as required by law. Alteration to petitioner's custody to jail him without bond or opportunity for a bond hearing is therefore unlawful.

COUNT THREE
Violation of Fifth Amendment Right to Due Process
(Failure to Provide an Individualized Hearing for Domestic Civil Detention)

51. The Fifth Amendment's Due Process Clause specifically forbids the Government to deprive any "person . . . of . . . liberty . . . without due process of law." U.S. Const. Amend. V.

52. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693; *cf. Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020) (holding noncitizens' due process rights were limited where the person was not residing in the United States, but rather had been arrested 25 yards into U.S. territory, apparently moments after he crossed the border while he was still "on the threshold" of the border).

53. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of liberty" protected by the Due Process Clause. *Zadvydas,* 533 U.S. 678 at (2001).

54. The Supreme Court, thus, "has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington,* 441 U.S. at 425; see also Salerno, 481 U.S. at 755; *Foucha*, 504 U.S. at 81-83; *Hendricks*, 521 U.S. at 357.

COUNT FOUR
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

A.

55. Because Petitioner will be denied bond even if a hearing is ordered by this Court and the Immigration Judge finds him deserving, he will not be released. The government will not take any steps to effectuate its substantive obligation to ensure that immigration detention bears a "reasonable relation" to the purposes of immigration detention (i.e., the prevention of flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. *See Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

56. Jailing a petitioner without bond proceedings is unlawful, regardless of what statute might apply to purportedly authorize such detention.

B.

57. Petitioner's sudden, lawless jailing further denies him due process by making preparation for trial, which includes the gathering and filing of evidence with the Immigration Court hearing his asylum claim virtually impossible. It makes conferring with any counsel in preparation for testimony exhaustingly more difficult and costly. The government's purpose is not merely to suddenly deprive Rodriguez-Merino of liberty, but also to shank him as he prepares to defend his asylum claim in court. This violates cardinal due process rules under *Mathews v. Eldridge,* 424 U.S. 319 (1976)[*meaningful* notice and an opportunity to be heard].

COUNT FIVE
Declaratory Judgement Act
(Whether 8 USC §1225 or 8 USC §1226 applies to Petitioner's immigration detention)

58. Petitioner has been misclassified by DHS and DOJ as being in custody pursuant

to 8 USC §1225 not 8 USC §1226. Misclassification following a correct classification is not permitted pursuant to the statutes, regulations and case law cited *infra.*

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Grant a Declaratory Judgement holding that Petitioner is properly held in custody solely pursuant to 8 USC §1226.

(3) Order that Petitioner's detention is unlawful and that he be released pursuant to the All Writs Act, 28 U.S.C. Sec. 1651 and Rule 65, Fed. R. Civ. Pro., waiving the requirement for a cash bond under Rule 65(c) [or by Petitioner's posting of a bond in an amount the court deems prudent .

(4) Order Petitioner's release on conditions this Court deems just and proper pending adjudication of this petition. In this regard, waiving the requirement of a cash bond under Fed. Rule Civ. Pro. 65(c).

(5) Issue a Writ of *Habeas Corpus* and such injunctive relief prior thereto ordering Respondents to release Respondent from Custody pursuant to the terms and conditions of his Order of Supervision in place at the time of his unlawful arrest.

(6) In the alternative to (5), order Respondents to conduct a bond redetermination hearing within 14 days of this court's order and further to report to this court its outcome, including the reasons for any ruling issuing therefrom.

(7) Issue a preliminary injunction and Writ of *Habeas Corpus* ordering Respondents to hold Petitioner's Immigration Court Proceedings in abeyance pending the resolution of this action, in view of Respondents' actions prejudicial to his trial

preparation rights.

(8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Sondra Turin
SONDRA TURIN
State Bar of Texas: 00797755

Esquenazi & Turin, Attorneys at Law
2201 Main Street, Suite 1010
Dallas, Texas 75201
Tel. (214) 688-7080
sondra@tximmigrant.com

Attorney of Petitioner-Plaintiff

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