



3. ICE asserts mandatory detention under INA §1225, relying on Matter of Yajure Hurtado to label Petitioner an “applicant for admission.”
4. That theory is statutorily incorrect, constitutionally infirm, and non-binding on this Court and the Fifth Circuit.
5. Because the arrest itself was unlawful, Petitioner seeks immediate injunctive relief and issuance of the writ.

## **II. JURISDICTION AND AUTHORITY**

6. Jurisdiction lies under 28 U.S.C. § 2241 and 28 U.S.C. § 1331.
7. The Fifth Circuit recognizes habeas jurisdiction over challenges to the fact and legality of immigration detention, including constitutional claims. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Pierre v. United States*, 525 F.2d 933 (5th Cir. 1976).
8. This Court has the authority to issue a TRO to halt ongoing constitutional violations. *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012).

## **III. STATEMENT OF FACTS**

9. Petitioner is a fifty-five-year-old native and citizen of Mexico. *See attached*, Exhibit A, Petitioner’s Identification.
10. He entered the United States on or about January 1, 1991, through the Texas border without inspection and has remained in the United States since that time. *See attached*, Exhibit B: Notice to Appear.

11. Since his arrival, Petitioner has continuously resided in the United States and has worked as an independent construction worker. He is married and is the father of three children, one of whom is a United States citizen. Petitioner has strong family and community ties and has been a productive member of his community for more than three decades.
12. On November 14, 2025, Petitioner was taken into custody by U.S. Immigration and Customs Enforcement (“ICE”) following a traffic stop. He has remained detained since that date at the Houston Contract Detention Facility, located at 15850 Export Plaza Drive, Houston, Texas.
13. Petitioner has no criminal history and poses no danger to the community. He is not a flight risk and has significant equities supporting release.
14. On December 30, 2025, Petitioner was scheduled for a custody redetermination (bond) hearing before an Immigration Judge. The Immigration Judge denied jurisdiction to conduct a bond hearing, concluding that Petitioner was an applicant for admission. Petitioner was not present at the hearing because he had been transported to a hospital earlier that day. Despite the Immigration Judge’s inquiry, the government was unable to provide any information regarding Petitioner’s medical condition or whereabouts at the time of the hearing. *See attached*, Exhibit C: Immigration Judge’s Bond Order.
15. As a result, Petitioner remains detained without having received a meaningful opportunity to be heard regarding his custody, prompting the filing of this Petition for Writ of Habeas Corpus.
16. ICE arrested Petitioner without a judicial warrant and without alleging danger or flight risk.

17. ICE asserts detention authority solely under INA §1225 and Matter of Yajure Hurtado.

18. ICE has provided no bond hearing under INA §1226a and no neutral adjudication of detention authority.

#### **IV. LEGAL STANDARD FOR TRO**

14. A TRO is warranted where the movant shows:

- likelihood of success on the merits,
- irreparable harm,
- balance of equities in the movant's favor,
- consistency with the public interest.

*See* Winter v. NRDC, 555 U.S. 7 (2008); Oplulent Life Church, 697 F.3d at 295.

15. The Fifth Circuit holds that loss of liberty constitutes irreparable harm. *See* Texas v. United States, 809 F.3d 134, 155–56 (5th Cir. 2015).

#### **V. LIKELIHOOD OF SUCCESS ON THE MERITS**

##### **A. Fourth Amendment — Unlawful Seizure**

16. The Fourth Amendment applies to civil immigration arrests inside the United States.

17. Warrantless seizures are unreasonable absent probable cause and lawful statutory authority. *See* *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975); *Melendres v. Arpaio*, 695 F.3d 990, 1000–01 (9th Cir. 2012).

18. The Fifth Circuit recognizes that civil detention unsupported by statutory authority violates the Fourth Amendment. *See* *Vega v. United States*, 881 F.3d 1146, 1153 (5th Cir. 2018).

19. Because INA §1225 does not apply, ICE lacked lawful authority—rendering the seizure per se unreasonable.

#### **B. INA §1225 Does Not Apply to Interior Residents**

20. Section 1225 governs inspection and detention of arriving aliens.

21. Congress separately addressed interior detention under INA §1226, confirming §1225’s limited scope.

22. The Fifth Circuit has repeatedly distinguished arriving aliens from those already present in the United States. *See* *Gisbert v. U.S. Attorney General*, 988 F.2d 1437, 1441–42 (5th Cir. 1993).

23. Petitioner was not seeking admission and therefore cannot be detained under §1225. Petitioner has resided in the United States for more than thirty years.

#### **C. Matter of Yajure Hurtado Is Not Binding**

24. Yajure Hurtado is a BIA decision.

25. The Fifth Circuit holds that agency interpretations do not bind Article III courts, particularly where constitutional rights are implicated. *See Texas v. United States*, 787 F.3d 733, 749–50 (5th Cir. 2015).
26. No Fifth Circuit precedent adopts Yajure’s expansion of §1225 to interior arrests.
27. ICE cannot rely on a non-binding agency opinion to justify warrantless detention.

**D. Fifth Amendment — Procedural and Substantive Due Process**

28. Civil detention must be accompanied by a meaningful process. *See Zadvydas*, 533 U.S. at 690; *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).
29. The Fifth Circuit recognizes that prolonged detention without a hearing raises serious due-process concerns. *See Hernandez v. Gonzales*, 424 F.3d 42, 42–43 (5th Cir. 2005).
30. Detention based on an incorrect statutory classification is arbitrary and punitive, violating substantive due process.

**VI. IRREPARABLE HARM**

31. Each day of unlawful detention inflicts irreparable constitutional injury.
32. The Fifth Circuit recognizes that constitutional deprivations cannot be remedied by money damages. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976).

**VII. BALANCE OF EQUITIES & PUBLIC INTEREST**

33. The government has no legitimate interest in unlawful detention.

34. The Fifth Circuit holds that the public interest favors constitutional compliance. *See Jackson Women's Health Org. v. Currier*, 760 F.3d 448, 458 (5th Cir. 2014).

### **VIII. REQUEST FOR RELIEF**

Petitioner respectfully requests that the Court:

- A. Grant a Temporary Restraining Order ordering immediate release;
- B. Enjoin Respondents from enforcing INA §1225 against Petitioner;
- C. Alternatively, order a bond hearing under INA §1226a within 7 days;
- D. Issue the writ of habeas corpus;
- E. Grant all other just relief.

### **VII. VERIFICATION**

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

/s/ Matthew Mendez

Matthew Mendez

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Attorney for Petitioner

**CERTIFICATE OF SERVICE**

On December 31, 2025, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Martin Frink, in his Official Capacity as Warden of the Houston Contract Detention Facility**, at the Immigration and Customs Enforcement (“ICE”) Montgomery Processing Center, located at 15850 EXPORT PLAZA DRIVE, HOUSTON, TX 77032.

/s/ Matthew Mendez  
Matthew Mendez  
Attorney for Petitioner

December 31, 2025  
Date

**CERTIFICATE OF SERVICE**

On December 31, 2025, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Bret Bradford, in his Official Capacity as Field Office Director, of ICE Enforcement and Removal Operations Houston Field Office**, at Office of the Field Office Director, Enforcement and Removal Operations, Houston Field Office, 126 Northpoint Drive, Houston, Texas 77060.

/s/ Matthew Mendez  
Matthew Mendez  
Attorney for Petitioner

December 31, 2025  
Date

**CERTIFICATE OF SERVICE**

On December 31, 2025, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Kristi Noem, in her Official Capacity as Director of U.S. Department of Homeland Security**, at Office of General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, D.C. 20530.

/s/ Matthew Mendez  
Matthew Mendez  
Attorney for Petitioner

December 31, 2025  
Date

**CERTIFICATE OF SERVICE**

On December 31, 2025, Counsel for Plaintiff served a copy of the attached Petition via email, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Pam Bondi, in her Official Capacity as Attorney General of the United States**, at USATXS.CivilNotice@usdoj.gov.

/s/ Matthew Mendez  
Matthew Mendez

December 31, 2025  
Date