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

Jeyson Estuardo Tobar Tovar
Petitioner,

v.

Kristi Noem, Secretary of Dept. of Homeland
Security;
Pamela Bondi, Attorney General of the U.S.;
Todd Lyons, Director of Immigration and
Customs Enforcement;
Paul McBride, Field Office Director of
Enforcement and Removal, Houston;
Warden, Houston Contract Detention Facility
Respondents.

Civil Case No. 25-6056

**PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241**

Petitioner, Jeyson Estuardo Tobar Tovar (hereinafter "Petitioner"), by and through undersigned counsel, respectfully submits this petition and states:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant writs of habeas corpus to persons held in custody in violation of the Constitution, laws, or treaties of the United States.
2. Petitioner is currently in the custody of the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), within the Southern District of Texas,

Houston Division, at the Houston Contract Detention Facility, 15850 Export Plaza Dr, Houston, TX 77032.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) and established habeas corpus principles because Petitioner is detained within this District and his immediate custodian is located here.

II. PARTIES

4. Petitioner is a native and citizen of Guatemala, born on [REDACTED] in San José, Escuintla, Guatemala. He is currently detained by ICE at the Houston Contract Detention Facility, 15850 Export Plaza Dr, Houston, TX 77032.
5. Respondents Noem, Bondi, Lyons, and McBride are federal officers with legal custody over Petitioner and have the ability to determine his detention.
6. Respondent Warden of Houston Contract Detention Facility, a private detention facility owned and operated by CoreCivic, is named as the direct custodian of the Petitioner.

III. FACTUAL BACKGROUND

7. Petitioner's early life in Guatemala was marked by extraordinary hardship and trauma.
[REDACTED]
[REDACTED]
8. Shortly thereafter, Petitioner's mother—then the family's primary wage earner—was forced by economic necessity and fear to relocate to the United States, leaving Petitioner in Guatemala in the care of his siblings and his paternal grandmother.
9. Petitioner grew up in an environment characterized by poverty, instability, and exposure to violence, conditions that severely endangered his safety and well-being.

10. At the age of twelve (12), fearing further harm and lacking adequate protection, Petitioner fled Guatemala and entered the United States on or about August 4, 2012, at or near Eagle Pass, Texas, as an Unaccompanied Alien Child (UAC). *See* Notice to Appear. On August 8, 2012, approximately four days after his entry, Petitioner was formally placed into the custody of the Office of Refugee Resettlement (ORR) pursuant to the Trafficking Victims Protection Reauthorization Act. *See* Notice of Custody Determination (“On 08/08/2012, custody status/conditions for release were reconsidered by: DHS Official. The results of the redetermination/reconsideration are: Other: transfer physical custody to ORR. Any previous bond cancelled.”)
11. After his arrival, Petitioner previously filed an asylum application as a UAC, reflecting a well-founded fear of persecution should he be returned to Guatemala. His application has since been referred to the Immigration Court for proceedings.
12. Petitioner has since established deep roots in the United States, including the birth of his United States citizen child, Jaden, born December 23, 2023.
13. Jaden depends on Petitioner for financial, emotional, and parental support, and Petitioner’s continued detention and potential removal would cause exceptional and extremely unusual hardship to his U.S. citizen child.
14. Petitioner has paid the required filing fee in Immigration Court and intends to submit Form EOIR-42B (Application for Cancellation of Removal for Certain Non-Permanent Residents).
15. Upon release, Petitioner intends to pursue Cancellation of Removal in conjunction with asylum relief, demonstrating his intent to lawfully present all claims before the Immigration Court.

16. Petitioner's pursuit of multiple forms of immigration relief underscores his good faith, diligence, and intent to comply with all court appearances and conditions of supervision.
17. On December 8, 2025, an Immigration Judge sitting in Conroe, Texas, determined that the Immigration Court lacked jurisdiction over Petitioner's bond redetermination request pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). He did so without a hearing on the matter.
18. In *Matter of Yajure Hurtado*, the Board of Immigration Appeals adopted a broad statutory interpretation concluding that many noncitizens who are present in the United States without having been inspected and admitted (or paroled) are treated as "applicants for admission" governed by INA § 235(b)(2)(A), and therefore Immigration Judges lack authority to conduct bond hearings or grant bond under INA § 236(a) for that category.
19. The Immigration Judge's finding of no bond jurisdiction underscores that Petitioner's detention is not tethered to any available mechanism for individualized liberty adjudication, further rendering continued detention arbitrary and unreasonable.
20. Critically, *Matter of Yajure Hurtado* is procedurally distinct from Petitioner's case in ways that weigh strongly in favor of Petitioner's release.
21. Unlike the respondent in *Yajure Hurtado*, Petitioner entered the United States as an Unaccompanied Alien Child (UAC) and was paroled into the United States through the Office of Refugee Resettlement ("ORR").
22. Consistent with governing statutes and regulations, Petitioner timely filed his UAC asylum application with the USCIS Asylum Office, which initially exercised exclusive jurisdiction over the application pursuant to 8 U.S.C. § 1158(b)(3)(C) and 8 C.F.R. § 208.2(a)(1)(ii).

23. USCIS adjudicated Petitioner's UAC asylum application and thereafter referred the case to the Immigration Court, placing Petitioner in removal proceedings before the Executive Office for Immigration Review ("EOIR").
24. Petitioner's proceedings are now exclusively before the Immigration Court, and no aspect of his asylum claim is currently pending before the Asylum Office.
25. This procedural posture further demonstrates that Petitioner is not evading immigration proceedings, but instead is complying with the statutory framework established for UAC asylum seekers.
26. Continued detention where the Immigration Court adjudicates the merits of removability and relief, yet—under the Respondents' reading of *Matter of Yajure Hurtado*—the Petitioner is denied any opportunity for an individualized bond hearing, serves no legitimate governmental purpose, and violates due process.
27. The Immigration Judge's jurisdictional position was memorialized in a written order dated December 8, 2025, denying Petitioner's motion for bond redetermination without holding a bond hearing. The order states:

“Denied, because the Court in removal proceedings has sustained the charge that the respondent entered without inspection and admission or parole. Under the circumstances, the respondent has not established that the Court has jurisdiction to grant a bond in this case. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

The Court acknowledges recent orders of the United States District Court for the Central District of California in *Lazaro Maldonado Bautista v. Ernesto Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025). Upon review, the District Court granted partial summary judgment and most recently granted class certification. However, it appears that the District Court has not at this time issued a final, class-wide declaratory judgment or injunction, and instead has scheduled a status conference for January 16, 2026.

Under the circumstances, and consistent with the position of the Department of Justice, it would appear that the Court continues to be bound by *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The

request for bond is respectfully denied, although an additional bond request can be re-filed if and when the District Court issues a final, class-wide declaratory judgment or injunction.”

28. This order confirms that Petitioner has been categorically denied any opportunity for an individualized bond hearing, not based on flight risk or danger, but solely on a perceived lack of jurisdiction.
29. The Immigration Judge’s reliance on *Matter of Yajure Hurtado*—while simultaneously acknowledging ongoing federal district court litigation questioning that framework—demonstrates that Petitioner’s continued detention rests on an unsettled and contested legal theory, further underscoring the need for habeas relief.
30. Petitioner expressly contends that *Matter of Yajure Hurtado* was wrongly decided and should not be extended to mandate detention in Petitioner’s circumstances. As applied here, the categorical rule reflected in the December 8, 2025, order deprives Petitioner of any individualized determination of flight risk or danger and results in detention that is arbitrary and constitutionally excessive.
31. Even if Respondents contend that *Yajure Hurtado* constrains the Immigration Court, it cannot eliminate this Court’s habeas jurisdiction to remedy detention that violates the Constitution and laws of the United States.
32. Petitioner is currently subject to prolonged immigration detention without any meaningful individualized determination that his continued detention is necessary. He has been detained by the Respondents without a bond hearing since September 19, 2025.
33. Petitioner does not pose a danger to the community nor a flight risk, particularly in light of: his long residence in the United States; his pending and viable applications for immigration relief before the Immigration Court; his U.S. citizen child; and his demonstrated intention to comply with all immigration proceedings.

34. Continued detention under these circumstances violates the Due Process Clause of the Fifth Amendment.
35. Petitioner suffers ongoing irreparable harm from continued detention, including separation from his U.S. citizen child, emotional and psychological distress, and interference with his ability to prepare and pursue immigration relief.
36. No adequate remedy at law exists other than the issuance of a writ of habeas corpus.

IV. CAUSES OF ACTION

Count I – Due Process Violation: Unlawful Denial of Bond to Unaccompanied Alien Child Protected by the TVPRA

37. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.
38. Congress enacted the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) to provide heightened procedural and substantive protections to Unaccompanied Alien Children (UACs), recognizing their unique vulnerability.
39. Under the TVPRA and the Immigration and Nationality Act, UACs are not categorically subject to mandatory detention under INA § 235(b). Rather, UACs are statutorily eligible for discretionary release and bond determinations under INA § 236(a).
40. The statutory scheme governing UACs reflects Congress’s intent that custody decisions for such children—and former UACs placed in removal proceedings following ORR custody—be individualized, non-punitive, and guided by the child’s best interests and due process considerations.
41. Petitioner entered the United States as a UAC, was placed in the custody of the Office of Refugee Resettlement, and was thereafter released, consistent with the TVPRA’s protective framework.

42. Nothing in the INA or the TVPRA authorizes the government to later strip a former UAC of eligibility for an individualized bond determination based solely on the manner of entry, particularly where the individual has long resided in the United States and is pursuing lawful relief before the Immigration Court.
43. The Immigration Judge's categorical denial of bond jurisdiction pursuant to Matter of Yajure Hurtado ignores the statutory protections afforded to UACs under the TVPRA and improperly subjects Petitioner to mandatory detention inconsistent with INA § 236(a).
44. As applied to Petitioner, the detention framework endorsed in Matter of Yajure Hurtado conflicts with the TVPRA, exceeds the agency's statutory authority, and violates the Due Process Clause of the Fifth Amendment by denying Petitioner any meaningful opportunity to seek release on bond.
45. Continued detention without an individualized bond hearing is arbitrary, excessive, and not reasonably related to any legitimate governmental purpose.

Count II – Violation of Fifth Amendment (Due Process)

46. Petitioner realleges and incorporates all preceding paragraphs.
47. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law.
48. Petitioner's continued detention without a constitutionally adequate bond hearing places the burden on the wrong party and lacks the procedural safeguards required by due process.
49. Prolonged civil immigration detention without justification is punitive in nature and unconstitutional.

Count III – Excessive and Arbitrary Detention

50. Petitioner realleges and incorporates all preceding paragraphs.
51. Petitioner’s detention is excessive in relation to its purported purpose and is not reasonably related to ensuring appearance or protecting the community.
52. Less restrictive alternatives to detention, including release on recognizance or reasonable conditions, are available and appropriate.

Count IV – Entitlement to Injunctive Relief, Including a Temporary Restraining Order

53. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.
54. Petitioner has suffered and will continue to suffer irreparable harm as a result of Respondents’ actions, including unlawful deprivation of liberty, separation from his United States citizen child, and ongoing interference with his ability to pursue relief in removal proceedings meaningfully.
55. Petitioner has demonstrated a likelihood of success on the merits, including that Respondents’ application of *Matter of Yajure Hurtado* to deny any bond hearing conflicts with the TVPRA, exceeds statutory authority, and violates the Due Process Clause of the Fifth Amendment.
56. The balance of equities tips sharply in Petitioner’s favor, as continued detention imposes severe and irreparable harm on Petitioner and his family, while Respondents face no cognizable prejudice from providing a prompt bond hearing or releasing Petitioner under appropriate conditions.

57. An injunction is in the public interest, as it ensures compliance with congressional enactments, preserves constitutional safeguards, and prevents arbitrary civil detention without individualized review.
58. Absent immediate injunctive relief, including a temporary restraining order, Petitioner will remain subject to unlawful detention without any available mechanism for bond review, and will face severe prejudice, preventing him from fully presenting his case for relief.
59. Accordingly, Petitioner is entitled to injunctive relief, including a temporary restraining order and preliminary injunction, requiring Respondents to provide a prompt bond hearing pursuant to INA § 236(a) or, in the alternative, to release Petitioner from custody under reasonable conditions immediately.

V. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this habeas petition pursuant to 28 U.S.C. § 2241;
2. Declare that Respondents' continued detention of Petitioner without any opportunity for an individualized bond hearing violates the Due Process Clause of the Fifth Amendment and conflicts with the Trafficking Victims Protection Reauthorization Act;
3. Issue immediate injunctive relief, including a Temporary Restraining Order and Preliminary Injunction, requiring Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing pursuant to INA § 236(a), notwithstanding Matter of Yajure Hurtado, at which the government bears the burden of establishing by clear and convincing evidence that Petitioner poses a flight risk or danger;
4. Alternatively, order Petitioner's immediate release from custody under appropriate conditions of supervision;

5. Grant such other and further relief as the Court deems just and proper.

VI. CONCLUSION

This case presents a narrow but profound constitutional defect in the government's detention framework. Petitioner is a former unaccompanied alien child who was placed in the custody of the Office of Refugee Resettlement pursuant to the Trafficking Victims Protection Reauthorization Act and later placed in removal proceedings before the Immigration Court, which exercises jurisdiction over the merits of his applications for relief. Yet under Respondents' application of *Matter of Yajure Hurtado*, Petitioner has been categorically denied any opportunity for an individualized bond hearing—not because of flight risk or danger, but because the Immigration Court claims it lacks authority to consider his liberty at all.

The Constitution does not permit civil detention to persist in the absence of any neutral decisionmaker empowered to assess its necessity. Nor does the TVPRA permit the government to erase congressionally mandated protections for unaccompanied children through later procedural reclassification. As applied to Petitioner, the detention regime endorsed by *Matter of Yajure Hurtado* conflicts with the TVPRA, exceeds statutory authority, and violates the Due Process Clause of the Fifth Amendment.

This Court need not invalidate *Matter of Yajure Hurtado* in its entirety to grant relief. It need only hold that the decision cannot be applied to detain a former unaccompanied child without any opportunity for a bond hearing under INA § 236(a). Because Petitioner continues to suffer irreparable harm from unlawful detention, and because no adequate remedy exists absent judicial intervention, habeas and injunctive relief are warranted.

Respectfully Submitted,
Jeyson Estuardo Tobar Tovar,
By His Counsel,

//s// Elizabeth Shaw

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Date: 12/16/2025

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

I represent Petitioner, Jeyson Estuardo Tobar Tovar, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: 12/16/2025

//s// Elizabeth Shaw

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

I represent Petitioner, Jeyson Estuardo Tobar Tovar, and submit this verification on his behalf. I hereby verify that the foregoing petition was served on Respondents via EM/CF on this day.

Date: 12/16/2025

//s// Elizabeth Shaw

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