UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Martin PEREZ-VASQUEZ, Petitioner, v. J.L. JAMISON, Warden, Federal Detention Center, Philadelphia; MICHAEL T. ROSE, Acting Field Office Director, Immigration and Customs Enforcement, Enforcement and Removal Operations, Philadelphia Field Office; KRISTI NOEM, Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; and DEPARTMENT OF HOMELAND SECURITY. Respondents.	Case No. **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner Martin Perez Vasquez ("Petitioner" or "Mr. Perez Vasquez") is a noncitizen from Guatemala, who is in the custody of the United States Department of Homeland Security ("DHS"), Immigration and Customs

Enforcement ("ICE"), and is currently detained at the Philadelphia Federal Detention Center at 700 Arch Street, Philadelphia, PA 19106 ("FDC" or the "Facility"). Prior to his detention, Petitioner had lived in Philadelphia for four years after entering the United States without inspection on August 7, 2021. Petitioner entered the United States at age 17, as an Unaccompanied Alien Child ("UAC") traveling to the United States without any adult supervision, care, or control. He was released to his older sister, an adult, on September 7, 2021.

2. After a family court determined that Martin had been abandoned and neglected by both his father and mother in Guatemala, Petitioner applied for and was awarded Special Immigrant Juvenile Status ("SIJS") and Deferred Action by United States Citizenship and Immigration Services ("USCIS") on October 27, 2022. As a result, his pending immigration court proceedings were terminated on February 3, 2024, so that he could adjust his status to a lawful permanent resident through USCIS when a visa became available.

3. Since that time, Petitioner has built a life in the United States, awaiting the opportunity to seek lawful permanent residence. He and his partner welcomed a U.S. citizen child, who is 2 years old.

4. On November 4, 2025, Petitioner was cited by Philadelphia police for driving under the influence and charged under P.A. Criminal Code section 75 chapter 3802, DUI First Offense. He was ordered to appear for a hearing on

December 10, 2025. However, he has never been permitted to see a judge to challenge this charge. On December 10, 2025, Petitioner was walking to his Philadelphia Court of Common Pleas criminal hearing when he was arrested by ICE on the sidewalk close to his home, just beginning the walk to criminal court. ICE knew about his upcoming hearing but refused to allow him to appear to challenge the charge before a judge, who would determine his innocence or guilt.

5. Petitioner is now detained by ICE without access to a hearing conducted by a neutral decisionmaker—a federal judge or an immigration judge—to determine whether his detention is warranted based on danger or flight risk, pursuant to the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

6. The decision in *Yajure Hurtado*, which holds that 8 U.S.C. § 1225(b)(2) makes noncitizens like Petitioner who are apprehended in the United States but have never been admitted subject to mandatory detention without a bond hearing, violates the statute. Instead, 8 U.S.C. § 1226(a) applies and authorizes release on bond after a hearing before an immigration judge. The BIA's interpretation conflicts with the plain language and structure of the statute, as well as decades of uncontroverted agency practice—as recognized by at least 282 United States District Courts. *See Demirel v. Fed Det. Ctr.*, No. 2:25-cv-05488, 2025 WL 3218243, at *1 (E.D. Pa. Nov. 18, 2025), ECF No. 11-1 (appendix showing that in 282 of the 289 cases on this issue across the country, federal district courts have rejected Respondents'

arguments). Therefore, the application of § 1225(b)(2) to Petitioner is contrary to law and violates the Immigration and Nationality Act ("INA") and the Administrative Procedure Act ("APA").

7. Moreover, § 1225(b)(2) cannot be applied to Mr. Perez Vasquez because he was awarded Special Immigrant Juvenile Status (SIJS) and Deferred Action by USCIS. *Del Cid Del Cid v. Bondi, et al*, No. 25-00304, 2025 WL 2985150 (W.D. Pa. Oct. 23, 2025). In *Del Cid,* the Western District of Pennsylvania stated that immigrant youth with approved SIJS from USCIS may not be detained pursuant to § 1226(a), including if his criminal charges are dismissed or withdrawn. ICE arrested Mr. Perez-Vasquez before he could appear for his criminal matter—to challenge the charge, be found guilty or innocent of the charge, or to ascertain if the District Attorney's Office intended to proceed on the charge. The Western District held that youth with SIJS are eligible for bond hearings under § 1226(a). "Once attained, SIJ classification conveys a host of important benefits. For purposes of 8 U.S.C. § 1255(a) . . . SIJS designees are 'deemed . . . to have been paroled into the United States." *Id.* at 4 (citing 8 U.S.C. § 1225(h)(1)). The INA "exempts SIJ designees from inadmissibility based on the lack of 'valid entry document[s]." *Id.* at 4 (citing § 1882(a)(7)(A)(i)(l)).

8. Moreover, the Third Circuit Court of Appeals in *Osorio-Martinez*, ruled that immigrants with approved SIJS status are eligible to apply for bond.

Osorio-Martinez v. Att'y Gen. U.S., 893 F.3d 153, 163-64 (3d Cir. 2018). Special Immigrant Juveniles are also afforded a number of statutory and procedural protections that they would otherwise not have under the law as applicants for admission. These protections materially constrain DHS' removal related authority and are enforceable in federal district court. The protections include generous waivers of many grounds of inadmissibility, assurance of their eligibility to apply for permanent residence, authorized legal presence in the United States while they wait for the visa to become available, and the ability to not be stripped of that designation without due process of law and a finding of "good and sufficient cause" to do so. *Osorio-Martínez*, 893 F.3d at 168, 170-72.

9. Notwithstanding the protections Congress afforded to SIJs, Petitioner now faces unlawful immigration detention because the DHS and the Executive Office of Immigration Review ("EOIR") through its decision in *Yajure Hurtado*, have concluded Petitioner is subject to newly instituted mandatory detention policies allegedly allowed under 8 U.S.C. § 1225, and removal from the United States. Both actions by Respondents—including subjecting the Petitioner to ongoing detention and execution of his removal from the United States—violates the constitutional, procedural, statutory and regulatory rights of the SIJ Petitioner in this case.

10. In the alternative, if the statute does authorize Petitioner's detention without a bond hearing, it violates his rights to substantive and procedural due

process. Detention of all noncitizens who are subject to inadmissibility grounds, like Petitioner, without any individualized hearing does not "bear a reasonable relation to the purpose for which the individual was committed." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Moreover, application of the *Mathews v. Eldridge* balancing test shows that a bond hearing is necessary to protect Petitioner from an unnecessary deprivation of liberty. *See* 424 U.S. 319, 335 (1976). Numerous United States District Courts have agreed. *See, e.g.*, *Ndiaye v. Jamison*, No. 25-6007, 2025 LX 503509, at *6 (E.D. Pa. Nov. 19, 2025).

11. In addition, Petitioner's detention without a custody hearing is unlawful because he is a member of the nationwide Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, -- F. Supp. 3d --, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Despite the recent declaratory judgment issued on behalf of that class, DHS and the Executive Office for Immigration Review (EOIR) have refused to abide by it or afford bond hearings to its members. Because that declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A), Petitioner's detention without a bond haring violates the Court's order. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.

Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

12. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order Petitioner's release from custody. *See Ndiaye*, 2025 LX 503509 at *23–24 (ordering immediate release and finding that "[a] bond hearing would certainly result in [Petitioner's] release and only serve to delay relief when the "Government has offered no rationale to refuse bond").

13. In the alternative, Petitioner requests that this Court conduct or order an immigration judge to conduct a bond hearing at which (1) the government bears the burden of proving flight risk and/or dangerousness by clear and convincing evidence and (2) the reviewing court considers alternatives to detention that could mitigate risk of flight. *See German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213-214 (3d Cir. 2020).

PARTIES

14. Petitioner Martin Perez Vasquez is a noncitizen currently detained by Respondents. He is detained in ICE custody at the Federal Detention Center in Philadelphia, Pennsylvania.

15. Respondent James L. Jamison is named in his official capacity as the Warden of the Federal Detention Center in Philadelphia. Petitioner is currently detained at FDC. In his capacity as Warden, Mr. Jamison oversees the administration and management of FDC. Accordingly, Mr. Jamison is the immediate custodian of Petitioner. He is sued in his official capacity.

16. Respondent Michael T. Rose is named in his official capacity as the Acting Field Office Director at the ICE Philadelphia Field Office. In this capacity, Respondent Mr. Rose is responsible for administration and management of ICE Enforcement Removal Operations in Philadelphia and exercises control over Petitioner's custody.

17. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity. Respondent Noem's office is located at U.S. Department of Homeland Security, Washington, D.C. 20528.

18. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

19. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review (EOIR) and the immigration court system it operates is a component agency. She is sued in her official capacity.

20. Respondent EOIR, which includes the immigration courts and Board of Immigration Appeals, is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

JURISDICTION AND VENUE

21. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.

22. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

23. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against one of its agencies and that agency's officers are sued in their official capacities. *See* 5 U.S.C. § 702.

24. Venue is proper in this District because the Petitioner is detained in this district. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

25. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. I.N.S.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. *Ndiaye*, 2025 LX 503509 at *9 (citing *Cerro Metal Prods. v. Marshall*, 620 F.2d 964, 970 (3d Cir. 1980)); *Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *2 (M.D. Pa. Aug. 2020) ("[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.").

26. In making that decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

27. Furthermore, a petitioner "does not need to 'exhaust administrative remedies where the issue presented involves only statutory construction.'" *Ndiaye*, 2025 LX 503509 at *9 (citing *Vasquez v. Strada*, 684 F.3d 431, 433–34 (3d Cir. 2012)). Because the "the issue in this case hinges entirely on the statutory construction of 8 U.S.C. §§ 1225 and 1226," Petitioner is not required to exhaust his administrative remedies. *Id.*

28. Moreover, the exhaustion "doctrine is not without exception." *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). "Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question." *Id.* at 666-67.

29. The Board of Immigration Appeals has issued a published decision holding that people like Martin Perez Vasquez who entered the United States without inspection and therefore have not been admitted are ineligible for bond pursuant to 8 U.S.C. § 1225(b)(2)(A). Immigration judges and the BIA are bound by this decision. 8 C.F.R. § 1003.1(g)(1). Exhaustion before the BIA would therefore be futile.

30. Further, the BIA does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att'y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (citation omitted). Therefore, any administrative

proceedings would be futile because petitioner raises a constitutional due process claim. *Qatanani*, 144 F.4th at 500.

STATEMENT OF FACTS

31. Martin Perez Vasquez grew up in Quetzaltenango, Guatemala, with his mother. His father abandoned him when he was only two years old. Living in abject poverty, Mr. Perez Vasquez was forced to leave school at age 12 and work in agriculture. His mother did not have sufficient resources to provide adequate nutrition or health care.

32. In July 2021, at the age of 17 years old, Mr. Perez Vasquez left Guatemala and came to the United States to live with his older sister who was already living in Philadelphia, Pennsylvania. He crossed the U.S. border with Mexico near Hidalgo, Texas, as an unaccompanied child or "unaccompanied alien child" ("UAC") on or about August 7, 2021. He was immediately sent to a federal ORR shelter (Office of Refugee Resettlement within the U.S. Department of Health and Human Services) in Pomona, California.

33. As is the practice of ORR, the ORR shelter social workers spoke to his adult sister in Philadelphia. After subjecting her to background checks, child abuse clearances, and questionnaires regarding her ability to care for him in Philadelphia, Mr. Perez Vasquez was released to her custody on September 7, 2021.

34. While living with his sister and attending high school in Philadelphia, the adult sister filed for sole legal and sole physical custody of her brother in the Court of Common Pleas in Philadelphia. The custody order in that case, signed by family court judge on March 11, 2022, detailed the abandonment and neglect by Mr. Perez Vasquez's father and mother in Guatemala. That custody order was filed with USCIS, attached to the application for Special Immigrant Juvenile Status (SIJS).

35. On October 27, 2022, USCIS granted Mr. Perez Vasquez's application for SIJS. He was also awarded Deferred Action. Under 8 C.F.R. section 236.21, "Deferred Action is an exercise of the [DHS Secretary]'s broad authority to establish national immigration enforcement policies and priorities. It is a form of enforcement discretion not to pursue the removal of certain aliens for a limited period in the interest of ordering enforcement priorities considering limitations on available resources, taking into account humanitarian considerations and administrative convenience." Both SIJS and Deferred Action should have prevented the arrest, detention, and pursuit of removal of Martin by ICE, in the absence of a criminal conviction, revocation of his Deferred Action, or revocation of his SIJS status.

36. Once granted Deferred Action, Mr. Perez Vasquez was fingerprinted by USCIS and checked for any criminal contacts on June 8, 2023. Martin was then granted a work permit or Employment Authorization Document card on June 17,

2023, that is still valid until October 26, 2026. He will be able to renew his Deferred Action status with USCIS before that expiration date.

37. Mr. Perez Vasquez will be able to Adjust Status using his SIJS status as soon as his priority date becomes current and a visa becomes available. His priority date is March 21, 2022, and the December 2025 Visa Bulletin published by the U.S. Department of State has already reached February 15, 2021, meaning immigrants with approved SIJS status with a priority date before February 15, 2021, are able to apply for Permanent Residency in the United States, known as the "green card." If the Visa Bulletin continues to move forward approximately one month per month in real time, Mr. Perez Vasquez will be able to apply for Permanent Residency in January of 2027.

38. When SIJS was first created by Congress in 1990, there was no delay in applying for permanent residence. A child who was without proper parental care and control, who had been abandoned or neglected by his parents could apply for SIJS and Permanent Residence at the same time. The delays in applying for Permanent Residence for SIJS youth began in 2016. If SIJS has any meaning at all, then Congress must have intended for it to protect immigrant youth from being deported back to the country where they lacked parental care and control, and where they had been abandoned or neglected.

39. After being granted SIJS by USCIS, Mr. Perez Vasquez's sister cared for him until 2023, when he turned 18 years old and moved out to live on his own and work. Mr. Perez Vasquez fell in love with his girlfriend, who moved in with him, and the couple welcomed a young baby, a now two-year-old U.S. citizen boy.

40. Mr. Perez Vasquez began working two different jobs to pay for his son's basic needs and to ensure that his partner could stay at home and care for their son.

41. On November 4, 2025, Mr. Perez Vasquez was stopped by Philadelphia police and charged with driving under the influence. Mr. Perez Vasquez was scheduled to appear on December 10, 2025, for a preliminary arraignment hearing on the charge under Pennsylvania Criminal Code section 75 Chapter 3802, First Offense. Mr. Perez Vasquez left his home on December 10, 2025, in the early morning at about 8:00am to walk to Criminal Court and was arrested by ICE before he could arrive to his hearing. ICE was aware of this hearing and specifically targeted Mr. Perez Vasquez, restricting his ability to appear, to challenge or object to the charges against him, or be found innocent or guilty.

42. As of the date of this motion, and though he has never been convicted of a criminal charge anywhere in the world, Mr. Perez Vasquez remains detained in immigration custody. Additionally, and pursuant the BIA's binding decision in *Matter of Yajure Hurtado*, Mr. Perez Vasquez is not, and will not, be eligible for

bond; instead, he will be subject to mandatory immigration detention for the length of his removal proceedings. Immigration judges nationwide continue to hold that they are bound by *Yajure Hurtado* even after the nationwide class certification rejecting the BIA's decision in this case. *See Maldonado Bautista v. Santacruz*, *supra*.

43. Accordingly, Petitioner respectfully seeks relief from this Court in the form of a writ of habeas corpus ordering his immediate release from ICE custody, or in the form of an order requiring that he be provided with a bond hearing.

LEGAL FRAMEWORK

I. Section 1226(a) Governs the Detention of People Like Petitioner Who are Detained in the United States and Have Not Previously Been Admitted

44. The Immigration and Nationality Act contains several provisions authorizing detention of noncitizens. Section 1226(a) entitles most noncitizens with pending removal proceedings to a hearing before an Immigration Judge to determine whether they should be released on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d). Section 1226(c) creates an exception to section 1226(a) and provides that noncitizens who are removable by virtue of certain criminal convictions must be detained without a bond hearing. Section 1225(b) provides for mandatory detention of noncitizens subject o expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" under (b)(2). Finally, section 1231 governs the detention of noncitizens with a final order of removal.

45. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025). "Upon passing IIRIRA, Congress declared that the new Section 1226(a) 'restates the current provisions in the predecessor statute,'" which allowed noncitizens who entered without inspection to be released on bond. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

46. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("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.").

47. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. *Diaz Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, -- F. Supp. 3d --, at *4 (D. Mass. July 24, 2025). That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994).

48. In recent months, Respondents have abruptly changed course. On May 15, 2025, the BIA issued a decision holding that a noncitizen who entered without inspection and was apprehended and paroled near the border was subject to mandatory detention under § 1225(b)(2)(A) when her parole was terminated and she was re-detained. *Matter of Q. Li*, 29 I&N Dec. 66, 70 (BIA 2025).

49. On July 8, 2025, ICE Director Todd M. Lyons issued an internal memorandum stating that, "in coordination with the Department of Justice (DOJ)," DHS had "revisited" its legal position and believed that § 1225, not § 1226, governs the detention of noncitizens who are present in the United States without having been admitted. *Diaz Martinez*, 2025 WL 2084238, at *4.

50. On September 5, 2025, the BIA followed suit and issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA held that noncitizens "who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." 29 I&N Dec. at 220.

51. The *Yajure Hurtado* decision has fared poorly before Article III Courts, and over 288 district courts, including the Eastern District of Pennsylvania, have held that people who are present without having been admitted are eligible for bond pursuant to § 1226(a). *See Demirel*, No. 25-cv-54882025 U.S. Dist. LEXIS 226877 (Dkt. No. 11-1) (listing out 288 cases). "Only six of these decisions have adopted the government's interpretation, and none of them are in this District." *Ndiaye*, 2025 LX 503509 at *12 (Sánchez, J.); *see also Anirudh v. McShane*, No. CV 25-6458, 2025 WL 3527528, at *5 (E.D. Pa. Dec. 9, 2025); *Ibarra v. Warden of the Fed. Det. Ctr. Phila.*, No. 25-6312, 2025 WL 3294726, at *2-3 (E.D. Pa. Nov. 25, 2025) (Rufe, J.); *Patel v. McShane*, No. 25-5975, 2025 LX 577218 (E.D. Pa. Nov. 20, 2025) (Brody, J.); *Cantu-Cortes v. O'Neill*, No. 25-cv-6338, 2025 U.S. Dist. LEXIS 223637 (E.D. Pa. Nov. 13, 2025) (Kenney, J.); *Kashranov,* No. 2:25-CV-05555-JDW, 2025 U.S. Dist. LEXIS 224644 (Wolson, J.); *Demirel*, No. 25-cv-5488, 2025 U.S. Dist. LEXIS 226877 (E.D. Pa. Nov. 18, 2025) (Diamond, J.); *see also*

Maldonado Bautista, 2025 WL 3288403, at *9 (issuing declaratory relief on behalf of nationwide class).

52. As these decisions explain, the BIA's position in *Matter of Yajure Hurtado* defies the INA. The plain text of the statute shows that § 1226(a), not § 1225(b), applies to people like Petitioner.

53. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (describing 1226(a) as the "default rule" for detention of noncitizens pending removal). These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

54. The text of § 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Just this year, Congress enacted subparagraph (E) in the Laken Riley Act to exclude certain noncitizens who entered without inspection from § 1226(a)'s default bond provision. Subparagraph (E)'s reference to persons inadmissible under § 1182(6)(A), i.e., persons inadmissible for entering without inspection, makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at

*12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

55. Under the BIA's interpretation, all noncitizens subject to inadmissibility grounds are detained without the opportunity for a bond hearing under 8 U.S.C. § 1225(b). *Matter of Yajure Hurtado*, 29 I&N Dec. at 220; *see* 8 U.S.C. § 1182(a)(6) (making people who are present without having been admitted inadmissible); 8 U.S.C. § 1101(a)(14) (defining an admission). Therefore, this interpretation would render all the grounds of mandatory detention in § 1226(c) applying to inadmissible noncitizens, including the recently-passed Laken Riley Act, superfluous. *Gomes*, 2025 WL 1869299, at *7; *Rodriguez*, 779 F. Supp. 3d at 1258; *see Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2103) ("[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme."). This statutory structure demonstrates that Congress did not intend to make § 1226(a) inapplicable to all inadmissible noncitizens, but rather viewed it as the default bond provision for people arrested within the United States, as the Supreme Court confirmed in *Jennings*.

56. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez*, 2025 WL 2084238,

at *8 ("'[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.'" (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings*, 583 U.S. at 287.

57. "The Government's interpretation of 8 U.S.C. § 1225(b)(2) also violates the rule against surplusage . . . ." *Ndiaye v. Jamison*, No. 25-cv-6007, 2025 WL 3229307, at *14 (E.D. Pa. Nov. 19, 2025); *Demirel,* 2025 WL 3218243, at *9 ("I am not prepared to read this part ["alien[s] seeking admission"] of § 1225(b)(2) out of existence"). Section 1225(b)(2) only applies to people who are (1) applicants for admission; (2) seeking admission; and (3) not clearly and beyond a doubt entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A); *Demirel,* 2025 WL 3218243, at *9. The BIA's interpretation makes all applicants for admission subject to mandatory detention, leaving the "seeking admission" criterion unnecessary and violating the rule against surplusage. *Lopez Benitez*, 2025 WL 2371588, at *6; *Diaz Martinez*, 2025 WL 2084238, at *6.

58. Instead, the phrase "seeking admission" indicates that § 1225(b)(2)(A) applies to people who are taking "some sort of present-tense action," in other words,

coming or attempting to come into the United States. *Diaz Martinez*, 2025 WL 2084238, at *6; *see also Matter of M-C-D-V-*, 28 I&N Dec. 18, 23 (BIA 2020) (stating that "the use of the present progressive tense . . . denotes an ongoing process"). Therefore, § 1226(a), not § 1225(b)(2)(A), governs the detention of people detained within the United States who are not actively seeking admission, as required by the statute.

59. Applying § 1226(a), rather than § 1225(b), to people detained in the interior who had previously entered without inspection is consistent with the government's longstanding practice, which "can inform a court's determination of what the law is." *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024). This longstanding practice further counsels against the BIA's abrupt change in policy. *Maldonado*, 2025 WL 2374411, at *11.

II. The Denial of a Bond Hearing to Petitioner Violates the *Maldonado Bautista* Declaratory Judgment

60. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and, on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403,

at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

61. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

62. Nonetheless, EOIR and its subagency the Immigration Court and the Department of Homeland Security ("DHS") have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

63. Mr. Perez Vasquez is a member of the Bond Eligible Class, as he: (a) does not have lawful status in the United States and is currently detained at FDC in Philadelphia, having been apprehended by immigration authorities on December 10, 2025; (b) entered the United States without inspection and was not apprehended upon arrival, and (c) is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

64. Indeed, in Mr. Perez Vasquez's pending removal proceedings, the DHS has explicitly charged him as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection. Because he thus falls

under the *Maldonado Bautista* class, the Court should expeditiously grant this petition.

65. Respondents are bound by the judgment in *Maldonado Bautista*, since it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner, and others like him, to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

66. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that IJs instead remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

67. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista,* the Court should accordingly order that within one day, Respondent DHS must release Petitioner.

Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

III. The BIA's Application of Mandatory Detention to Noncitizens Like Petitioner Violates Substantive and Procedural Due Process

68. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention."). This fundamental due process protection applies to all noncitizens within the United States, including both removable and inadmissible noncitizens. *See id.* at 693; *Plyler v. Doe*, 457 U.S. 202, 212 (1982); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

69. Absent adequate procedural protections, substantive due process requires a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690; *accord, e.g.*, *Torralba v. Knight*, No. 2:25-cv-1366, 2025 WL 2581792, at *12 (D. Nev. Sept. 5, 2025) (describing the standard for a substantive due process violation); *Fernandez v. Lyons*, No. 8:25-cv-506, 2025 WL 2531539, at *4 (D. Neb. Sept. 3, 2025) (same). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. Thus, to withstand constitutional

scrutiny, the nature and duration of mandatory immigration detention must be reasonably related to these purposes.

70. In *Demore*, the Supreme Court upheld the constitutionality of § 1226(c) against a facial challenge, specifically citing evidence that had been before Congress about noncitizens with criminal convictions. 538 U.S. at 518-520. This justification does not apply, however, to noncitizens with no criminal record whatsoever who have lived in the community for years. The broad policy set forth in *Matter of Yajure Hurtado* is not reasonably related to the purposes of prevent danger to the community or flight risk and violates substantive due process.

71. Additionally, procedural due process protects noncitizens against deprivation of liberty without adequate procedural protections, including notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1367 (2025); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). In determining the proper procedure to protect a detained noncitizen's procedural due process rights under the Fifth Amendment, courts apply the three-part balancing test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), weighing (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and

administrative burdens that the additional or substitute procedural requirement would entail." *Black v. Decker*, 103 F.4th 133, 147-48 (2d Cir. 2024); *Gayle v. Warden Monmouth C'ty Corr. Facility*, 12 F. 4th 321, 331 (3d Cir. 2021); *Hernandez-Lara*, 10 F.4th at 28; *Velasco Lopez*, 978 F.3d at 851 (all quoting *Mathews*, 424 U.S. at 335). Here, the BIA's interpretation of the statute to require detention of all people in the United States without having been admitted deprives them of their liberty without any individualized process to determine whether such detention is necessary to prevent flight risk or danger to the community, and violates due process.

72. First, the "importance and fundamental nature" of an individual's liberty interest is well-established. *United States v. Salerno*, 481 U.S. 739, 750 (1987); *see also Ashley*, 288 F. Supp. at 670 ("[F]reedom from confinement is a liberty interest of the highest constitutional import."). For people "who can face years of detention before resolution of their immigration proceedings, 'the individual interest at stake is without doubt particularly important.'" *Linares Martinez v. Decker*, No. 18-cv-6527 (JMF), 2018 WL 5023946 at *3 (S.D.N.Y. Oct. 17, 2018).

73. Weighing this factor in *Velasco Lopez*, the Second Circuit found the private interest to be "on any calculus, substantial," observing that the petitioner, "could not maintain employment or see his family or friends or others outside normal visiting hours. The use of a cell phone was prohibited, and he had no access to the

internet or email and limited access to the telephone." 978 F.3d at 851-52. Similarly, the First Circuit found a substantial private liberty interest for the petitioner in *Hernandez-Lara*, noting that the petitioner there was incarcerated "alongside criminal inmates" at a jail where "she was separated from her fiancé and unable to maintain her employment." 10 F.4th at 28.

74. Second, absent any individualized bond hearing, people will be detained despite not being a danger to the community or a flight risk, because there is no mechanism to determine whether their detention is necessary. *See, e.g.*, *Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154, -- F. Supp. 3d --, at *8 (D. Minn. May 21, 2025) (noting that lack of consideration of "individualized or particularized facts . . . increases the potential for erroneous deprivation of individuals' private rights"); *Ashley*, 28 F. Supp. 2d at 670 (finding a procedural due process violation because "the Government has not proved that Petitioner presents an identified and articulable threat to an individual or the community so as to justify his continued detention"). A bond hearing would have significant value because it is designed to assess the individualized facts of each case and determine whether less restrictive measures can fulfill the same goals.

75. Finally, the burden on the government of returning to the longstanding practice of holding bond hearings for people like Petitioner does not outweigh the liberty interest at stake. To the contrary, the government has an interest in

"minimizing the enormous impact of incarceration in cases where it serves no purpose." *Velasco Lopez*, 978 F.3d at 854; *see also Hernandez-Lara*, 10 F.4th at 33 (noting that "limiting the use of detention to only those noncitizens who are dangerous or a flight risk may save the government, and therefore the public, from expending substantial resources on needless detention"). Additionally, "unnecessary detention imposes substantial societal costs. . . . The needless detention of those individuals thus separates families and removes from the community breadwinners, caregivers, parents, siblings and employees. Those ruptures in the fabric of communal life impact society in intangible ways that are difficult to calculate in dollars and cents." *Hernandez-Lara*, 10 F.4th at 33 (citation and internal quotation marks omitted). The cost to the government and society of detaining people unnecessarily for long periods of time is greater than the cost of providing individualized hearings, and weighs in favor of additional procedural protections.

76. At these bond hearings, due process requires that the Government bear the burden of proof by clear and convincing evidence. *See Gayle*, 12 F.4th at 332 ("[W]hen such a severe deprivation is at issue, the Government must bear the burden of proof."). "A standard of proof serves to allocate the risk of error between the litigants and reflects the relative importance attached to the ultimate decision." *German Santos v. Warden Pike C'ty Corr. Facility*, 965 F.3d 203, 213 (citing *Addington v. Texas*, 441 U.S. 418, 423 (1979)). Therefore, when the Third Circuit

has ordered a constitutionally-required bond hearing, it is placed the burden on the government by clear and convincing evidence. *German Santos*, 965 F.3d at 214; *Guerrero-Sanchez v. Warden York C'ty Prison*, 905 F.3d 208, 224 & n.12 (3d Cir. 2018), *abrogated on other grounds by Johnson v. Arteaga-Martinez*, 596 U.S. 572 (2022). Other circuit courts have similarly held that due process requires this allocation of the burden in bond hearings for noncitizens like petitioner, who were then detained under § 1226(a). *Hernandez-Lara*, 10 F.4th at 39-40; *Velasco Lopez*, 978 F.3d at 855-56. Thus, even if the statute requires detention without a bond hearing, due process requires a hearing at which the government bears the burden by clear and convincing evidence.

FIRST CLAIM FOR RELIEF
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

77. Petitioner re-alleges and incorporates by reference the above paragraphs.

78. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility. Specifically, it does not apply to Martin Perez Vasquez, who has been living in the United States since August 7, 2021, prior to being to being apprehended detained by respondents on December 10, 2025.

79. The fact that Martin Perez Vasquez was previously detained and released at the border does not undermine this conclusion. First, Martin was released on his own recognizance at the border pursuant to 8 U.S.C. § 1226, not paroled pursuant to 8 U.S.C. § 212(d)(5). *See Matter of Cabrera-Fernandez*, 28 I&N Dec. 747, 749 (BIA 2023) (describing this distinction). Therefore, he was never treated as an "arriving alien" or subject to the "entry fiction" that comes with parole, "whereby noncitizens are physically permitted to enter the country but are nonetheless treated for legal purposes as if stopped at the border." *Diaz Martinez*, 2025 WL 2084238, at *3 (quoting *Dep't of Homeland Sec. v. Thuraissigam*, 591 U.S. 103, 139 (2020)). Therefore, the procedural history of Martin's case shows that it is distinguishable from *Matter of Q. Li* and falls squarely within the scope of 8 U.S.C. § 1226(a). *Diaz Martinez*, 2025 WL 2084238, at *4; *Gomes*, 2025 WL 1869299, at *8; *accord Rosado*, 2025 WL 2337099, at *6.

80. In any event, that initial arrest "is not what is at issue in this case," rather it is his 2025 arrest and detention. *See Lopez Benitez*, 2025 WL 2371588. Even if Martin was "seeking admission" within the meaning of § 1252(b)(2)(A) at the time of his entry and initial apprehension, he was no longer engaged in that "present-tense action" when he was arrested in Philadelphia on December 10, 2025, and therefore no longer meets the requirements of § 1252(b)(2)(A) discussed above. *See Diaz Martinez*, 2025 WL 2084238, at *6.

81. Martin is detained under § 1226(a) and is eligible for release on bond. Respondents' unlawful application of § 1225(b)(2) to Petitioner violates the INA.

SECOND CLAIM FOR RELIEF
Violation of Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19
Unlawful Denial of Release on Bond

82. Petitioner re-alleges and incorporates by reference the above paragraphs.

83. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

84. The regulation at 8 C.F.R. § 1003.19 lays out bond procedures, and § 1003.19(h)(2) delineates categories of noncitizens who are subject to mandatory detention and not entitled to a bond hearing. The fact that noncitizens within the United States who are subject to inadmissibility grounds are not included on this list

shows that the agencies did not intend them to be subject to mandatory detention. The BIA's interpretation thus violates the regulations and unlawfully denies Petitioner a bond hearing.

THIRD CLAIM FOR RELIEF

Violation of the Administrative Procedure Act Contrary to Law and Arbitrary and Capricious Agency Policy

85. Petitioner re-alleges and incorporates by reference the above paragraphs.

86. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

87. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility. Specifically, it does not apply to Martin, who has been living in the United States since August 2021 prior to being to being apprehended and placed into removal proceeding by respondents. Martin is detained under § 1226(a) and is eligible for release on bond.

88. In taking a contrary position, the BIA has reversed decades of prior practice, and "would expand § 1225(b) face beyond how it has been enforced historically, potentially subjecting millions more undocumented immigrants to

mandatory detention, while simultaneously narrowing § 1226(a) such that it would have extremely limited (if any) application." *Lopez Benitez*, 2025 2371588, at *8. Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

89. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

Violation of the *Maldonado Bautista* Declaratory Judgment

90. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

91. Petitioner is a *Maldonado Bautista* class member because he (1) entered the United States without inspection; (2) is currently detained not "upon arrival," but instead after being apprehended in the interior of the United States in December 2025; and (3) is not subject to mandatory detention because he has no criminal convictions, is not subject to expedited removal, and does not have a final order of removal.

92. As a *Maldonado Bautista* class member, he is entitled to a bond hearing.

FOURTH CLAIM FOR RELIEF
Violation of the Fifth Amendment Due Process Clause
Substantive Due Process

93. Petitioner re-alleges and incorporates by reference the above paragraphs.

94. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Substantive due process requires that immigration detention without a bond hearing be reasonably related to the goals of ensuring the appearance of noncitizens at future proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

95. The application of 8 U.S.C. § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

FIFTH CLAIM FOR RELIEF
Violation of the Fifth Amendment Due Process Clause
Procedural Due Process

96. Petitioner re-alleges and incorporates by reference the above paragraphs.

97. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Courts apply the *Mathews v. Eldridge* balancing test to determine what procedures the due process clause requires. *Gayle*, 12 F.4th at 331.

98. The first factor is the private interest that will be affected by the official action. *Id.* Here, the deprivation of Petitioner's liberty is a particularly weighty interest. Mr. Perez Vasquez will be able to Adjust Status using his SIJS status as soon as his priority date becomes current and a visa becomes available. His priority date is March 21, 2022, and the December 2025 Visa Bulletin published by the U.S. Department of State has already reached February 15, 2021, meaning immigrants with approved SIJS status with a priority date before February 15, 2021, are able to apply for Permanent Residency in the United States, known as the "green card." If the Visa Bulletin continues to move forward approximately one month per month in real time, Mr. Perez Vasquez will be able to apply for Permanent Residency in January of 2027.

99. Mr. Perez Vasquez will lose his ability to apply for Permanent Residency via SIJS if he is removed from the U.S. by ICE.

100. The second factor is the risk of erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional safeguards. *Id.* Here, there is a great risk of unnecessary detention because the BIA's

interpretation of the statute does not permit any individualized determination of whether detention during removal proceedings is necessary. *See Ashley*, 288 F. Supp. 2d at 670. At a hearing, Petitioner could show that his detention is not necessary because he is not a risk to public safety and he is not a flight risk.

101. A hearing at which the government bears the burden of proof by clear and convincing evidence would protect the substantial liberty interest at stake. *German Santos*, 965 F.3d at 213-14.

102. The final factor is the Government's interest. *Gayle*, 12 F.4th at 331. The government has no legitimate interest in detaining Petitioner when detention is not necessary to ensure appearance at future hearings or protect the community, and less restrictive measures like a reasonable bond would serve those purposes. *Hernandez-Lara*, 10 F.4th at 32-33; *see Ousman D. v. Decker*, No. 20-9646, 2020 WL 5587441, at *4 (holding that due process requires consideration of less restrictive alternatives to detention that would address the government's legitimate purpose); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241-42 (W.D.N.Y. 2019) (same). Therefore, the government does not have an interest in detaining Petitioner without a bond hearing that outweighs his substantial liberty interest in such an individualized determination.

103. Respondents' detention of Petitioner without any hearing to determine whether that detention is necessary violates procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;

2) Declare that Petitioner's continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

3) Issue a Writ of Habeas Corpus and order Petitioner's immediate release from custody;

4) In the alternative, hold a bond hearing at which the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;

5) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

6) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

Date December 15, 2025

Justin Mixon, Esq.
453 Johnson Street, Suite 100
Jenkintown, PA 19046

justinmixon@mixonlegal.net
215-692-2262

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys, and I have discussed the claims with Petitioner's legal team. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

Date December 15, 2025

Justin Mixon, Esq.
453 Johnson Street, Suite 100
Jenkintown, PA 19046
justinmixon@mixonlegal.net
215-692-2262

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Martin PEREZ-VASQUEZ, Petitioner, v. J.L. JAMISON, Warden, Federal Detention Center, Philadelphia; MICHAEL T. ROSE, Acting Field Office Director, Immigration and Customs Enforcement, Enforcement and Removal Operations, Philadelphia Field Office; KRISTI NOEM, Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; and DEPARTMENT OF HOMELAND SECURITY. Respondents.	Case No. **CERTIFICATE OF SERVICE**

CERTIFICATE OF SERVICE: DELIVERED BY MAIL

I, Justin Mixon, certify that on the date below I placed a copy of document, the **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS,** and all attachments in first-class mail to the recipients below:

ICE Field Office Philadelphia
Michael T. Rose, Acting Director
114 N. 8th Street
Philadelphia, PA 19107

U.S. Attorney General's Office
Pamela Bondi, Attorney General
950 Pennsylvania Ave NW
Washington, DC 20530

Federal Detention Center
J.L. Jamison, Warden
700 Arch Street
Philadelphia, PA 19106

U.S. Dept. of Homeland Security
Kristi Noem, Secretary
2707 Martin Luther King Jr Ave SE
Washington, DC 20528

Date December 15, 2025

Justin Mixon, Esq.
453 Johnson Street, Suite 100
Jenkintown, PA 19046
justinmixon@mixonlegal.net
215-692-2262