

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

BAUDILIO ARIAS QUEX

Petitioner,

v.

CRAIG A. LOWE, in his official capacity as
Warden:
of Pike County Correctional Facility in
Lords Valley, PA;

BRIAN MCSHANE, 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.

Case No.: _____

PETITION FOR WRIT OF HABEAS CORPUS

Baudilio Arias Quex, , 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. Arias Quex is a native of Guatemala. Mr. Arias Quex entered the United States approximately 22 years ago without inspection or parole by an Immigration Officer.

On August 25, 2025, Mr. Arias Quex was arrested by ICE and transferred to the Pike County Jail at 175 Pike County Blvd., Lords Valley, PA 18428. See Exhibit B, Detainee Transfer Notification, attached hereto.

Respondents arbitrarily detained Mr. Arias Quex 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. Arias Quex to mandatory detention in violation of Section 1226(a).

Mr. Arias Quex was put in removal proceedings and was granted Non-LPR Cancellation of Removal, due to his good moral character and extreme hardship that his removal would cause to his severely disabled and non-verbal 8-year-old US citizen son.

An appeal was filed with the BIA by the Department of Homeland Security on November 21, 2025, and is currently pending. See Exhibit “A”, Appeal Notice attached hereto.

Despite winning his case in the immigration court, which would grant him legal permanent residence, Mr. Arias Quex remains detained at Pike County Correctional Facility, without bond or the ability to request one.

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 Middle 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. Arias Quex is imprisoned at the Pike County Correctional Facility in Lords Valley, PA.

PARTIES

3. Petitioner Baudilio Arias Quex is a native of Guatemala. He is detained at the Pike County Correctional Facility in Lords Valley, PA.

4. Respondent Craig A. Lowe is named in his official capacity as the Warden of Pike County Correctional Facility, which detains individuals suspected of civil immigration violations. Respondent is the immediate physical custodian responsible for the detention of Petitioner.

5. Respondent Brian McShane 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 Pike County Correctional Facility in Lords Valley, PA and has the authority to release Mr. Arias Quex or transfer him to a different facility. He is one of Mr. Arias Quex'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. Arias Quex. 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. Arias Quex 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. Arias Quex’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. Arias Quex. 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 from 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. Arias Quex is a native of Guatemala.

19. On or about 2003, Mr. Arias Quex entered the United States via the US border with Mexico. He is the father of a severely disabled US citizen son.

20. Mr. Arias Quex was issued a Notice to Appear on August 25, 2025, 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. C. The Notice to Appear.

21. Mr. Arias Quex applied for Cancellation of Removal for non-legal permanent residents and was granted relief by the immigration court on November 19, 2025.

22. The Department of Homeland Security has appealed the immigration judge’s decision.

23. Despite winning his case, the Respondent remains detained in Pike County prison.

CLAIM FOR RELIEF

COUNT ONE

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

1. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.
2. 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.
3. 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.

4. 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).

5. First, Mr. Arias Quex 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. Arias Quex of his liberty without any individualized assessment of his circumstances. Third, Respondents did not make any individualized finding that Mr. Arias Quex was a danger or flight risk, so there does not appear to be a significant government interest in detaining Mr. Arias Quex.

6. An application of these factors requires that Mr. Arias Quex should have been provided with additional process before being detained.

COUNT TWO

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

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

8. 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 being briefly detained at or near the border. Such noncitizens, if detained, are done so under § 1226(a), and are generally eligible release on bond.

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

10. Respondents have detained Mr. Arias Quex 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.

11. 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.

Arias Quex 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

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

13. 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.

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

15. The application of § 1225(b)(2) to Mr. Arias Quex 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.

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

17. Mr. Arias Quex 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. Arias Quex without conducting an individualized determination into his circumstances. In other words, Respondents have not presented any indication that Mr. Arias Quex’s circumstances have changed such that he is now a danger or flight risk in a way that he was not when he was released from detention at the border in 2023.

18. 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. Arias Quex.

19. 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, constitutionally adequate hearing before an Immigration Judge, 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;

Enter a judgment declaring that Respondents' detention of Petitioner is unauthorized by statute and contrary to law and the U.S. Constitution; Award Petitioner reasonable costs and attorneys' fees; Grant any further relief that this Court may deem fit and proper.

Dated: December 31, 2025

Respectfully submitted,

s/Jose C. Campos, Esq.

Jose C. Campos (PA Bar 207646)

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ATTORNEY FOR PETITIONER

LIST OF EXHIBITS

Exh. A. Appeal Notice

Exh. B. Detainee Transfer Notification


EXHIBIT "A"

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB# 1125-0002
**Notice of Appeal from a Decision of an
Immigration Judge**

Staple Check or Money Order Here. Include Name(s) and "A" Number(s) on the face of the check or money order.

1. List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):

Baudilio Arias Quex 

For Official Use Only



WARNING: Names and "A" Numbers of **everyone** appealing the Immigration Judge's decision must be written in item #1. The names and "A" numbers listed will be the only ones considered to be the subjects of the appeal.

2. I am the Respondent/Applicant DHS-ICE (Mark only one box.)

3. I am DETAINED NOT DETAINED (Mark only one box.)

4. My last hearing was at Newark Immigration Court, Newark, NJ (Location, City, State)

5. **What decision are you appealing?**

Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

I am filing an appeal from the Immigration Judge's decision *in merits proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated November 19, 2025.

I am filing an appeal from the Immigration Judge's decision *in bond proceedings* dated _____ . (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court? Yes. No.)

I am filing an appeal from the Immigration Judge's decision *denying a motion to reopen or a motion to reconsider* dated _____ .

(Please attach a copy of the Immigration Judge's decision that you are appealing.)

6. State in detail the reason(s) for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.

The Immigration Judge erred in finding that the respondent met his burden of proof to establish that he has been a person of good moral character for the past 10 years, given that the respondent is a habitual drunkard and has multiple arrests for driving while intoxicated. Additionally, the Immigration Judge erred in finding that that the respondent met his burden to establish that his removal would result in exceptional and extremely unusual hardship to the respondent's United States Citizen child, where there is insufficient documentation of said hardship, and the respondent's partner has the ability to obtain employment. Further, the Immigration Judge erred in finding that the respondent has met his burden of proving that he has been present in the United States for a continuous period of not less than 10 years, where his testimony was unreliable and he did not provide corroborating documentation for a substantial number of years. Finally, in light of the foregoing, the Immigration Judge erred in finding that the respondent is deserving of a favorable exercise of discretion.

The United States Department of Homeland Security reserves the right to raise any other issues in its appellate brief that it finds upon a review of the transcripts and decision.

(Attach additional sheets if necessary)



WARNING: You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

7. Do you desire oral argument before the Board of Immigration Appeals? Yes No

8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? Yes No



WARNING: If you mark "Yes" in item #7, you should also include in your statement above why you believe your case warrants review by a three-member panel. The Board ordinarily will not grant a request for oral argument unless you also file a brief.

If you mark "Yes" in item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule..

9. **Sign Here** 

X **JACOB E HERIC** Digitally signed by JACOB E HERIC
Date: 2025.11.21 09:20:25 -05'00'

11/21/2025

Signature of Person Appealing
(or attorney or representative)

Date

10. Mailing Address of Respondent(s)/Applicant(s)

Baudilio Arias-Quex
 (Name)

175 Pike County Blvd
 (Street Address)

(Apartment or Room Number)

Lords Valley, PA 18428
 (City, State, Zip Code)

(Telephone Number)

11. Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)

Raymond M. Basso
 (Name)

2043 Locust Street
 (Street Address)

Suite 300
 (Suite or Room Number)

Philadelphia, PA 19103
 (City, State, Zip Code)

(Telephone Number)

NOTE: You must notify the Board within five (5) working days if you move to a new address or change your telephone number. You must use the Change of Address Form/Board of Immigration Appeals (Form EOIR-33/BIA).


NOTE: If an attorney or representative signs this appeal for you, he or she must file *with this appeal*, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

12. PROOF OF SERVICE (You Must Complete This)

I JACOB HERIC mailed or delivered a copy of this Notice of Appeal
 (Name)

on November 21, 2025 to COUNSEL FOR BAUDILIO ARIAS-QUEX
 (Date) (Opposing Party)

at ECAS
 (Number and Street, City, State, Zip Code)

SIGN HERE  **X JACOB E HERIC**
 Digitally signed by JACOB E HERIC
 Date: 2025.11.21 09:19:52 -05'00'
 Signature

NOTE: If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of DHS - ICE.

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed.

WARNING: If you do not attach the fee or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.

HAVE YOU?

- | | |
|---|--|
| <input type="checkbox"/> Read all of the General Instructions | <input type="checkbox"/> Served a copy of this form and all attachments on the opposing party |
| <input type="checkbox"/> Provided all of the requested information | <input type="checkbox"/> Completed and signed the Proof of Service |
| <input type="checkbox"/> Completed this form in English | <input type="checkbox"/> Attached the required fee or Fee Waiver Request |
| <input type="checkbox"/> Provided a certified English translation for all non-English attachments | <input type="checkbox"/> If represented by attorney or representative, attach a completed and signed EOIR-27 |
| <input type="checkbox"/> Signed the form | |

EXHIBIT "B"



**U.S. Immigration
and Customs
Enforcement**

DETAINEE TRANSFER NOTIFICATION

This Form To Be Completed And Given To The Detainee

DETAINEE NAME: ARIAS QUEX, Baudillo A#

NATIONALITY: Guatemala

TRANSFER INFORMATION

NAME OF NEW FACILITY: Pike County Jail

ADDRESS OF NEW FACILITY: 175 Pike County Blvd.
Lords Valley, PA 18428

TELEPHONE NUMBER OF NEW FACILITY: 570-775-5500

I hereby acknowledge that I have received the transfer information. I have also been notified that it is my responsibility to notify family members or others, if I so desire.

Detainee Signature: A# Date: 8-25-25

Officer Signature: Date: 8-25-25