UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

NOE NAHUN TORRES REYES [redacted]

Petitioner,

v.

PAMELA BONDI, Attorney General of the United States, KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; TODD LYONS, Acting Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; FIELD OFFICE DIRECTOR (OR ACTING DIRECTOR), U.S. Immigration and Customs Enforcement, Baltimore Maryland, in their official capacities,

Respondents.

Case No: 8:25-CV-4143

PETITION FOR WRIT OF HABEAS CORPUS

This is a petition for a writ of habeas corpus filed on behalf of Mr. Noe Nahun Torres Reyes ("Mr. Reyes") seeking relief to remedy his unlawful detention. Respondents are detaining Mr. Reyes in violation of his constitutional due process rights. Further, by subjecting Mr. Reyes to indefinite detention, Respondents also violate his Eighth Amendment rights by inflicting cruel and unusual punishment.

Mr. Reyes has fully cooperated with Respondents in their pursuit of his arrest and detention. Mr. Reyes is not a flight risk or a danger to the community. Mr. Reyes has no criminal convictions. Before his unlawful detention, Mr. Reyes was living with his wife and two U.S. citizen children, ages 15 and ten. He is the sole breadwinner in his family.

On or about December 14, 2025, Mr. Reyes was driving with his wife and children in Maryland. Law enforcement stopped the vehicle and detained Mr. Torres. He was subsequently transferred to the U.S. Immigration and Customs Enforcement ("ICE") Enforcement and Removal Operations ("ERO") field office in Baltimore, Maryland where he is currently being held. Mr. Reyes is now subject to removal proceedings before the Hyattsville Immigration Court in Hyattsville, Maryland.

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

Mr. Torres submits that his prolonged detention violates the plain text of the Immigration and Nationality Act ("INA") and its implementing regulations as well as his Fifth Amendment due process rights. He also asserts that his detention subjects him to cruel and unusual punishment under the Eighth Amendment. Mr. Torres seeks an order from this Court declaring his continued detention unlawful and ordering Respondents to immediately release Mr. Torres from custody, or in the alternative, allow Mr. Torres to have an individualized bond hearing such that he may post a bond and be released from their custody.

CUSTODY

1. Mr. Torres is in physical custody of Respondent Field Office Director, Baltimore ICE-ERO, as well as DHS-ICE, and DHS generally. At the time of the filing of this petition, Mr. Torres is detained at the U.S. ICE Baltimore Field Office in Baltimore, Maryland. Mr. Torres is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, the "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 Mr. Torres 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 District of Maryland, the judicial district in which Respondent Baltimore ICE ERO Director resides and where Mr. Torres is detained. 28 U.S.C. § 1391(e).

PARTIES

5. Mr. Torres is a national and citizen of Honduras who resides in Prince George's County, Maryland. 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 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 Mr. Torres.

7. 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 INA, and oversees ICE, the component agency responsible for Mr. Torres's detention. Respondent Noem is a legal custodian of Mr. Torres.

8. Respondent Todd Lyons is sued in his official capacity the Acting Director of ERO-ICE at DHS headquarters. He, too, is responsible for enforcement of the INA and oversees all ERO offices in the country. ERO is the DHS component responsible for Mr. Torres's detention. Respondent Lyons is a legal custodian of Mr. Torres.

9. The Baltimore Field Office Director (or Acting Director) for ICE-ERO is sued in his or her official capacity. *See* Fed. R. Civ. P. 17(d). This Respondent has immediate physical custody of Mr. Torres pursuant to the agency's authority to detain noncitizens. He or she is a legal custodian of Mr. Torres.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. Mr. Torres does not have administrative remedies to exhaust.

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

12. On September 5, 2025, the BIA published *Matter of Yajure Hurtado*, which strips immigration judges of their authority to issue bonds in cases such as Mr. Torres's. 29 I&N Dec. 216 (BIA 2025). This case is binding on immigration judges and an immigration judge would declare they had no authority to issue a bond.[1]

13. Even if Respondents contend that Mr. Torres has not exhausted his administrative remedies because he has not had a bond hearing nor appealed the anticipated refusal to hold a bond hearing, the Court should waive the exhaustion requirement as he raises serious constitutional concerns and there

[1] The exhaustion requirement serves to "[protect] administrative agency authority and [promote] judicial efficiency." *Kurfees v. INS*, 275 F.3d 332, 336 (4th Cir. 2001). These purposes would not be served by requiring Mr. Torres to request a bond that has no chance of success.

is no section in the INA requiring exhaustion of administrative remedies. *See Aguilar v. Lewis*, 50 F. Supp. 2d 539, 541 (E.D. Va. 1999) ("[T]here is no federal statute that imposes an exhaustion requirement on [noncitizens] taken into custody pending their removal."); *see also Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022) ("[W]here Congress had not clearly required exhaustion, sound judicial discretion governs") (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); *see also Guitard v. U.S. Secretary of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when ... a plaintiff has raised a 'substantial constitutional question'").

14. Further, Mr. Torres's detention is causing him irreparable harm, and the administrative agency has predetermined the issue that Mr. Torres would appeal, making his pursuit of this remedy futile. *See McCarthy v. Madigan*, 503 U.S. 140, 146-48 (noting exceptions to the exhaustion requirement include "irreparable harm" to the petitioner, where there is "some doubt as to whether the agency was empowered to grant effective relief," or where it would be futile because **"the administrative body is shown to be biased or has otherwise predetermined the issue before it"**) (emphasis added). This administrative remedy is clearly futile as the BIA has predetermined this issue and bound itself and all Immigration Judges to follow its authority on this matter.

15. Finally, Mr. Torres would remain in detention during the pendency of his appeal, subject to an intolerable delay, which would exacerbate the harm he and his family are facing while he is detained.

16. There are over 186,000 cases pending at the BIA with just 17 members on the BIA. Accordingly, immediate action from this court is required to prevent Mr. Torres's continued prolonged and unjustified detention.[2]

17. Mr. Torres's only remedy is by way of this judicial action.

[2] Executive Office for Immigration Review Adjudication Statistics, U.S. DEP'T OF JUSTICE, https://www.justice.gov/eoir/media/1344986/dl?inline (last updated July 31, 2025); Board of Immigration Appeals, U.S. DEP'T OF JUSTICE, https://www.justice.gov/eoir/board-of-immigration-appeals (last updated Sep. 18, 2025).

STATEMENT OF FACTS

18. Mr. Torres is a national and citizen of Honduras who entered the United States around January 2008.

19. On or about December 14, 2025, Respondents' agents arrested Mr. Torres during an outing with his family. His wife and two U.S. citizen children witnessed his arrest.

20. Mr. Torres is being held at the Baltimore ICE Office in Baltimore, Maryland.

21. Mr. Torres is not a danger to the community or a flight risk. He has no criminal convictions. Mr. Torres also has a strong interest in remaining in the area to pursue relief in immigration court, which if granted, would eventually permit him to pursue permanent residence status.

22. Mr. Torres is currently scheduled for a master calendar (preliminary) hearing before the Hyattsville Immigration Court in Hyattsville, Maryland on June 5, 2026, at 8:00 AM.[3]

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

LEGAL FRAMEWORK

24. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings.

25. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard 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 mandatory detention,

[3] Counsel would like to note that if Mr. Torres were not detained, the Hyattsville Immigration Court would be the proper venue for his removal proceedings. However, if he remains detained, his case will likely be transferred to a different venue, as the Hyattsville Immigration Court does not typically maintain a detained docket.

see 8 U.S.C. § 1226(c).

26. 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 § 1229a removal proceedings under 8 U.S.C. § 1225(b)(2).

27. Third, 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).

28. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).

29. Congress enacted the detention provisions at § 1226(a) and § 1225(b)(2) 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. Congress most recently amended § 1226 earlier this year with the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

30. Following IIRIRA's enactment, 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).

31. Thus, in the decades that followed, most people who entered without inspection and were placed in standard 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)).

32. 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.

33. 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.

34. On September 5, 2025, the BIA adopted the same position in a published decision, *Matter of Yajure Hurtado*. There, the BIA 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 bond hearings.

35. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities.[4] Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

36. The Respondents' interpretation defies the plain text of the INA, which demonstrates that § 1226(a), not § 1225(b), applies to people like Mr. Torres.

37. 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 hearings are held under § 1229a, to "decid[e]

[4] *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).

the inadmissibility or deportability of a[] [noncitizen]."

38. 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 without admission or parole.

39. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who are apprehended very close to the U.S. border. 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).

40. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Mr. Torres, who have already entered and were residing in the United States at the time they were apprehended.

41. 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.*

CLAIMS FOR RELIEF

COUNT ONE

Violation of the INA

42. Mr. Torres incorporates by reference the allegations of fact set forth in the preceding paragraphs.

43. 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. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

44. The application of § 1225(b)(2) to Mr. Torres unlawfully mandates his continued detention and violates the INA.

COUNT TWO

Violation of the Bond Regulations

45. Mr. Torres incorporates by reference the allegations of fact set forth in preceding paragraphs.

46. In 1997, after Congress amended the INA through IIRIRA, EOIR and 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 the immigration court under 8 U.S.C. § 1226 and its implementing regulations.

47. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Mr. Torres. Respondents' application of § 1225(b)(2) to Mr. Torres unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT THREE

Violation of Fifth Amendment Right to Substantive and Procedural Due Process

48. Mr. Torres incorporates by reference the allegations of fact set forth in preceding paragraphs.

49. Mr. Torres's detention violates his substantive due process rights under the Fifth Amendment to the United States Constitution as it subjects him to arbitrary detention.

50. "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) (emphasis in original).

51. There is no "special justification" which allows Respondents to deny the Mr. Torres the liberty to which he is entitled. Respondents have not alleged any "special justification" to support Mr. Torres's continued detention. Mr. Torres would otherwise be eligible for a reasonable bond considering his immigration history and equities.

52. Mr. Torres's detention also violates the Accardi Doctrine, as Respondent Bondi and EOIR are violating the bond regulations. *See Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *United States v. Morgan*, 193 F.3d 252, 266 (4th Cir. 1999); *see also Maldonado de Leon v. Baker*, 2025 WL 2968042 at *9-10 (D. Md. 2025)

53. Mr. Torres's continued detention and deprivation of a bond hearing (over which immigration judge should have jurisdiction) grossly deprives Mr. Torres of his procedural due process rights. This court applies the three-factor balancing test set out in *Matthews v. Eldridge* in the context of civil

immigration detention. *See, e.g.*, *Santos Garcia v. Garland*, No. 1:21-cv-742 (E.D. Va Mar. 31, 2022). The three factors are (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." *Matthews v. Eldridge*, 424 U.S. 319, 335 (1976).

54. Here, the factors weigh heavily in favor of Mr. Torres. First, he has a significant private interest at stake. Freedom from bodily restraint "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 at 630. Mr. Torres is being detained away from his family and without meaningful access to counsel to mount a zealous defense to removal from the United States.

55. As to the second factor, there is an enormous risk of the erroneous deprivation of Mr. Torres's liberty interest. In fact, it has already occurred. Mr. Torres is categorically not subject to mandatory detention under the INA, and an immigration judge with jurisdiction to hear his bond request would likely grant him bond, given his equities.

56. Regarding the third *Matthews* factor, the government does not have a significant interest in Mr. Torres's detention pursuant to the automatic stay provision. Mr. Torres is not a danger to the community or a flight risk. Mr. Torres has every incentive to show up to his immigration court proceedings as he is eligible to seek cancellation of removal under 8 U.S.C. § 1229b(B). In contrast to the enormous interest at stake for Mr. Torres, the government's interest is miniscule. On balance, the *Matthews v. Eldridge* factors weigh heavily in favor of Mr. Torres.

57. Respondents are violating Mr. Torres's due process rights by keeping him in detention for an unnecessary period as it deprives him of fundamental fairness in his removal proceedings. He will likely seek cancellation of removal, but his access to counsel is severely impugned by the temporary nature of his current detention in Baltimore and the unknown location to which he may be transferred.

It is extremely challenging to properly prepare and document these applications while Mr. Torres is detained and access to counsel is severely limited.

58. Without federal court action, Mr. Torres will likely continue to remain detained for months. Mr. Torres will face undue burdens in presenting his claims for relief making it more likely that he is ordered removed and returned to the country where he fears persecution.

COUNT FOUR

Violation of Eighth Amendment Right to Protection from Cruel and Unusual Punishments

59. Mr. Torres incorporates by reference the allegations of fact set forth in preceding paragraphs.

60. Mr. Torres's continued unlawful detention constitutes cruel and unusual punishment under the Eight Amendment because Mr. Torres is subject to mandatory, indefinite detention based solely on Respondents' erroneous interpretation of 8 U.S.C. § 1225(b)(2). Numerous federal district courts around the country recently issued decisions rejecting the Respondents' interpretation of the statute and ordering noncitizen petitioners release from detention.[5]

61. Detainees may challenge the unconstitutional conditions of their confinement through writs of habeas corpus, an avenue which the 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*

[5] *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).

unconstitutional restraints during his lawful custody, it is arguable that habeas corpus will lie to remove the restraints making the custody illegal.") (emphasis added); *see also Coreas v. Bounds*, 451 F. Supp. 3d 407, 419 (D. Md. 2020) ("In the absence of binding Fourth Circuit authority, this Court concludes, consistent with the positions of several circuits, that a claim by an immigration detainee seeking release because of unconstitutional conditions or treatment is cognizable . . ." (*citing Aamer v. Obama*, 742 F.3d 1023, 1038 (D.C. Cir. 2014).

62. Respondents' continued custody of Mr. Torres has transformed civil immigration detention into cruel and unusual punishment. Mr. Torres is eligible for relief from removal yet is indefinitely held in detention because of the manner of his entry into the United States.

63. Respondents' incorrect and reckless interpretation of a detention statute is imposing additional constitutional restraints on Mr. Torres's liberty, in the form of cruel and unusual punishment. As such, Mr. Torres challenges the facts and conditions of his detention through this habeas petition.

PRAYER FOR RELIEF

WHEREFORE, Mr. Torres 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 a writ of habeas corpus ordering Respondents to release Mr. Torres on his own recognizance or under parole, a low bond, or reasonable conditions of supervision;

4. Enjoin Respondents from invoking the bond auto-stay provision at 8 C.F.R. § 1003.19(i)(2) should and immigration judge grant Mr. Torres a bond;

5. Award Mr. Torres reasonable costs and attorney's fees; and

6. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

//S// Doran Michelle Shemin
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12/16/2025
Date

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

I represent Petitioner, Noe Nahun Torres Reyes, and submit this verification on his behalf. I hereby certify under the penalty of perjury 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// Doran Michelle Shemin

VERFICIATION PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 11 AND SECOND AMENDED STANDING ORDER 2025-01, MISC. NO. 00-308

I represent the Petitioner, Noe Nahun Torres Reyes, and submit this verification on his behalf. I hereby certify under the penalty of perjury that he is currently detained in the State of Maryland. The ICE detainee locator states that he is located at the Baltimore, Maryland ICE ERO Field Office as of December 16, 2025, at 11:09 AM. Emergency relief is necessary as Mr. Torres does not have access to any other remedy. The court also has subject-matter jurisdiction over this case.

Dated this 16th day of December 2025.

//S// Doran Michelle Shemin