

Petition for a Writ of Habeas Corpus 28 U.S.C. §2241

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

PABLO MARRUFO PULE,
Petitioner.

v.

KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;
TODD M. LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
MARY DE ANDA-YBARRA, in her official capacity as Field Office Director, ICE Enforcement and Removal Operations, El Paso Field Office;
ANGEL GARITE, in his official capacity as Assistant El Paso Field Office Director for U.S. Immigration and Customs Enforcement and Warden of ERO El Paso Camp East Montana, El Paso, Texas; and
DAREN K. MARGOLIN, in his official capacity as Director of the Executive Office for Immigration Review,

Respondents.

Civil Action No. 3:25-cv-677

Immigration No. 

**PETITIONER'S ORIGINAL
PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241
AND REQUEST FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

I. INTRODUCTION

1. Petitioner PABLO MARRUFO PULE (A# , hereinafter referred to as "Petitioner" or "Mr. Marrufo," is a native and citizen of Mexico who has been present in the United States for nearly sixteen (16) years. He is currently detained in ICE custody at the El Paso Camp located on East Montana Avenue in El Paso, Texas, following his apprehension by U.S. Immigration and Customs Enforcement ("ICE"). *See Petitioner Ex. 1, Proof of Detention in ICE Custody.*

2. Mr. Marrufo has been placed in removal proceedings under INA § 240 [8 U.S.C. § 1229a]. *See Petitioner Ex. 2, Documentation of Petitioner's Immigration Case.*

3. In recent months, immigration judges have denied bond hearing requests filed by individuals in circumstances substantially similar to those of Mr. Marrufo, based on asserted lack of jurisdiction. Those denials have relied on recent Board of Immigration Appeals (“BIA”) decisions, including *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Numerous federal district courts, including courts within the Fifth Circuit, have concluded that similarly situated noncitizens detained pursuant to INA § 236(a) [8 U.S.C. § 1226(a)] are entitled to individualized bond hearings before an immigration judge.

4. Despite this authority, immigration judges continue to deny noncitizens such as Mr. Marrufo access to individualized custody redetermination hearings, asserting a lack of jurisdiction based on erroneous interpretations of recent BIA precedent. The refusal to provide such a hearing violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act, because detention in INA § 240 proceedings is governed by INA § 236(a), which expressly authorizes release on bond and requires individualized custody determinations.

5. Mr. Marrufo therefore petitions this Court for habeas relief pursuant to 28 U.S.C. § 2241 and seeks immediate injunctive relief, including a Preliminary Injunction directing Respondents to provide him with an individualized custody redetermination hearing under INA § 236(a), or, in the alternative, to release him from immigration detention under reasonable conditions of supervision without delay.

II. JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. This Court also has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to hear habeas petitions filed by persons held in custody in violation of the Constitution or laws of the United States. This action further invokes the Court’s authority under the All Writs Act, 28 U.S.C. § 1651.

7. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this action. Petitioner does not challenge a final order of removal, nor seek class-wide relief. Detention-based habeas claims are not channeled by 8 U.S.C. § 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or ultra vires attempts to subject a non-final INA § 240 case to expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999). Individual injunctive relief is not barred by 8 U.S.C. § 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

8. Venue is proper in this District, and specifically in the El Paso Division, because Petitioner is physically detained at the El Paso Camp located on East Montana Avenue in El Paso, Texas, within this Court’s jurisdiction. Petitioner’s immediate custodian and the ICE officials responsible for his detention are located within this District. *See Petitioner Ex. 1.*

III. PARTIES

9. Petitioner, Pablo Marrufo Pule (“Mr. Marrufo”), is a citizen and national of Mexico who has been present in the United States for nearly sixteen (16) years, having entered the

United States without inspection in or about 2009. On or about November 8, 2025, Mr. Marrufo was taken into custody by U.S. Immigration and Customs Enforcement (“ICE”), at which time the Department of Homeland Security issued and served a Notice to Appear (“NTA”) charging him with removability. *See Petitioner Ex. 2*. Mr. Marrufo was subsequently transferred to the El Paso Camp located on East Montana Avenue in El Paso, Texas, where he is currently detained. *See Petitioner Ex. 1*.

10. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security (“DHS”), who is responsible for the administration and enforcement of the immigration laws of the United States. The Secretary is sued in her official capacity.

11. Respondent TODD M. LYONS is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”), an agency within the Department of Homeland Security. The Acting Director is sued in his official capacity.

12. Respondent MARY DE ANDA-YBARRA is the Field Office Director of ICE Enforcement and Removal Operations (“ERO”), El Paso Field Office, who exercises legal custody over Petitioner and is responsible for custody determinations within this District. The Field Office Director is sued in her official capacity.

13. Respondent, WARDEN (or Facility Administrator) of the ERO El Paso Camp East Montana located in El Paso, Texas, has immediate physical custody of Petitioner. The Warden’s name is not publicly available. The Warden is sued in his or her official capacity as Petitioner’s immediate custodian.

14. Respondent DAREN K. MARGOLIN is the Director of the Executive Office for Immigration Review (“EOIR”), which oversees the Immigration Courts and policies

governing custody redetermination hearings. The Director is sued in his official capacity only.

15. Respondents Noem and Lyons, representing DHS and ICE are properly included in this action as officials of federal agencies within the meaning of the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706.

IV. FACTUAL BACKGROUND

16. Mr. Marrufo, a citizen and national of Mexico, has built his life in the United States since his entry without inspection in or about 2009. Since that time, he has continuously resided in Illinois, where he has established substantial community ties. *See Petitioner Ex 3, Letters of Support*. These longstanding ties demonstrate that Mr. Marrufo is not a flight risk and has a strong interest in pursuing relief in immigration proceedings.

17. On the morning of November 8, 2025, Mr. Marrufo was detained by U.S. Immigration and Customs Enforcement (“ICE”) at his worksite in Oak Park, Illinois, where he was employed performing flooring work. At the time of his arrest, Mr. Marrufo had no criminal record and had not been informed of any immediate basis for detention. ICE officers took Mr. Marrufo into custody without prior notice and transported him for immigration detention.

18. Following his arrest on November 8, 2025, Mr. Marrufo was transferred into ICE immigration detention and then subsequently transported to the El Paso Camp located on East Montana Avenue in El Paso, Texas, where he is currently detained. ICE’s Detainee Locator System confirms Petitioner’s custody at the El Paso Camp as of November 8, 2025. *See Petitioner Ex. 1*.

19. Prior to his arrest by ICE on November 8, 2025, Mr. Marrufo had lived and worked in Illinois for many years, where he maintained stable employment and developed meaningful community ties. Mr. Marrufo has no history of violence and no criminal record whatsoever—no arrests, convictions —since entering the United States. His immigration detention did not arise from any criminal conduct, but solely from civil immigration enforcement, underscoring that he does not pose a danger to the community.

20. As of the filing of this Petition, Mr. Marrufo remains detained in ICE custody at the El Paso Camp located on East Montana Avenue in El Paso, Texas. Although ICE has filed a Notice to Appear with the Executive Office for Immigration Review (“EOIR”), Mr. Marrufo continues to be detained without a bond hearing or any individualized custody determination. The government’s civil immigration detention of Mr. Marrufo, absent a meaningful opportunity for review, has become prolonged and constitutionally infirm under the Due Process Clause. Mr. Marrufo has now been detained for several weeks without judicial oversight or adequate administrative review.

21. Given Respondents’ failure to provide Mr. Marrufo with a bond hearing or any individualized custody determination, Petitioner respectfully seeks a Preliminary Injunction ordering his immediate release from immigration detention, or, in the alternative, requiring Respondents to promptly provide him with an individualized custody determination before an immigration judge.

22. On or about November 8, 2025, the Department of Homeland Security (“DHS”), through U.S. Immigration and Customs Enforcement (“ICE”), apprehended Mr. Marrufo in Oak Park, Illinois. On that same date, DHS served Mr. Marrufo with a Notice to Appear (“NTA”), charging him as removable under INA § 212(a)(6)(A)(i) [8 U.S.C. §

1182(a)(6)(A)(i)] for having entered the United States without inspection in or about 2009. Mr. Marrufo was not released on recognizance and has remained in ICE custody since that time. *See Petitioner Ex. 2.*

23. ICE filed the Notice to Appear with the immigration court after serving it on Mr. Marrufo, thereby placing him into removal proceedings under INA § 240. ICE's continued detention disregards Mr. Marrufo's lengthy presence in the United States and the individualized circumstances of his case. As a noncitizen in civil removal proceedings, Mr. Marrufo is entitled to the full protections of due process guaranteed by the Immigration and Nationality Act and the Constitution, including an individualized custody determination under INA § 236(a), rather than prolonged detention without meaningful review.

24. Despite Mr. Marrufo's long presence in the United States and his placement in removal proceedings under INA § 240, current immigration policy treats him, for custody purposes, as categorically ineligible for a bond hearing. Rather than permitting Mr. Marrufo to seek release on bond before an immigration judge and to demonstrate that he is neither a danger to the community nor a flight risk, ICE has denied him any opportunity for an individualized custody determination. This denial is not based on an individualized assessment of Mr. Marrufo's circumstances, but instead on the government's asserted reliance on recent Board of Immigration Appeals decisions, including *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which purport to limit immigration judges' authority to conduct bond hearings. As applied here, this categorical approach results in prolonged civil detention without meaningful procedural safeguards.

25. As a result of his apprehension by ICE and continued detention, Mr. Marrufo is currently confined at the El Paso Camp located on East Montana Avenue in El Paso, Texas, a facility far removed from his home and community in Illinois. *See Petitioner Ex. 1*. He is held in secure immigration detention under conditions comparable to penal confinement, despite the absence of any criminal conviction or finding that would mandate detention under INA § 236(c). Each day of continued confinement compounds the harm caused by his detention, separating him from community support, impairing his ability to consult meaningfully with counsel, and inflicting significant psychological and emotional distress associated with prolonged and unnecessary civil detention.

26. In sum, Mr. Marrufo is an individual who has long been present in the United States, with substantial ties to this country and no criminal history that would justify mandatory detention. He has been placed in civil removal proceedings and remains detained solely as a result of the government's categorical refusal to provide an individualized custody determination. This continued detention, based on policy-driven constraints rather than an assessment of Mr. Marrufo's particular circumstances, contravenes the requirements of due process under the Constitution and the Immigration and Nationality Act. Absent access to a bond hearing or other meaningful review, Mr. Marrufo's ongoing detention is unlawful and arbitrary. Granting relief in this case would reaffirm the fundamental principle that civil immigration detention must comport with due process and individualized decision-making, rather than rigid bureaucratic classifications.

V. LEGAL FRAMEWORK

A. Statutory Framework for Immigration Custody Determinations.

27. Immigration detention is governed primarily by two provisions of the Immigration and Nationality Act (“INA”): Section 235(b) [8 U.S.C. § 1225(b)] and Section 236(a) [8 U.S.C. § 1226(a)]. Whereas INA § 236(a) authorizes the Attorney General to release noncitizens on bond pending removal proceedings, INA § 235(b) applies to certain categories of “arriving aliens” and mandates detention pending completion of expedited removal or threshold screening procedures.

28. Congress designed INA § 236(a) to govern the detention of individuals who, like Petitioner, are placed in removal proceedings under INA § 240. The statutory text expressly provides for release on bond, subject only to conditions ensuring appearance at proceedings and protecting the community.

29. The Supreme Court has confirmed the distinction between these statutory schemes. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining the differences between mandatory detention under INA § 235(b) and discretionary custody under INA § 236(a)). The Board of Immigration Appeals likewise recognized for decades that individuals placed in INA § 240 proceedings following entry without inspection were eligible for custody redeterminations. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006)

30. Despite this clear statutory framework, the Department of Homeland Security (“DHS”) has invoked recent Board of Immigration Appeals decisions—namely, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—to curtail immigration judges’ bond authority in cases such as Petitioner’s. Those decisions, however, cannot override the plain language of the statute.

31. In recent weeks, multiple district courts have addressed the government’s efforts to expand 8 U.S.C. § 1225(b)(2)(A) beyond its intended scope by adjudicating habeas

petitions filed by noncitizens in materially similar circumstances. These courts have repeatedly concluded that the clear and unambiguous language of INA § 236(a) permits noncitizens who entered without inspection—individuals in the same legal posture as Mr. Marrufo—to seek individualized bond hearings before an immigration judge.

32. For example, in *Santos v. Noem*, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the court emphasized that habeas relief is appropriate to correct statutory misclassification and to safeguard due process rights. In *Kostak v. Trump*, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the court ordered bond eligibility under INA § 236(a), rejecting the government’s assertion that INA § 235(b) applied. Likewise, in *Salazar v. Dedos*, 2025 U.S. Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under INA § 236(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment’s Due Process Clause.

33. Petitioner’s position is further reinforced by the recent decision in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), in which the court granted partial summary judgment in favor of the petitioners, holding that mandatory detention without individualized bond hearings exceeds statutory authority under INA § 236(a) and violates due process. In that class action, the court rejected the government’s expansive interpretation of INA § 235(b) [8 U.S.C. § 1225(b)] and emphasized that noncitizens in regular removal proceedings are entitled to custody review. *See Petitioner Ex. 3, Maldonado Bautista*, Orders of November 20, 2025 and November 25, 2025.

34. Similarly, recent decisions from district courts within the Fifth Circuit—including *Lopez v. Hardin*, 2025 U.S. Dist. LEXIS 188368 (N.D. Tex. 2025), and *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (S.D. Tex. 2025)—confirm that courts are rejecting agency efforts to apply 8 U.S.C. § 1225(b)(2)(A) to individuals properly subject to detention under INA § 236(a) [8 U.S.C. § 1226(a)]. *See also Buenrostro-Mendez v. Bondi*, No. 4:25-cv-3726, slip op. at 3 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112, slip op. at 3–4 (S.D. Tex. Oct. 8, 2025). This Court should follow suit in the instant case.

35. Taken together, these decisions reflect a growing judicial consensus that district courts retain jurisdiction to intervene where immigration detention rests on a misapplication of the statute and results in ongoing constitutional harm. The cumulative weight of this authority confirms that Mr. Marrufo is entitled to bond consideration under INA § 236(a) [8 U.S.C. § 1226(a)].

VI. CLAIMS FOR RELIEF

Count I – Violation of INA § 236(a) [8 U.S.C. § 1226(a)]

36. Petitioner incorporates by reference the foregoing factual allegations and reasserts them as if fully set forth herein.

37. Respondents’ refusal to provide Petitioner with an individualized custody redetermination hearing violates the Immigration and Nationality Act (“INA”) and is inconsistent with recent decisions of multiple federal district courts, including courts within the Fifth Circuit.

38. INA § 236(a) [8 U.S.C. § 1226(a)] provides that “[o]n 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,” and that the Attorney General “may continue to detain the arrested alien” or “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.”

39. By its plain text, INA § 236(a) [8 U.S.C. § 1226(a)] applies to noncitizens arrested and detained pending removal proceedings unless mandatory detention under INA § 236(c) applies.

40. Consistent with the plain language of INA § 236(a) [8 U.S.C. § 1226(a)], numerous federal district courts have confirmed that noncitizens detained under that provision are statutorily eligible for individualized bond determinations before an immigration judge. Accordingly, immigration judges retain jurisdiction to conduct custody redetermination hearings under § 236(a), and the Attorney General must consider bond applications filed by detained noncitizens pending the outcome of their removal proceedings.

41. Petitioner was served with a Notice to Appear (“NTA”) placing him into removal proceedings pursuant to INA § 240 [8 U.S.C. § 1229a]. Mr. Marrufo remains detained at the El Paso Camp located on East Montana Avenue in El Paso, Texas, and his removal proceedings have been placed on the detained docket of the Pearsall Immigration Court. Because Petitioner was apprehended within the interior of the United States and placed in removal proceedings under INA § 240, his custody is governed by INA § 236(a) [8 U.S.C. § 1226(a)], not INA § 235(b) [8 U.S.C. § 1225(b)].

42. By adopting and enforcing a policy that refuses to provide Petitioner with an individualized bond hearing as contemplated by INA § 236(a) [8 U.S.C. § 1226(a)], Respondents have acted contrary to statutory authority requiring consideration of such a

bond application. This policy further demonstrates that filing a bond application with the immigration court would presently be futile. Petitioner's continued detention without access to an individualized custody redetermination violates the INA and must be remedied through habeas relief.

43. Accordingly, this Court should grant the writ of habeas corpus and order that Petitioner receive an individualized bond hearing under INA § 236(a) [8 U.S.C. § 1226(a)], consistent with the reasoning of multiple federal district courts that have examined these issues.

Count II – Fifth Amendment Due Process Violation

44. Petitioner incorporates by reference the foregoing factual allegations and reasserts them as if fully set forth herein.

45. Respondents' continued detention of Petitioner without access to an individualized custody redetermination hearing violates the Due Process Clause of the Fifth Amendment. Prolonged civil detention without bond review is arbitrary, punitive in effect, and unconstitutional.

46. The Supreme Court has long recognized that “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Although immigration detention is civil in nature, it nonetheless implicates this fundamental liberty interest.

47. Because Petitioner is detained by ICE at the ERO El Paso Camp East Montana Avenue in El Paso, Texas, Respondents have denied him any meaningful opportunity to present evidence demonstrating that he is neither a danger to the community nor a flight

risk. This denial of a bond hearing deprives Petitioner of the individualized custody determination required by the Due Process Clause and by the plain language of INA § 236(a) [8 U.S.C. § 1226(a)].

48. Unlike noncitizens subject to mandatory detention for certain criminal offenses under INA § 236(c) [8 U.S.C. § 1226(c)], Petitioner has no qualifying criminal convictions that would justify mandatory detention. The government therefore lacks a legitimate basis to insist that Petitioner's detention be mandatory, yet he remains confined without any opportunity for release.

49. Denying Petitioner any access to a bond hearing deprives him of the procedural protections guaranteed by the Due Process Clause. Moreover, prolonged civil detention without meaningful review violates the substantive limits of due process, as recognized in *Zadvydas and Demore v. Kim*, 538 U.S. 510 (2003).

50. By adopting and enforcing a policy that refuses to provide Petitioner with an individualized bond hearing as contemplated by INA § 236(a) [8 U.S.C. § 1226(a)], Respondents have acted contrary to statutory authority and in violation of constitutional due process.

51. Petitioner has lived in the United States for nearly sixteen (16) years and has established substantial family and community ties in Illinois. There has been no individualized finding that he poses a danger to the community or a risk of flight. Nevertheless, based solely on the government's reliance on recent Board of Immigration Appeals decisions—decisions that are not binding on this Court—Petitioner has been denied the process to which he is entitled under the Immigration and Nationality Act and

the Constitution. This categorical denial of an individualized custody determination constitutes an arbitrary deprivation of liberty in violation of the Fifth Amendment.

52. Accordingly, the Court should grant habeas relief on constitutional grounds and order that Petitioner be afforded an immediate individualized bond hearing, or, in the alternative, be released from immigration detention pending the final resolution of his INA § 240 [8 U.S.C. § 1229a] removal proceedings.

Count III – Unlawful Agency Action (APA)

53. Petitioner incorporates by reference the foregoing factual allegations and reasserts them as if fully set forth herein.

54. Respondents' continued detention of Petitioner without affording him an individualized bond hearing also constitutes unlawful agency action under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706. This abrupt departure from longstanding precedent, without reasoned explanation, violates the APA.

55. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA § 236(a) [8 U.S.C. § 1226(a)], including individuals who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). That framework permitted individualized custody determinations consistent with both the statutory text and constitutional principles. Illustrative decisions include, without limitation, the following:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing danger to the community and risk of flight as factors governing immigration bond determinations);

- *In re L-E-V-H-*, AXXX-XXX-504 (BIA Dec. 21, 2018) (holding that a noncitizen who entered without inspection was not an “arriving alien” despite later presenting himself to border officials);
- *In re A-R-S-*, AXXX-XXX-161 (BIA June 25, 2020) (remanding to develop the record where a noncitizen who had DACA alleged entry without inspection but had been misclassified as an “arriving alien”);
- *In re M-D-M-*, AXXX-XXX-797 (BIA Aug. 24, 2020) (granting bond to a noncitizen with more than twenty years of residence in the United States despite a recent arrest); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA Oct. 22, 2020) (granting bond where the immigration judge failed to consider alternatives to detention and the noncitizen had lived in the United States for more than seventeen years).

56. In 2025, the Board of Immigration Appeals issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which construed certain noncitizens who entered without inspection as subject to mandatory detention under INA § 235(b) [8 U.S.C. § 1225(b)]. These decisions abruptly curtailed immigration judges’ long-recognized bond authority for a broad class of detainees, including Petitioner, without notice-and-comment rulemaking and without a reasoned explanation for departing from prior precedent.

57. The APA requires agencies to engage in reasoned decision-making and prohibits action that is arbitrary or capricious. 5 U.S.C. § 706(2)(A). An unexplained reversal of established policy is the paradigmatic example of arbitrary and capricious agency action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

58. Although Petitioner has not filed a bond application since entering ICE custody on or about November 8, 2025, doing so would be futile because, under current government policy, immigration judges decline to exercise jurisdiction over custody determinations for individuals in Petitioner's position. By treating Petitioner as subject to mandatory detention under INA § 235(b) [8 U.S.C. § 1225(b)], Respondents have adopted an unlawful and arbitrary interpretation of the statute that is inconsistent with the plain language of INA § 236(a) [8 U.S.C. § 1226(a)] and unsupported by reasoned statutory analysis.

59. Accordingly, Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing constitutes unlawful agency action under the APA, and this Court should grant appropriate habeas and injunctive relief to remedy that violation.

Count IV - Request for Relief Pursuant to *Maldonado Bautista*

60. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

61. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

62. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

63. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

64. By denying a bond hearing under § 1226(a) and asserting that Petitioner is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

VII. REQUEST FOR INJUNCTIVE RELIEF

65. Petitioner respectfully requests that this Court issue a Preliminary Injunction directing Respondents to provide him with an immediate individualized custody redetermination hearing under INA § 236(a) [8 U.S.C. § 1226(a)] within seven (7) days of the Court's order, or, in the alternative, to release him from immigration detention under reasonable conditions of supervision. Petitioner intends to seek a Temporary Restraining Order through a separate, forthcoming motion, and upon a final adjudication on the merits, Petitioner further requests permanent injunctive relief as appropriate

66. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: (1) likelihood of success on the merits; (2) irreparable harm; (3) the balance of equities; and (4) the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Petitioner satisfies each of these factors.

A. Mr. Marrufo Is Likely to Succeed on the Merits of His Petition.

67. Mr. Marrufo has a strong likelihood of success on the merits of his claims. As explained more fully above, numerous federal district courts, including courts within the Fifth Circuit, have concluded that noncitizens detained pursuant to INA § 236(a) [8 U.S.C. § 1226(a)] are entitled to an individualized custody or bond hearing before an immigration judge.

68. Current government policy, which purports to prohibit immigration judges from exercising jurisdiction over bond requests filed by individuals such as Mr. Marrufo—based

on recent Board of Immigration Appeals decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—cannot override the clear and unambiguous language of INA § 236(a) [8 U.S.C. § 1226(a)]. This conclusion is further supported by the recent decision in *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), which invalidated similar policies denying bond hearings to noncitizens placed in regular removal proceedings.

69. Additionally, Mr. Marrufo raises an independent constitutional claim under the Fifth Amendment, as prolonged civil detention without any opportunity for an individualized custody determination violates due process.

70. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success on the merits is the most critical factor in evaluating interim relief. Here, Petitioner’s claim is exceptionally strong.

B. Mr. Marrufo Will Suffer Irreparable Harm If Injunctive Relief Does Not Issue.

71. If this Court does not grant immediate relief, Mr. Marrufo will continue to suffer irreparable harm. The Supreme Court has recognized that “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Each day Mr. Marrufo remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

72. Even if Mr. Marrufo were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—including loss of liberty, disruption of family life, psychological strain, and reputational harm—could not be

undone. As the Supreme Court explained in *Nken*, irreparable harm must be actual and concrete, not speculative. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Mr. Marrufo's continued detention without a lawful hearing satisfies that standard.

C. Balance of Equities Weighs in favor of Mr. Marrufo.

73. The balance of equities tips decisively in Petitioner's favor. On his side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government's side, the only asserted interest is administrative convenience in applying the BIA's recent precedents, which are nonbinding in this Circuit.

74. There is no evidence that Petitioner poses a danger to the community or a risk of flight, and he has no criminal history. In contrast, every additional day of unlawful confinement inflicts significant harm on Petitioner. When weighed against each other, the equities clearly support granting immediate relief.

D. There Is Strong Public Interest In Maintaining the Pre-2025 Status Quo.

75. Finally, the public interest strongly supports the issuance of a Preliminary Injunction. The Supreme Court has explained that when the government is the opposing party, the balance of equities and the public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The public has no interest in perpetuating unlawful detention; rather, the public interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

76. Granting Petitioner an individualized bond hearing promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the

arbitrary deprivation of liberty. Protecting fundamental due process rights is not only in Petitioner's interest, but also in the interest of the public at large.

77. Each factor of the equitable test weighs heavily in Mr. Marrufo's favor. He has demonstrated a substantial likelihood of success on the merits based on the proper interpretation of INA § 236(a) [8 U.S.C. § 1226(a)] and the Due Process Clause; he suffers irreparable harm each day he remains detained without lawful process; the balance of equities tips decisively toward protecting his liberty; and the public interest is best served by ensuring that immigration detention complies with statutory and constitutional limits.

78. For these reasons, this Court should issue a Preliminary Injunction at the earliest possible opportunity, requiring Respondents to provide Mr. Marrufo with an immediate individualized bond hearing; or, in the alternative, ordering his release from immigration detention.

VIII. PRAYER FOR RELIEF

79. For the above and foregoing reasons, Petitioner respectfully requests that this Court take the following actions:

- a. Issue a writ of habeas corpus ordering Respondents to provide Petitioner with an individualized bond hearing under INA § 236(a) [8 U.S.C. § 1226(a)] within seven (7) days of the Court's order;
- b. Grant a Preliminary Injunction requiring such a hearing, or Petitioner's immediate release;
- c. Issue a declaration that the plain language of INA § 236(a) [8 U.S.C. § 1226(a)] permits immigration judges to consider bond requests of noncitizens who are present without admission and are not classified as arriving aliens;

- d. Grant permanent injunctive relief as appropriate;
- e. Award Petitioner reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and;
- f. Grant such other relief as this Court deems just and proper.

DATE: December 12, 2025

Respectfully submitted,

RIVERA HERNANDEZ CAMPOS, PLLC
5835 Callaghan Rd., Suite 503
San Antonio, TX 78228
Tel: (210) 922-8541
Fax: (210) 922-8547
Email: privera@rhc.law

By: /s/ Guillermo M. Hernández, III
Guillermo M. Hernández, III
Texas Bar No. 24073310
ATTORNEY FOR PETITIONER

VERIFICATION

STATE OF TEXAS
COUNTY OF BEXAR

§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared Alicia Pule De La Cruz, (“AFFIANT”), known to me to be the person whose name is included in the foregoing document as Petitioner’s mother, and who after being by me duly sworn, stated that he is above the age of twenty-one (21) years of age, is of sound mind, and is in all ways competent to execute this verification. Affiant acknowledged that he had read the substance of the foregoing document, that he has personal knowledge of the facts contained herein, and that the factual statements contained herein above are true and correct to the best of Affiant’s knowledge and belief.

Alicia Pule De La Cruz
Alicia Pule De La Cruz (Doc 15 Puro Libro Et Pst)

Alicia Pule De La Cruz,
Affiant



NOTARIAL CERTIFICATE

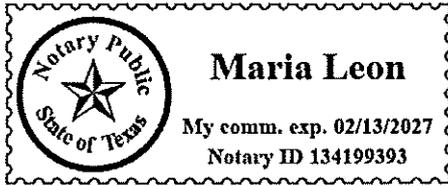
State of Texas §
County of Bexar §

Before me Maria Leon, on this day personally appeared by means of an interactive two-way video communication Alicia Pule De La Cruz, who has provided satisfactory evidence of identity in accordance with Chapter 406, Texas Government Code to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed. This notarial act was an online notarization.

Given under my hand and seal of office this 16th day of December, 2025.

Notary Seal

Digital Certificate



CERTIFICATE OF INTERPRETATION FOR AFFIDAVIT OF
ALICIA PULE DE LA CRUZ

I, Robert Anthony Wagner, II, am competent to translate and interpret from Spanish into English, and I certify that I have read this entire document to the Affiant in Spanish, and that the Affiant stated that they understood the document before they signed the affidavit above.

Robert Anthony Wagner, II

(Signature of interpreter)

(Robert Anthony Wagner, II)

(typed/printed name of interpreter)



HABEAS CORPUS AFFIDAVIT VERIFICATION - 2 ATTEMPT

Final Audit Report

2025-12-16

Created:	2025-12-16
By:	maria leon (mleon@rhc.law)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGCdR_rBeWvJfvdplM-rePGF5BfVwF

"HABEAS CORPUS AFFIDAVIT VERIFICATION - 2 ATTEMPT" History

-  Document created by maria leon (mleon@rhc.law)
2025-12-16 - 9:48:00 PM GMT
-  Document emailed to Alicia PULE DE LA CRUZ (jvillalobos65@yahoo.com) for signature
2025-12-16 - 9:48:04 PM GMT
-  Document emailed to Robert Wagner (rwagner@rhc.law) for signature
2025-12-16 - 9:48:04 PM GMT
-  Email viewed by Alicia PULE DE LA CRUZ (jvillalobos65@yahoo.com)
2025-12-16 - 9:48:32 PM GMT
-  Document e-signed by Alicia PULE DE LA CRUZ (jvillalobos65@yahoo.com)
Signature Date: 2025-12-16 - 9:49:47 PM GMT - Time Source: server
-  Email viewed by Robert Wagner (rwagner@rhc.law)
2025-12-16 - 9:51:32 PM GMT
-  Document e-signed by Robert Wagner (rwagner@rhc.law)
Signature Date: 2025-12-16 - 9:51:45 PM GMT - Time Source: server
-  Agreement completed.
2025-12-16 - 9:51:45 PM GMT

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2025, a true copy of the above document was filed via the Court's CM/ECF and that a copy will be sent automatically to all counsel of record.

December 16, 2025

/s/Guillermo M. Hernández, III

Guillermo M. Hernandez, III

Attorney

Texas Bar No. 24073310

5835 Callaghan Rd, Suite 503

San Antonio, TX 78228

Tel. (210) 922-8541

Fax. (210) 922-8547

Email: ghernandez@rhc.law