

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

:
PEDRO NAHUM CIBRIAN MATUTE :

Petitioner, : Case No.:

v. :

: Before the Honorable _____

J.L. JAMISON, in his official capacity as Warden:

of Federal Detention Center, Philadelphia; :

MICHAEL T. ROSE, in his official capacity as :

Acting Philadelphia Field Office Director, :

United States Immigration and Customs :

Enforcement; TODD LYONS, in his :

Official capacity as Acting Director of :

Immigration and Customs Enforcement; :

KRISTI NOEM, in her official capacity as :

Secretary of the Department of Homeland :

Security; THE U.S. DEPARTMENT OF :

HOMELAND SECURITY; PAMELA BONDI, :


Attorney General of the United States :

:

Respondents. :

:

PETITION FOR WRIT OF HABEAS CORPUS

Pedro Nahum Cibrian Matute, A , submits this petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and the Suspension Clause (Article 1, Section 9, Clause 2) of the United States Constitution. Petitioner requests that this Court release him from detention by the Immigration and Customs

Enforcement (“ICE”) or, alternatively, conduct or order a bond hearing in which the Respondents bear the burden of justifying Petitioner’s continued detention. Petitioner also requests that the Court set aside recent policies implemented by Respondents that are contrary to the statutory right of non-citizens like Petitioner to seek release and bail through an exercise of the Respondents’ discretion.

Mr. Cibrian Matute is a native of Honduras married to a United States citizen, Miladys Morales Vasquez. He has an approved I-130, Petition for Alien relative through his wife, and has a pending form I-601A, Application for Provisional Unlawful Presence Waiver, The granting of this waiver would permit Mr. Nahum obtain lawful permanent residency. Mr. Cibrian Matute entered the United States in 2005 at the age of 18 and has resided here ever since that time. He filed his initial immigration petition in 2022 after his marriage to Ms. Morales.

On December 9, 2025, Mr. Nahum was detained in a Home Depot parking lot. ICE agents arrested Mr. Pedro Nahum Cibrian Matute without a stated justification – they simply approached the van he was loading with materials for his current building job. Respondents violated his due process rights when they arbitrarily detained Mr. Pedro Nahum Cibrian Matute despite the requirement under 8 U.S.C. § 1226(a) and its implementing regulations that immigration officials make an individualized custody determination. Moreover, Respondents have adopted policies enshrined in administrative decisions by the Board of Immigration Appeals

(“BIA”) that subject non-citizens like Mr. Pedro Nahum Cibrian Matute to mandatory detention in violation of Section 1226(a).

Mr. Cibrian Matute is presently detained at the Federal Detention Center in Philadelphia.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question); 5 U.S.C. § 702 (Administrative Procedures Act); U.S. Const. amend. V (Due Process Clause); and U.S. Const. art. I, § 9, cl. 2 (Suspension Clause).

2. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 2241(d), because at the time of filing his Petition for Writ of Habeas Corpus (Doc. 1), Mr. Pedro Nahum Cibrian Matute is imprisoned at the Federal Detention Center (“FDC”) in Philadelphia, Pennsylvania.

PARTIES

3. Petitioner Pedro Nahum Cibrian Matute is a native of Honduras pursuing an immigrant visa through a petition filed by his United States citizen wife. He is detained at the Federal Detention Center in Philadelphia, PA. Exh.

4. Respondent J.L. Jamison is named in his official capacity as the Warden of FDC, Philadelphia, which detains individuals suspected of civil immigration violations. Respondent Jamison is the immediate physical custodian responsible for the detention of Petitioner.

5. Respondent Michael T. Rose is the Acting Philadelphia Field Office Director for Immigration and Customs Enforcement's ("ICE") Enforcement and Removal Operations. In this capacity he is responsible for the custody of all noncitizens detained by ICE at FDC, Philadelphia and has the authority to release Mr. Pedro Nahum Cibrian Matute or transfer him to a different facility. He is one of Mr. Cibrian Matute's immediate custodians and is sued in his official capacity.

6. Respondent Todd Lyons is the Acting Director of ICE. In this capacity he is responsible for enforcing immigration laws, and as such is a legal custodian of Mr. Pedro Nahum Cibrian Matute. He is sued in his official capacity.

7. Respondent Kristi Noem is Secretary of Homeland Security. In this capacity she runs the Department of Homeland Security, and is charged pursuant to 8 U.S.C. 1103(a)(1) with administering and enforcing immigration laws. She is the ultimate legal custodian of Mr. Pedro Nahum Cibrian Matute, and is sued in her official capacity.

8. The Department of Homeland Security (“DHS”) is the agency of the federal government responsible for enforcing the immigration laws. DHS is also Mr. Pedro Nahum Cibrian Matute’s legal custodian.

9. Respondent Pamela Bondi is the Attorney General of the United States and the head of the U.S. Department of Justice, which encompasses the Board of Immigration Appeals (“BIA”) and immigration courts, known collectively as the Executive Office of Immigration Review (“EOIR”). Ms. Bondi shares responsibility for the implementation and enforcement of immigration laws along with Respondent Noem. Ms. Bondi is a legal custodian of Mr. Pedro Nahum Cibrian Matute. She is sued in her official capacity.

LEGAL FRAMEWORK

10. For non-citizens attempting to enter the United States, the INA provides under 8 U.S.C. § 1225(b)(2)(A) that “in the case of [a non-citizen] who is an applicant for admission, if the examining immigration

officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained.” “A noncitizen detained under Section 1225(b)(2) may be released only if he is paroled ‘for urgent humanitarian reasons or significant public benefit’ pursuant to 8 U.S.C. § 1182(d)(5)(A).” *Gomes v. Hyde*, 25 Civ. 11571, 2025 WL 1868288, at *2 (D. Mass. July 7, 2025) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018)).

11. In contrast, the Supreme Court has found that “U.S. immigration law authorizes the Government to detain certain [non-citizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Jennings*, 583 U.S. at 288-89.

12. Section 236 of the INA provides in relevant part as follows:

(a) Arrest, Detention, and Release. On a warrant issued by the Attorney General, *an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States*. Except as provided in subsection (c) and pending such decision, *the Attorney General—*

(1) *may continue to detain the arrested alien*; and

(2) *may release the alien on—*

(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

(B) conditional parole ...

13. The Supreme Court has interpreted similar “may” language in other provisions of the INA to require “some level of individualized

determination.” *I.N.S. v. Nat’l Ctr. For Immigrants’ Rights*, 502 U.S. 183, 194 (1991). The regulation implementing Respondents’ authority to arrest non-citizens present in the United States reads:

“Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in [8 U.S.C. § 1236(c)(1)] of the Act, under the conditions at section [8 U.S.C. § 1236(a)(2) and (3)]; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.”

8 U.S.C. § 1236.1(c)(8).

14. Noncitizens may request a review of an initial custody determination before an Immigration Judge (“IJ”). 8 C.F.R. § 1236.1(d)(1); 8 C.F.R. § 1002.19(a). At this hearing an IJ may make the decision “upon any information that is available to the [Immigration Judge] or that is presented to him or her by the [non-citizen] or the [government].” 8 C.F.R. § 1003.19(d); *see also Matter of Guerra*, 24 I&N Dec. 37, 39 (BIA 2006). Non-citizens may appeal a negative decision in a custody review before an IJ to the Board of Immigration Appeals. 8 C.F.R. § 1236.1(d)(3)(i). The current statutory scheme was created through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”).

15. For the first time in nearly three decades, Respondents have taken the position through a series of precedential decisions by the Board of Immigration Appeals that non-citizens residing in the interior of the United States are not entitled to a custody redetermination (a “bond hearing”) before an Immigration Judge.

16. First, in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the BIA held that a non-citizen who had been apprehended at the border and subsequently released into the United States is subject to mandatory detention without a possibility of bail upon re-detention, pursuant to 8 U.S.C. § 1225(b), even if that re-detention occurs years after their initial release from custody. The BIA reasoned that “an applicant for admission who is arrested and detained without a warrant while in the process of arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section [1225(b)] [], and is ineligible for any subsequent release on bond under section [1226(a)].” *Q. Li*, 29 I&N Dec. at 74.

17. Then in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the BIA stated that all non-citizens who are present in the United States without admission are subject to mandatory detention under Section

1225(b), regardless of how long they have been residing in the U.S. and absent any prior interaction with immigration authorities.

FACTS AND PROCEDURAL HISTORY

18. Mr. Pedro Nahum Cibrian Matute is a native of Honduras. He has lived in the United States since 2005. He is married to a United States citizen, Miladys Morales Vasquez. They have begun the process to regularize his status, first filing a Form I-130, Petition for Alien Relative in 2022. That petition was approved this year. The only impediment Mr. Nahum has to obtaining lawful permanent residence is his entry without inspection in 2005. He has a pending application for a waiver of his unlawful presence in the United States.

19. On December 9, 2025, Mr. Cibrian Matute was detained in the parking lot of the Home Depot at 1651 S Christopher Columbus Blvd, Philadelphia, PA 19148. He was approached by ICE officials while loading his van with materials needed for a construction job.

20. Despite having no criminal record or other negative equities, Mr. Nahum was detained and served with Notice to Appear charging him as removable from the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) (“A [non-citizen] present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible”). Exh. B. The Notice to Appear ordered that he appear at the Elizabeth Immigration Court for an initial hearing on December 22, 2025.

21. Mr. Pedro Nahum Cibrian Matute and his wife have lived in Philadelphia, PA since when?. Since 2022, Mr. Cibrian Matute and his wife have worked to regularize his status through a marriage petition and the provisional waiver program. He has an approved I-130, Petition for Alien Relative. Exh. C.

22. On December 9, 2025, Mr. Cibrian Matute was detained by Immigration and Customs Enforcement in a Home Depot parking lot. Mr.

Pedro Nahum Cibrian Matute was transported to FDC, Philadelphia. He remains detained there.

~~23. Miladys Morales, Mr. Pedro Nahum Cibrian Matute's U.S. citizen wife, is now left without the financial and emotional support of her husband.~~

CLAIM FOR RELIEF

COUNT ONE

VIOLATION OF DUE PROCESS, U.S. CONST. AMEND. V

24. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

25. The Fifth Amendment's Due Process Clause prevents the Government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. amend. V.

26. The Due Process Clause extends to noncitizens residing in the United States, whether they have lawful status or not. *See Mathews v. Diaz*, 426 U.S. 67, 77 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Specifically, "[i]t is well established that the Fifth Amendment entitles [non-citizens] to due process of law in deportation proceedings. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *see also Abdulai v. Ashcroft*, 239 F.3d 542, 549 (3d Cir.

2001) (“[Non-citizens] facing removal are entitled to due process”); *Calderon-Rosas v. Atty’ Gen.*, 957 F.3d 378, 386 (3d Cir. 2020) (“In sum, petitioners seeking discretionary relief are entitled to fundamentally fair removal proceedings, which constitutes a protected interest supporting a due process claim.”).

27. Evaluating the adequacy of the process provided to a non-citizen requires a balancing of factors. “First, the private interest that will be affected by the official action; second, 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 finally, the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

28. First, Mr. Pedro Nahum Cibrian Matute faces “the most significant liberty interest there is—the interest in being free from imprisonment.” *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). Second, Respondents have erroneously deprived Mr. Pedro Nahum Cibrian Matute of his liberty without any individualized assessment of his circumstances. Third, Respondents did not make any individualized finding that Mr. Pedro Nahum

Cibrian Matute was a danger or flight risk, so there does not appear to be a significant government interest in detaining Mr. Pedro Nahum Cibrian Matute. Indeed, there is no indication as to why he was detained.

29. An application of these factors requires that Mr. Cibrian Matute should have been provided with additional process before being detained or in the alternative should be able to petition for bond upon a showing he is neither a danger to the community or flight risk.

COUNT TWO

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)

30. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

31. 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 have been residing in the United States at liberty after entering without inspection. Such noncitizens, if detained, are done so under § 1226(a), and are generally eligible for release on bond.

32. Respondents' authority to detain Mr. Cibrian Matute is derived from 8 U.S.C. § 1226(a) as Mr. Cibrian Matute is already present in the United States.

33. Respondents have detained Mr. Cibrian Matute without making an individualized determination regarding whether he posed a danger or flight risk as required by 8 U.S.C. § 1226(a) and its regulations.

34. Moreover, Respondents' current policies as set forth in the BIA's decisions in *Matter of Q. Li* and *Matter of Yajure Hurtado* unlawfully prevent Mr. Cibrian Matute from obtaining a custody redetermination in front of an Immigration Judge as is his right by statute.

COUNT THREE

VIOLATION OF THE BOND REGULATIONS, 8 C.F.R. § 236.1, 1236.1 and 1003.19

35. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

36. In 1997, after Congress amended the INA through IIRIRA, EOIR the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Non-citizens]," 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). Thus, the agencies made clear that non-citizens present in the United States would be eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

37. Yet, Respondents have adopted a policy and practice of applying § 1225(b)(2) to non-citizens like Mr. Cibrian Matute who are present in the United States without being admitted or paroled.

38. The application of § 1225(b)(2) to Mr. Cibrian Matute unlawfully mandates his continued detention in violation of 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT FOUR

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (“APA”), 5 U.S.C. § 701, et. seq.

39. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

40. Mr. Cibrian Matute is aggrieved by agency action under the Administrative Procedure Act, 5 U.S.C. §§ 701 et. seq. Specifically,

Respondents have acted arbitrarily in detaining Mr. Pedro Nahum Cibrian Matute without conducting an individualized determination into his circumstances. In other words, Respondents have not presented any indication that Mr. Cibrian Matute's circumstances have changed such that he is now a danger or flight risk..

41. Additionally, Respondents' recent policies announced through administrative decisions issued by the BIA unlawfully withhold the right to a bond hearing under 8 U.S.C. § 1226(a) to Mr. Cibrian Matute.

42. These policies are arbitrary, capricious, and not in accordance with the text of the INA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately on his own recognizance or under parole, bond or reasonable conditions of supervision, on the ground that his continued detention by the Department of Homeland Security violates his Due Process rights;

- Set aside Respondents' unlawful detention policy contained *Matter of Q. Li* and *Matter of Yajure Hurtado* under the APA, 5 U.S.C. § 706(2), as contrary to law, arbitrary and capricious, and contrary to constitutional right;
- Issue a writ requiring an immediate release of respondent as the Executive Office of Immigration Review's position makes it impossible to have a Constitutionally adequate hearing before an Immigration Judge. In the alternative, petitioner requests a Constitutionally adequate bond hearing, at which: (i) DHS bears the burden to demonstrate, by clear and convincing evidence, that Petitioner's continued detention is necessary, and (ii) the immigration judge considers Petitioner's ability to pay a bond.
- While this petition is pending, order Petitioner's immediate release pursuant to the Court's inherent authority to release habeas corpus petitioners on bail;
- While this petition is pending, order the Government to refrain from moving him outside of Philadelphia;
- Enter a judgment declaring that Respondents' detention of Petitioner is unauthorized by statute and contrary to law and the U.S. Constitution;

- Grant any further relief that this Court may deem fit and proper.

Dated: December 15, 2025 Respectfully submitted,

/s/ Brennan Gian-Grasso

Brennan Gian-Grasso (PA ID No. 205226)

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LIST OF EXHIBITS

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1. Bureau of Prisons website and ICE website printouts indicating that Petitioner is detained at FDC, Philadelphia
 2. Notice to Appear
 3. Copy of I-130, Petition for Alient Relative approval notice and receipt for pending I-601A, Application for Provsional Waiver of Unlawful Presence
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