

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

WILFRIDO LUIS ROMERO GUAMAN,

Petitioner,


v.

MATTHEW HLADIK, Area Port Director,
Area Port of Portland, Maine, Office of Field
Operations, U.S. Customs and Border
Protection, DERRICK STAMPER, Chief
Patrol Agent, Houlton Sector, U.S. Border
Patrol, RODNEY SCOTT, Commissioner,
U.S. Customs and Border Protection, DAVID
WESLING, Acting Field Office Director,
Boston Field Office, Enforcement and
Removal Operations, U.S. Immigration and
Customs Enforcement, TODD LYONS,
Acting Director, U.S. Immigration and
Customs Enforcement, KRISTI NOEM,
Secretary, U.S. Department of Homeland
Security, PAMELA BONDI, Attorney
General, U.S. Department of Justice,

Respondents.

Case Number:

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
(Expedited Consideration Requested)

1. Petitioner Wilfrido Luis Romero Guaman is a noncitizen from Ecuador. Exhibit 1 (Ecuadorian Passport).
2. Petitioner lives in Framingham, Massachusetts.
3. On information and belief, in about May 2022 in Ecuador, Petitioner was kidnapped, taken to a nearby forest, and brutally beaten on account of 



4. Upon information and belief, Petitioner fled Ecuador with his wife and child in fear for his life and safety on or about July 20, 2022.

5. Upon information and belief, Petitioner entered the United States without inspection on about August 20, 2022.

6. Petitioner traveled to the state of Massachusetts, where he has resided with his wife and minor child ever since.

7. On information and belief, on Saturday, December 13, 2025, Petitioner stopped to use the restroom at a gas station along Route 1 near Brunswick, Maine, and was stopped by local police as he pulled out of the gas station.

8. On information and belief, local police called U.S. Border Patrol agents to inquire about Petitioner's immigration status.

9. On information and belief, U.S. Border Patrol agents arrived to the scene and arrested Petitioner.

10. On information and belief, the agents did not have an administrative warrant at the time of the arrest.

11. On information and belief, Petitioner was transported to the U.S. Border Patrol Calais Station in Calais, Maine.

12. On December 14, 2025, Petitioner called family members by telephone and reported that he was being held by U.S. immigration agents in Calais, Maine. Family members have not received any additional calls from Petitioner.

13. On information and belief, Petitioner is currently being held in CBP custody in Calais, Maine.

14. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(1), including because Petitioner does not meet the criteria for Expedited Removal. *See Aguilar Guerra v. Joyce*, No. 25-cv-00534, 2025 WL 2986316, at *2 (D. Me. Oct. 23, 2025).

15. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), including because, as a person already present in the United States, Petitioner is not presently “seeking admission” to the United States. *See Chogllo Chafila v. Scott*, No. 25-cv-00437, 2025 WL 2688541, at *4–9 (D. Me. Sept. 21, 2025); *Romero v. Hyde*, 796 F. Supp. 3d 271, 281-88 (D. Mass. 2025).

16. On information and belief, Petitioner was not, at the time of arrest, paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and therefore Petitioner could not “be returned” under that provision to mandatory custody under 8 U.S.C. § 1225(b) or any other form of custody. Petitioner is not subject to mandatory detention under § 1225 for this reason as well.

17. Instead, as a person arrested inside the United States and held in civil immigration detention, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. *See Chogllo Chafila*, 2025 WL 2688541, at *2–9 (collecting cases); *Romero*, 795 F. Supp. 3d at 281-88.

18. Petitioner is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because he has not been convicted of any crime that triggers such detention. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).

19. Accordingly, Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a).

20. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a custody redetermination hearing (colloquially called a “bond hearing”) with strong procedural protections. *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); 8 C.F.R. §§ 236.1(d) (2025), 1003.19(a)-(f) (2025).

21. Petitioner requests such a bond hearing.

22. However, on September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals issued a decision which purports to require the Immigration Court to unlawfully deny a bond hearing to all persons such as Petitioner.¹

23. The responsible administrative agency has therefore predetermined that Petitioner will be denied a bond hearing.

24. Petitioner is being irreparably harmed by his ongoing unlawful detention without a bond hearing. *See Chilibingua Yumbillo v. Stamper*, No. 25-cv-479, 2025 WL 2783642, at *3–4 (D. Me. Sept. 30, 2025) (no exhaustion requirement because “many months of potentially unlawful detention” constitutes “irreparable harm”); *Romero*, 795 F. Supp. 3d at 280 (no exhaustion required because “[o]bviously, the loss of liberty is a . . . severe form of irreparable injury” (citation omitted)); *Flores-Powell v. Chadbourne*, 677 F. Supp. 2d 455, 463 (D. Mass. 2010) (declining to require administrative exhaustion, including because “[a] loss of liberty may be an irreparable harm”); *cf. Brito*, 22 F.4th at 256 (citing *Bois v. Marsh*, 801 F.2d 462, 468 (D.C. Cir. 1986), for proposition that “exhaustion might not be required if the petitioner were challenging her incarceration . . . or the ongoing deprivation of some other liberty interest” (cleaned up)).

25. The Immigration Court lacks jurisdiction to adjudicate the constitutional claims raised by Petitioner, and any attempt to raise such claims would be futile. *See Flores-Powell*, 677 F. Supp.

¹ The BIA’s reversal and newly revised interpretation of the statute are not entitled to any deference. *See Loper Bright Ent. v. Raimondo*, 603 U.S. 369, 412-13 (2024); *see also Chogollo Chafra*, 2025 WL 2688541, at *7-8 (declining to defer to the BIA’s decision in *Yajure Hurtado*).

2d at 463 (holding that “exhaustion is excused by the BIA’s lack of authority to adjudicate constitutional questions and its prior interpretation” of the relevant statute).

26. There is no statutory requirement for Petitioner to exhaust administrative remedies. *See Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *4 (D. Mass. July 7, 2025) (“[E]xhaustion is not required by statute in this context.”).

27. Accordingly, there is no requirement for Petitioner to further exhaust administrative remedies before pursuing this Petition. *See Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, (1st Cir. 1997) (explaining that, where statutory exhaustion is not required, administrative exhaustion is not required in situations of irreparable harm, futility, or predetermined outcome).

28. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).

29. Venue is proper because Petitioner was detained in Maine and on information and belief is currently detained in the District of Maine.

30. The U.S. Department of Homeland Security (“DHS”) is an executive department of the government of the United States.

31. U.S. Customs and Border Protection (“CBP”) is a component of DHS. The U.S. Border Patrol and the CBP Office of Field Operations (“OFO”) fall within CBP.

32. U.S. Customs and Immigration Enforcement (“ICE”) is a component of DHS. ICE Enforcement and Removal Operations (“ERO”) falls within ICE.

33. The U.S. Department of Justice (“DOJ”) is an executive department of the government of the United States. The Executive Office of Immigration Review (“EOIR”) is a component within DOJ. Immigration Courts and the Board of Immigration Appeals fall within EOIR.

34. Matthew Hladik is Area Port Director for the Area Port of Portland, Maine, for the Office of Field Operations of CBP. He is being sued in his official capacity. He is Petitioner's immediate and legal custodian.

35. Respondent Derrick Stamper is the Chief Patrol Agent for the Houlton Sector of the U.S. Border Patrol. He is being sued in his official capacity. He is Petitioner's immediate and legal custodian.

36. Respondent Rodney Scott is the Commissioner of CBP. He is being sued in his official capacity. He is also Petitioner's immediate and legal custodian.

37. Respondent David Wesling is the Field Office Director for the Boston Field Office of ICE. He is being sued in his official capacity. He is also Petitioner's legal custodian.

38. Respondent Todd Lyons is the Acting Director of ICE. He is being sued in his official capacity. He is also Petitioner's legal custodian.

39. Respondent Kristi Noem is the Secretary of DHS. She is being sued in her official capacity. She is also Petitioner's legal custodian.

40. Respondent Pamela J. Bondi is the United States Attorney General, and, as such, the head of DOJ. She is being sued in her official capacity. She oversees the Immigration Courts and the Board of Immigration Appeals. She is also Petitioner's legal custodian.

41. All respondents are named in their official capacities. One or more of the respondents is Petitioner's immediate custodian.

CLAIMS FOR RELIEF

COUNT ONE

**Violation of 8 U.S.C. § 1226(a) and Associated Regulations
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a) and Associated Regulations)**

42. Because Petitioner was arrested inside the United States after being admitted to the country, he may only be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

43. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. §§ 236.1(d) (2025), 1003.19(a)-(f) (2025).

44. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

45. Petitioner's continuing detention is therefore unlawful.

COUNT TWO

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

46. Because Petitioner is a person arrested inside the United States and is only 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 Petitioner 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.

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

48. Petitioner's continuing detention is therefore unlawful.

COUNT THREE

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

49. "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).

50. 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.

51. “[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); see *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”); cf. *DHS 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” (citation omitted)).

52. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690.

53. The Supreme Court has thus “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*, 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).

54. Petitioner was arrested inside the United States and is being held without being provided any individualized detention hearing.

55. Petitioner's continuing detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

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

56. Because Petitioner is not being provided a bond hearing, the government is not taking 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).

57. Petitioner's detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

COUNT FIVE
Violation of 8 U.S.C. § 1226(a)
(Failure to Obtain Administrative Warrant)

58. Petitioner could only be detained under 8 U.S.C. § 1226(a), if at all, "[o]n a warrant issued by" DHS.

59. On information and belief, Respondents detained Petitioner without obtaining an administrative warrant, in direct violation of the statute.

60. Petitioner's detention is therefore unlawful under 8 U.S.C. § 1226(a).

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of Maine;

- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted;
- (4) Declare that Petitioner's detention is unlawful;
- (5) Issue a Writ of Habeas Corpus ordering Respondents
 - (a) to immediately release Petitioner from detention, or, if at the time of the habeas hearing the Court has already ordered Petitioner released under its inherent Article III authority, not to re-detain Petitioner, or
 - (b) in the alternative, to provide Petitioner an individualized bond hearing before an Immigration Judge on danger to the community and flight risk under 8 U.S.C. § 1226(a) and *Hernandez-Lara*, 10 F.4th at 41, at a time and in a manner that places Petitioner in the same position he would be if not for the Respondents' unlawful conduct, and, if the Immigration Judge grants bond, to immediately accept payment of the bond and release Petitioner from detention.
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted this 15th day of December, 2025.

Wilfrido Luis Romero Guaman,

By and through his Counsel,

/s/ Talia K. Rothstein

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Counsel for Petitioner

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

I represent Petitioner, Wilfrido Luis Romero Guaman, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of our knowledge.

Respectfully submitted this 15th day of December, 2025.

/s/ Talia K. Rothstein

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