

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

FABIAN ALMAZAN CRUZ 



Petitioner,

v.

KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; BRET BRADFORD, Director Houston ICE Field Office; RAYMOND THOMPSON, Warden of the Joe Corley Processing Center, U.S. Immigration and Customs Enforcement; and PAMELA BONDI, Attorney General of the United States, in their official capacities,

Respondents.

Case No: 4:25-cv-6061

---

**PETITION FOR WRIT OF HABEAS CORPUS**

This is a petition for a writ of habeas corpus filed on behalf of Mr. Fabian Almazan Cruz (“Mr. Almazan Cruz”) seeking relief to remedy his unlawful detention. Respondents are detaining Petitioner in violation of his constitutional due process rights and the Department of Homeland Security’s (“DHS”) statutory authority. Further, by subjecting Petitioner to unlawful and indefinite detention, Respondents also violate Petitioner’s Eighth Amendment rights by inflicting cruel and unusual punishment.

Petitioner has fully cooperated with Respondents in their pursuit of his arrest and detention. Petitioner is not a flight risk or a danger to the community.

On or about December 11, 2025, ICE agents stopped Petitioner, detained him, and placed

him in the custody of U.S. DHS Immigration and Customs Enforcement (“ICE”). He was first detained at the ICE Enforcement and Removal Operations (“ERO”) field office in Baltimore, Maryland.

Recent Board of Immigration Appeals (“BIA”) precedent, namely *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), strips the government of jurisdiction to issue a bond in Petitioner’s case. Thus, Petitioner’s detention could be indefinite if he pursues all forms of relief from removal available to him. In effect, Petitioner’s indefinite detention creates a chilling effect to deter Petitioner from pursuing all forms of relief from removal, as litigating his case may take years. His continued detention also hinders Petitioner’s ability to work with his counsel to mount a zealous defense against removal.

Petitioner submits that his prolonged detention is in violation of his constitutional rights. His detention is not justified under the Constitution or the Immigration and Nationality Act (“INA”). Petitioner seeks an order from this Court declaring his continued detention unlawful and ordering Respondents to hold a custody redetermination hearing or release Petitioner on parole or his own recognizance.

### **CUSTODY**

1. Petitioner is in physical custody of Respondents Bret Bradford, Field Office Director for Houston ICE Field Office, and Raymond Thompson, Warden of the Joe Corley Processing Center in Livingston, Texas. At the time of the filing of the initial habeas corpus petition, Petitioner is detained at the Joe Corley Processing Center in Livingston, Texas. Petitioner is under the direct control of Respondents and their agents. *See* Exhibit 1, Photo of ICE Detainee Locator on Dec. 15, 2025.

### **JURISDICTION**

2. This action arises under the Constitution of the United States, the Immigration and

Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

3. 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.

### **VENUE**

4. Venue is proper in the United States District Court for the Southern District of Texas, the judicial district in which Respondents, Raymond Thompson and Bret Bradford reside and where Petitioner is detained at the time of filing this petition. 28 U.S.C. § 1391(e). Venue remains proper under 28 U.S.C. § 1391(e), as it remains the judicial district where the defendants in the action reside and it is the location where a substantial part of the events giving rise to the claim occurred.

### **PARTIES**

5. Petitioner is a national and citizen of Mexico. Respondents have detained him pursuant to 8 U.S.C. § 1225, which permits DHS to detain certain noncitizens pending a decision on whether the noncitizen is removable from the United States.

6. Respondent Bradford is sued in her official capacity as the Director of the U.S. ICE Field Office of Houston, Texas, and he has immediate physical custody of Petitioner pursuant to the agency’s authority to detain noncitizens. He is a legal custodian of Petitioner.

7. Respondent Thompson is sued in his official capacity as the Warden of the Joe Corley Processing Center. Respondent Thompson is a legal custodian of Petitioner and has authority to release him.

8. Respondent Kristi Noem is sued in her official capacity as the Secretary of U.S. DHS. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, the component agency responsible for Petitioner’s detention. Respondent Noem is a legal custodian of Petitioner.

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

### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

10. Petitioner has exhausted his administrative remedies to the extent required by law.

11. Petitioner has fully cooperated with Respondents and has not delayed or obstructed his detention.

12. Even if Respondents contend that Petitioner has not exhausted his administrative remedies because he did not file a motion for custody and bond redetermination, the Court should waive the exhaustion requirement. Filing a motion for custody and bond redetermination in immigration court would be futile given that the Immigration Judge would rely on precedent from the Board of Immigration Appeals on to find that the immigration court does not have jurisdiction to redetermine Petitioner’s custody. Thus, filing a motion for custody and bond redetermination and subsequently appealing that decision would create an intolerable delay and would certainly result in the BIA affirming the IJ’s bond decision. *See Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000).

13. Petitioner’s only remedy is by way of this judicial action.

### **LEGAL FRAMEWORK**

14. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

15. First, 8 U.S.C. § 1226 authorizes DHS to detain noncitizens in standard (non-expedited) removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to the criminal grounds of mandatory detention, *see* 8 U.S.C. § 1226(c).

16. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

17. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

18. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

19. 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(a) was most recently amended earlier this year by the Laken Riley Act (“LRA”), Pub. L. No.119-1, 139 Stat. 3 (2025).

20. 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).

21. Thus, in the decades that followed, most people who entered without inspection and were

placed in standard removal proceedings (as opposed to expedited removal proceedings) received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

22. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. *See Hasan v. Crawford*, 2025 WL 2682255, at \*9 (E.D. Va. Sept. 19, 2025) (noting that the government’s approach to § 1225(b)(2) attempts to “upend decades of immigration practice,” as it has been DHS’s longstanding practice to apply 1226(a) to noncitizens who have crossed the border and are thereafter apprehended in the interior of the country).

23. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

24. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. 29 I&N Dec. at 218-19.

25. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities, including this court, in *Maldonado de Leon v. Baker*, 2025 WL 2968042, at \*7 (D. Md. Oct. 21, 2025) (finding that “noncitizens who have been present for

years, have never attempted to acquire legal entry or status, and are not actively doing so at the time of their detention, cannot be deemed to have been “seeking admission” at the time of their detention).<sup>1</sup> Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE. *See Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*).

26. The Respondents’ interpretation defies the plain text of the INA which demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

27. Section 1226(a) applies by default to all persons pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal proceedings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

28. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present in the country without admission or parole.

---

<sup>1</sup> *See also Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Pena v. Hyde*, 2025 WL 2108913 (D. Mass. July 28, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Orellana Juarez v. Moniz*, 2025 WL 1698600 (D. Mass. June 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez-Campos v. Raycroft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Cortes Fernandez v. Lyons*, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Palma Perez v. Berg*, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Jacinto v. Trump*, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Escalante v. Bondi*, 2025 WL 2212104 (D. Minn. July 31, 2025); *Zaragoza Mosqueda et al. v. Noem*, 2025 WL 2591530, at \*7 (C.D. Cal. Sept. 8, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Vasquez Garcia et al. v. Noem*, 25025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

29. By contrast, § 1225(b) applies to people arriving at United States ports of entry or who recently entered. 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). 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 v. Rodriguez*, 583 U.S. 281, 287 (2018).

30. Additionally, the Supreme Court has traditionally conceptualized a legal difference between “aliens seeking admission” and “aliens already in the country’ who are subject to removal proceedings” with 1225(b) applying to the former and 1226(a) applying to the latter. *Hasan*, 2025 WL 2682255, at \*8 (quoting *Jennings*, 583 U.S. at 289). And “this distinction makes sense in the broader context of U.S. immigration law,” which has traditionally afforded more rights to noncitizens in the interior of the United States versus those seeking admission at the borders. *Id.*

31. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended. *Accord Hasan*, 2025 WL 2682255, at \*8; *Maldonado de Leon v. Baker*, 2025 WL 2968042, at \*7 (D. Md. Oct. 21, 2025) (finding that “noncitizens who have been present for years, have never attempted to acquire legal entry or status, and are not actively doing so at the time of their detention, cannot be deemed to have been “seeking admission” at the time of their detention). Petitioner Maya Torres was not “seeking admission” when the Respondents detained him in Washington D.C. Instead, the discretionary detention procedures under § 1226(a) should apply to the Petitioner, who has resided in the United States for more than two decades. The Respondents are unlawfully imprisoning him without access to a meaningful custody redetermination.

32. For decades, courts deferred to reasonable agency interpretations of ambiguous statutes under *Chevron* deference. On June 8, 2024, the U.S. Supreme Court overturned *Chevron* in *Loper Bright*

*Enterprises v. Raimondo*, holding that the Administrative Procedure Act requires courts to exercise their own independent judgment in deciding whether an agency has acted within its statutory authority. 603 U.S. 369 (2024). In its decision, the Court emphasized that judges may not defer to an agency interpretation merely because a statute is ambiguous; instead, the courts must decide the best interpretation, giving respectful consideration - but not deference - to the Executive Branch. *Id.*; *accord Hasan*, 2025 WL 2682255, at \*9 n.11 (stating that “this court owes little deference to the BIA’s interpretation of the INA” and citing to *Loper Bright*).

33. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.”); *United States v. Morgan*, 193 F.3d 252, 266 (4th Cir. 1999) (when an agency fails to “afford an individual procedural safeguards required under its own regulations may result in the invalidation of the ultimate administrative determination).

34. To establish a due process violation, a petitioner must show that the agency’s violation prejudiced them. *Id.* at 267. Prejudice may “be presumed under certain specific circumstances,” including where “compliance with the regulation is mandated by the Constitution” and “where an entire procedural framework, designed to ensure the fair processing of an action affecting an individual is created but then not followed by an agency.” *Id.*; *see also Delgado-Corea v. Immigr. & Naturalization Serv.*, 804 F.2d 261, 263 (4th Cir. 1986) (approving of this analysis).

35. Here, the Petitioner is properly subject to § 1226(a). The statute itself and implementing regulations allow noncitizens detained under § 1226(a) to request and receive review of their custody

before an immigration judge. *See* 8 C.F.R. § 236.1(d), 8 C.F.R. § 1003.19, and 8 C.F.R. § 1236.1(d). The Respondents' unlawful classification of the Petitioner as a no-bond detainee deprives him of the procedural safeguards he is entitled to under § 1226(a), and prejudices him in his removal proceedings, as his access to counsel is limited and he cannot adequately prepare his applications for relief from removal from detention. Here, it is clear that the Respondent agencies are failing to comply with their own regulations to provide safeguards to detained individuals like the petitioner, which constitutes a violation of the *Accardi* doctrine.

### **STATEMENT OF FACTS**

36. Petitioner is a national and citizen of Mexico who entered the United States in 2010.

37. On or about December 11, 2025, Respondents' agents arrested Petitioner without a warrant for his arrest.

38. Petitioner was initially held at the Baltimore ICE Office in Baltimore, Maryland.

39. Petitioner is not a danger to the community or a flight risk. Petitioner also has a strong interest in remaining in the area to pursue relief in immigration court, in the form of EOIR-42B Non-Legal Permanent Resident Cancellation of Removal.

40. Petitioner has strong community ties, as he has two U.S. citizen children under 21 years old. Petitioner's minor children would likely suffer exceptional and extremely unusual hardship if he were forced to leave the United States.

41. Respondents' decision to detain Petitioner is not legally justifiable and is capricious and arbitrary. There is no better time for the Court to consider the merits of Petitioner's request for release.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **Violation of Fifth Amendment Right to Substantive and Procedural Due Process**

42. Petitioner incorporates by reference all preceding paragraphs.

43. Petitioner's detention under 8 U.S.C. § 1225 violates his substantive due process rights under the Fifth Amendment to the United States Constitution as it subjects him to arbitrary detention.

44. "Government detention violates the Fifth Amendment "unless the detention is ordered in a *criminal proceeding* with adequate procedural protections or, in certain special and narrow nonpunitive circumstances where a special justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas v. Davis*, 553 U.S. 678, 690 (2001) (internal citations and quotations omitted).

45. Here, there is no "special justification" which allows the Respondents to deny Petitioner the liberty to which he is entitled. Respondents have not alleged any "special justification" to support Petitioner's continued detention.

46. Detention for the duration of removal proceedings is only proper when the noncitizen (1) has been convicted of certain enumerated offenses, (2) has certain health-related issues, and (3) presents national security concerns, none of which apply to Petitioner. *See* 8 U.S.C. § 1226(c).

47. The government can also detain noncitizens who were originally in expedited removal proceedings under 8 U.S.C. § 1225 but then referred to the immigration court for 8 U.S.C. § 1229a removal proceedings for the duration of those proceedings. *See* 8 U.S.C. § 1225(b)(1)(B)(ii).

48. Further, the BIA's decision in *Matter of Yajure Hurtado* claims that the immigration judge lacks the jurisdiction to grant bond to any noncitizen who has entered the United States without being inspected and admitted or paroled based on 8 U.S.C. § 1225. According to the BIA, anyone who entered without inspection or parole, no matter how long present in the United States before encountering immigration authorities, are essentially subject to mandatory detention. 29 I&N Dec.

at 228.<sup>2</sup>

49. Substantive due process also affords Petitioner “a right to adequate food, shelter, clothing, and medical care . . . [and to] safety and freedom from bodily restraint.” *See Youngberg v. Romeo*, 457 U.S. 307, 315-18 (1982).

50. Without federal court action, Petitioner will be unable to leave immigration detention for months.

## COUNT TWO

### **Violation of Eighth Amendment Right to Protection from Cruel and Unusual Punishment**

51. Petitioner incorporates all preceding paragraphs by reference.

52. The Eighth Amendment to the U.S. Constitution prohibits the government from inflicting cruel and unusual punishment on individuals.

53. To state a cognizable claim under the Eighth Amendment, Petitioner must allege acts or omissions sufficiently harmful to show deliberate indifference to his needs. *See Estelle v. Gamble*, 429 U.S. 97, 106 (1976).

54. Even if no harm has occurred, the lack of safety in Petitioner’s detention conditions is sufficient for judicial intervention. *See Helling v. McKinney*, 509 U.S. 25, 33 (1993) (explaining that the Supreme Court and Courts of Appeals have recognized a remedy for unsafe conditions where a tragic event has not yet occurred, i.e. one need not wait for a traffic event to occur to file a claim for future harm under the Eighth Amendment).

55. Petitioner’s continued unlawful detention also constitutes cruel and unusual punishment under the Eighth Amendment because Petitioner is subject to mandatory, indefinite detention based solely

---

<sup>2</sup> Importantly, several federal district courts have rejected this argument as well as the arguments from *Matter of Yajure Hurtado*’s predecessor, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). *See Maldonado de Leon v. Baker*, 2025 WL 2968042, at \*7 (D. Md. Oct. 21, 2025) (finding that “noncitizens who have been present for years, have never attempted to acquire legal entry or status, and are not actively doing so at the time of their detention, cannot be deemed to have been “seeking admission” at the time of their detention); *see also Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025).

on Respondents' erroneous interpretation of 8 U.S.C. § 1225(b)(2). In at least 200 different cases, federal district courts throughout the United States have issued decisions rejecting Respondents' statutory interpretation and ordering noncitizen petitioners' release from immigration detention.

56. There are no safeguards in place to ensure that Respondents will be responsible custodians to the Petitioner in the long term, if he is forced to remain in detention for several months.

57. The stress and conditions of his unlawful detention, coupled with the loss of his family and support system, will undoubtedly exacerbate his health conditions. Accordingly, the Petitioner should be immediately released for humanitarian reasons, regardless of the constitutionality of the detention of the Petitioner.

58. Detainees may challenge their confinement's unconstitutional conditions through writs of habeas corpus, an avenue which the U.S. Supreme Court has never explicitly foreclosed. *See Preiser v. Rodriguez*, 411 U.S. 475, 499-500 (1973) (stating that when "a prisoner is put under additional and unconstitutional restraints during his lawful custody, it is arguable that habeas corpus will lie to remove the restraints making the custody illegal.").

59. Respondents' continued custody of Petitioner has transformed civil immigration detention into cruel and unusual punishment. Petitioner is eligible for relief from removal yet is indefinitely held in detention solely due to his manner of entry into the United States.

### **COUNT THREE**

60. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an order directing Respondents to show cause why the writ should not be

granted;

3. Issue an order prohibiting Respondents from moving Petitioner outside of this Court's jurisdiction or removing him from the United States during the pendency of adjudication of this petition;
4. Issue a writ of habeas corpus ordering Respondents to release Petitioner on his own recognizance or under parole, a low bond, or reasonable conditions of supervision;
5. Award Petitioner reasonable costs and attorney's fees;
6. Order Respondents to provide undersigned counsel notice of the government's intention to remove Petitioner to a third country if he is ultimately ordered removed to provide Petitioner the opportunity to object to his relocation, and,
7. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

*//S// Isabel Wojtowicz*

Isabel Wojtowicz

*Counsel for Petitioner*

Haynes Novick Kohn Immigration

1616 P St. NW, Ste. 400

Washington, D.C. 20036

Phone: 202-775-0145

Fax: 202-293-6230

Dated: 12/16/2025

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

I represent Petitioner, Fabian Almazan Cruz, 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.

Dated this 16th day of December 2025.

*//S// Isabel Wojtowicz*