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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RICHARD JOSE JIMENEZ HURTADO,

Detainee with Alien Case File Number 

Petitioner,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY (DHS);
KRISTI NOEM, Secretary, DHS (in her official capacity);
PAMELA BONDI, Attorney General of the United States (in her official capacities);
MIGUEL VERGARA, Director, San Antonio Field Office, ICE Enforcement and Removal
Operations (ICE ERO) (in his official capacity);
WARDEN, KARNES COUNTY IMMIGRATION PROCESSING CENTER (in their
official capacity);

Respondents.

Civil Action Case No. 5:26-cv-70

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Non-mandatory civil immigration detention; INA § 236(a); Constitutional Due Process

Introduction

1. Petitioner **RICHARD JOSE JIMENEZ HURTADO** (“Petitioner” or “Mr. Jimenez Hurtado”) is a non-mandatory civil detainee held by ICE at *Karnes County Immigration Processing Center, 409 FM 1144, Karnes City, TX 78118* at the behest of and under the physical and purportedly legal custody of the San Antonio Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations Division (“ICE ERO”), a constituent agency of the U.S. Department of Homeland Security and its chief executive, Respondent Secretary KRISTI NOEM.
2. Respondent U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”) placed him in removal proceedings under the **Immigration and Nationality Act (“INA”) § 240** and charged him under **INA § 212(a)(6)(A)(i)** (entry without inspection, or “EWI”). He has **no criminal history**, a fixed address, and family/community support in and around Miami, Florida. He was accorded prior release under supervision under **I-220A**, and has a pending, *bona fide* asylum application.
3. The Immigration Judge denied bond for lack of “*authority*” (jurisdiction) by reclassifying a long-residing noncitizen as an arriving alien and therefore subject to mandatory detention, not a denial on danger/flight risk findings or other custody determination factors — erroneously treating custody as outside of INA § 236(a).
4. Under **28 U.S.C. § 2241**, the writ of habeas corpus is the proper vehicle to challenge unlawful civil immigration detention. See e.g. *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“*Soberanes*”) (detention challenges proceed via habeas) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (“*Zadvydas*”); *Hamama v. Adducci*, 285 F. Supp. 3d 997, 2018 U.S. Dist. LEXIS 421, 2018 WL 263037 (E.D. Mich.) applying *Zadvydas* at 1013-1014 (“prolonged detention without adequate procedural protections would raise serious constitutional concerns...[e]ven where detention is

permissible [under *Zadvydas*], due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint...[absent which] prolonged detention of an alien without an individualized determination of his dangerousness or flight risk would be constitutionally doubtful”) (internal quotations and citations omitted).

5. Recent district decisions within the 5th Circuit confirm that long-residing EWIs in § 240 proceedings are detained, if at all, under INA § 236(a), and are entitled to individualized custody determinations—not categorical detention, thus denying a meaningful opportunity to seek bond violates the Petitioner’s due process rights. See *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 U.S. Dist. LEXIS 206751, at *11 (W.D. Tex. Oct. 21, 2025); *Tovar v. Noem*, No. 5:25-CV-1509-JKP, 2025 LX 539411 (W.D. Tex. Nov. 25, 2025); *Coulibaly v. Thompson*, No. 5:25-CV-1539-JKP, 2025 LX 560840 (W.D. Tex. Nov. 25, 2025); *Perez v. Noem*, No. 3:25-cv-2920-K-BN, 2025 LX 509530 (N.D. Tex. Nov. 14, 2025);
6. In this case at bar, the factual patterns and claims are closely similar to those cited cases from this Circuit’s District Court and Appellate Court jurisprudence. As in *Hernandez-Fernandez v. Lyons*, *idem* (and all cited cases) Petitioner “*is not challenging: an order for removal, the process by which his removability will be determined, [n]or the exercise of discretion by the Respondents to detain him. [Petitioner Jimenez Hurtado] has brought this habeas action to challenge the constitutionality of the statutory framework by which Respondents contend his detention without an individualized bond hearing is mandatory.*”
7. Petitioner seeks (a) a declaration that his detention is governed by INA § 236(a) and is unlawful absent a valid, individualized, fact-finding determination regarding the

fact and circumstances of Respondents' custody of Petitioner; and (b) **immediate release** or, in the alternative, a **prompt bond hearing** at which the Government bears the **clear-and-convincing** burden of proof to justify continuing detention or the absence of why less-restrictive Alternatives To Detention ("ATDs") could not be more narrowly tailored to achieve the government's regulatory objectives without depriving persons seeking asylum of their liberty and freedom, particularly when they pose little to no risk of flight nor to the public safety, and when they received little to no notice of Respondents' re-determination of Petitioner's prior, less-restrictive custody arrangements, for which Respondents have provided no adequate justification before any administrative law court or U.S. federal court.

JURISDICTION & VENUE

8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in custody within this District and challenges the legality of that custody; *Soberanes*, 388 F.3d at 1310 (habeas proper to challenge detention); *Jennings v. Rodriguez*, 583 U.S. 281 (2018); 138 S.Ct. 830, 841; 200 L.Ed.2d 122 (2018); *Demore v. Kim*, 538 U.S. 510; *Oyelude v. Chertoff*, 125 F. App'x 543 (5th Cir. 2005) at 546 (applying *Demore v. Kim* at 516-17: "Section 1226(e) may strip us of jurisdiction to review judgments designated as discretionary under the pertinent language of the statute, but it does not deprive us of all authority to review statutory and constitutional challenges. We retain jurisdiction to review [Petitioner's] detention insofar as that detention presents constitutional issues, such as those raised in a *habeas* petition;") and *Diallo v. Pitts*, 2020 U.S. Dist. LEXIS 25508, 2020 WL 714274 (S.D. Texas, 2020) (same); *Kambo v. Poppell*, 2007 U.S. Dist. LEXIS 77857, Case No. SA-07-CV-800-XR (W.D. Tex. Oct. 18, 2007) (*habeas* jurisdiction for Petitioners detained without a

charging document, applying *Demore*); *Maldonado v. Macias*, 150 F. Supp. 3d 788, 794 (W.D. Tex. 2015) (“[E]ven after the passage of the REAL ID Act, district courts retain the power to hear statutory and constitutional challenges to civil immigration detention under § 2241 when those claims do not challenge a final order of removal, but instead challenge the detention itself.”)

9. The venue lies in this Division because Petitioner is detained at the behest of and under the legal custody of the San Antonio Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations (“ICE ERO”), and his **immediate custodian** is located within the jurisdiction of this Honorable Court.
10. This petition does **not** seek review of a final order of removal; it challenges only detention, which is cognizable in habeas and not barred by 8 U.S.C. § 1252(b)(9) or (g); see *Jennings, supra*, 138 S.Ct. 830 at 841; *Demore, supra*; *Baez v. Bureau of Immigration & Customs Enforcement*, 150 Fed. Appx. 311 (5th Cir. 2005) [“*Baez*”]; *Orellana v. Kyle*, 65 F.3d 29, 31 (5th Cir. 1995) (*per curiam*); *Herrera v. Tate*, 2025 U.S. Dist. LEXIS 189999 (S.D. Tex. September 25th, 2025) at 11-12 (citing same); *Amm v. Thompson*, 2025 U.S. Dist. LEXIS 232341 at 6 (W.D. Tex. Nov. 26, 2025).
11. Removal proceedings under 8 U.S.C. § 1226 provide jurisdiction to immigration courts to hold a hearing to objectively determine Petitioner’s eligibility for release, whether on their own recognizance or subject to a bond security, based on his risk of flight or danger to public safety, as well as to review the conditions of detention.
12. 8 U.S.C. § 1226 governs detentions both before and during removal proceedings which proceedings clearly grant jurisdiction to immigration courts to exercise discretion to determine and set bond; see e.g. *Kim v. Obama*, 2012 U.S. Dist. LEXIS 190165 (W.D. Tex., 12th Jul. 2011) at 2 (“The Court is authorized to adjudicate Kim’s § 2241 challenge to the constitutionality of his pre-removal detention”) and related

note 3 (applying *Baez*: “The *Real ID Act* divests district courts of jurisdiction to hear petitions under 2241 that attack final orders of removal...The *Real ID Act* ‘does not, however, preclude *habeas* review of challenges to detention that are independent of challenges to removal orders,’ such as is the case here” [internal citation omitted]).

PARTIES

13. PETITIONER “**Jimenez Hurtado**” is a Venezuelan national who arrived to the United States on or around November 11th, 2021. Jimenez Hurtado is currently detained by the Houston Field Office of the Enforcement and Removal Operations Division of U.S. Immigration and Customs Enforcement (“ICE ERO”), a constituent agency of the U.S. Department of Homeland Security, at **Karnes County Immigration Processing Center**, 409 FM 1144, Karnes City, TX 78118. Petitioner Mr. Jimenez Hurtado has meaningful and significant family and community ties in and around Miami, Florida.
14. Respondent U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”), its agents, and its sub-agencies are erstwhile legal custodians of Petitioner, purportedly operating under color of law while physically holding Petitioner in administrative detention.
15. Respondent DHS SECRETARY KRISTI NOEM (“DHS SECRETARY NOEM”) is the chief executive of Respondent DHS, which exercises administrative and legal authority over DHS’s sub-agencies, including U.S. Immigration and Customs Enforcement (“ICE”). Respondent Secretary Noem is sued in her official capacity.
16. Respondent FIELD OFFICE DIRECTOR, MIGUEL VERGARA, is sued in his official capacity. The deportation agents and supervisory detention and deportation officers of the San Antonio Field Office of ICE ERO assigned Petitioner report to RESPONDENT ICE ERO Houston FIELD OFFICE DIRECTOR and operate under

his authority, supervision, and direction, subject to the instruction and policy directives of Respondents DHS, DHS SECRETARY NOEM, and Respondent U.S. Attorney General and the constituent agency Respondent oversees, the Executive Office of Immigration Review, are collectively responsible for exercising legal custody over Petitioner under law and in accordance with the Laws and Treaties of the United States and the U.S. Constitution.

17. Respondent U.S. ATTORNEY GENERAL PAMELA BONDI (“A.G. BONDI”) is the nation’s highest law enforcement officer and the chief executive of the U.S. Department of Justice (“DOJ”) and is responsible for promulgating and enforcing duly-enacted immigration regulations under the statutory authority delegated to her by the U.S. Congress and the duly-enacted Laws of the United States, the *Immigration and Nationality Act* [8 U.S.C. §§ 1101 *et seq.*] (“INA”) in particular. The INA and related federal regulations and operational policies and practices provide procedures for determining the appropriateness of maintaining custody of persons such as Petitioner. These procedures include specific and individualized determinations to weigh Petitioner’s risk of flight or risk to public safety (if any) before being deprived of their liberty. Respondent A.G. BONDI is sued in her official capacity.
18. Respondent WARDEN OF THE KARNES COUNTY IMMIGRATION PROCESSING CENTER (or equivalent office or officer) holds Petitioner, and is sued in their official capacity.
19. Respondents collectively have responsibility for, and administrative control over, the facts and circumstances of the physical custody under which they hold Petitioner, which remains without legal justification, under the aegis of Respondents DHS, DHS SECRETARY NOEM, and SAN ANTONIO ICE ERO FIELD OFFICE DIRECTOR

VERGARA, and the agents under him collectively responsible for administering Petitioner's case and cases in circumstances equivalent to Petitioner's.

RELEVANT FACTS

20. Petitioner has resided in the U.S. since November 2021, filed a timely I-589 AT USCIS (a constituent agency of Respondent DHS) and has complied with all his required appearances before immigration authorities. He was actually detained at his regular annual check-in, had requested and was granted Temporary Protected Status (TPS) under the Venezuelan designation, and has since been a law-abiding resident for 4 years before he was detained while reporting to agents of Respondents DHS and the ICE ERO San Antonio Field Office. Petitioner has no criminal record, has contributed to his community, paid taxes, and had steady employment prior to his detention, and has family here in the U.S.
21. ICE previously, in 2022, released Petitioner on his own recognizance with (I-220A)—an agency determination that he could be safely supervised—before re-detaining him at ICE/ERO San Antonio Field Office during his routine annual check-in on 11/21/2025.
22. Petitioner has since been detained by Respondent DHS and its constituent agency, the Respondent San Antonio Field Office of ICE ERO.
23. Petitioner moved for a bond hearing under § 236(a), submitting letters of support, proof of address/ID, and other *Guerra* factors. The IJ denied the Motion for Custody Redetermination, classifying the arriving alien stating that “*Based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or*

to grant bond to aliens who are present in the United States without admission. Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)”

EXHAUSTION / RIPENESS

24. Petitioner sought custody redetermination in Immigration Court and submitted a full evidentiary proffer. Further administrative relief is futile (IJ disclaimed jurisdiction and reclassification of Petitioner) and inadequate to prevent ongoing constitutional injury from prolonged detention; see *Santos v. Warden*, 965 F.3d 203 (3d Cir. 2020) (as detention prolongs, due process requires a hearing). Furthermore, the IJ determination that Petitioner is subject to mandatory detention was grounded on the agency's determination on this and that it lacked the authority to hear his custody redetermination motion pursuant to *Matter of Jonathan Javier Yajure Hurtado*, 29 I&N Dec 216 (BIA 2025). Thus, agency review becomes futile at this point and time, and further exacerbates the extent of violations of his due process rights and constitutional liberty interest.
25. Furthermore, “under the INA, an exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.” See *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007); 8 U.S.C. § 1252(d)(1) (“A court may review a final order of removal only if . . . the alien has exhausted all administrative remedies”); *Hernandez-Fernandez v. Lyons*, 2025 U.S. Dist. LEXIS 206751, *13; see also *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 672 n.14 (S.D. Tex. 2021) (finding that “[i]n light of Petitioner's already prolonged detention, and because the appeal timeline exacerbates that alleged injury, the Court finds that administrative exhaustion is unnecessary to consider in this matter. Moreover, Petitioner's multiple filings raise constitutional questions that ‘neither [an] Immigration Judge nor th[e]

Board may rule on' [citing *Matter of Rodriguez-Carrillo*, 22 I. & N. Dec. 1031(BIA 1999) at 1035]. Accordingly, exhaustion would be 'futile' because it could not answer the chief question raised: whether constitutional due process vests Petitioner with the right to immediate release or a bond hearing in federal court.")

CLAIMS FOR RELIEF

COUNT I - AGENCY ACTION WITHOUT BASIS IN LAW

Unlawful Detention Under the INA: Petitioner Is Detained, if at All, Under INA § 236(a); Agency Misclassification and the IJ's "No Jurisdiction" Ruling Are Contrary to Law

26. Where DHS places a noncitizen into § 240 proceedings, as an EWI with long-term presence, custody is governed by INA § 236(a) [8 U.S.C. § 1226(a)], not § 235(b). District Courts within this Circuit have so held, granting § 2241 relief or recognizing § 236(a) as the operative custody provision; see *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 U.S. Dist. LEXIS 206751, at *11 (W.D. Tex. Oct. 21, 2025); *Tovar v. Noem*, No. 5:25-CV-1509-JKP, 2025 LX 539411 (W.D. Tex. Nov. 25, 2025); *Coulibaly v. Thompson*, No. 5:25-CV-1539-JKP, 2025 LX 560840 (W.D. Tex. Nov. 25, 2025); *Perez v. Noem*, No. 3:25-cv-2920-K-BN, 2025 LX 509530 (N.D. Tex. Nov. 14, 2025) (all granting habeas release from detention under § 2241 recognizing the statutory provision applicable to their detention was § 1226).
27. The IJ's denial of its jurisdiction to grant Petitioner a bond hearing is without basis in law and without any predicate fact-finding in support of its summary dismissal of Petitioner's statutory and constitutional due process rights to be heard and to present evidence of his negligible risk of flight or to the public safety. This deprivation of Petitioner's due process rights is particularly egregious given Petitioner was taken into custody while complying with ICE requirements, without Respondents' providing notice to him of any changed determination in his custody status, nor the basis for the

change in that determination by those agencies of the United States Government (“USG”) who control the fact of, conditions of, and decision-making authority over, Petitioner’s physical and legal custody, those being the Respondents U.S. DHS and the Department of Justice and their respective agencies (CBP, ICE ERO, and the EOIR, respectively). These agencies include those immigration courts having jurisdiction over requests for bond hearings within the EOIR of the U.S. DOJ from civil detainees in immigration proceedings, including Petitioner (specifically here being the Detained Division of the San Antonio Immigration Court).

28. The abdication by the EOIR exercising its authority by and through Respondent ATTORNEY GENERAL, in these circumstances, is an unconstitutional deprivation of civil detainees’ right to be heard and present evidence of their eligibility for band notwithstanding arbitrary redeterminations by Respondents DHS, SECRETARY NOEM, and the ICE ERO Field Office depriving Petitioner of his liberty and contradicting the statutory framework set forth by Congress, and directly-applicable case law. Any Immigration Court finding it lacks the statutory jurisdiction for persons detained under INA Sec. 236(a), when that jurisdiction is clearly conferred by statute, is **arbitrary and contrary to the law**, its purported deference to the erroneous reasoning of the (now increasingly notorious) *Matter of Yajure Hurtado* BIA decision; 29 I&N Dec. 216 (BIA 2025) (“*Yajure Hurtado*”).
29. Post-*Loper Bright* (*Loper Bright*, 603 U.S. 369, 413 (2024)), courts owe **no deference** to agencies’ statutory interpretation in the event of ambiguity; instead, they must exercise **independent judgment** to identify the statute’s **best reading**. Under that approach, INA § 236(a) governs here, as does the jurisprudence of the federal courts. Therefore, this Court bears no duty to defer to *Yajure Hurtado* or *Matter of Li*, 29 I&N Dec. 66 (BIA 2025) and the EOIR’s purported application of these decisions

to Petitioner's case and cases similar to Petitioner's, is *ultra vires* the authority of the EOIR and the Attorney General, as it is violative of the due process rights of Petitioner; is *ultra vires* the INA, and any is *ultra vires* any presumed statutory authority by Congress to deny Petitioner his liberty without a meaningful opportunity to be heard, which is inconsistent with the U.S. Constitution and other applicable obligations imposed on these federal agencies by the Laws and Treaties of the United States, which are supreme to any regulatory authority asserted by the Attorney General, pursuant to the Supremacy Clause of the U.S. Constitution and other applicable Laws of the United States implementing obligations under the Treaties of the United States, including specifically the Refugee Convention and Protocol, the Convention Against Torture and other forms of Cruel and Unusual Treatment or Punishment, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights pertaining to persons seeking asylum in flight from possible violence, persecution, torture, and death.

30. Because § 236(a) applies, detention is **discretionary** and must rest on individualized findings of **danger** and **flight risk**, evaluated using the factors laid out in *Matter of Guerra* (the "**Guerra** factors"): fixed address, length of residence, family/community ties, employment, prior appearances, criminal history, immigration violations, attempts to flee, manner of entry) and finding of fact appertaining thereto; see *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006).
31. Petitioner's record overwhelmingly satisfies these factors, yet the Immigration Court abdicated its role as a finder of fact by declaring itself without jurisdiction, thereby affirming Respondents' *de facto* determination of Petitioner's ineligibility for release without opportunity to present evidence of Petitioner's eligibility for release by demonstrating Petitioner's marginal risk of flight or to the public safety pursuant to

the aforementioned *Guerra* factors. This determination was arbitrary, unlawful, and must be reversed, consistent with 8 U.S.C. §§ 2241 *et seq.*

COUNT II - GOVERNMENT ACTION IN VIOLATION OF DUE PROCESS

Fifth Amendment Procedural Due Process: Prolonged Civil Detention Without a Meaningful, Burden-Proper Opportunity to be Heard at a Custody Determination Hearing

32. The Fifth Amendment Due Process Clause of the U.S. Constitution protects against unlawful or arbitrary detention; *Zadydas*, 533 U.S. at 690; see also *Santos*, 965 F.3d at 213–19 (detention becoming unreasonably prolonged requires a bond hearing at which the Government bears the clear-and-convincing burden for the court to assess their purported ongoing authority to retain custody of Petitioner).
33. Petitioner has been detained for months despite no criminal history, despite prior compliance under ATD, despite strong family and community ties (evidence for which has still not been heard or weighed or had the law applied to it by a neutral fact-finder) and despite Petitioner’s pending asylum case — all facts that eliminate danger and sharply reduce flight risk. The agency’s refusal to provide a meaningful bond hearing with the proper burden on the Government violates Due Process; see *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 U.S. Dist. LEXIS 206751 at 11 (W.D. Tex. Oct. 21, 2025) (granting habeas under § 2241 to correct unlawful detention); *Coulibaly v. Thompson*, No. 5:25-CV-1539-JKP, 2025 LX 560840 (W.D. Tex. Nov. 25, 2025) (recognizing INA §236(a) [8 U.S.C. §1226(a)] as the appropriate framework in evaluating the legality of continued detention).
34. The agency’s position that a long-residing EWI non-citizen is an arriving alien, therefore stripping all Immigration Courts and Immigration Judges of their jurisdiction to conduct a § 236(a) custody determination, when coupled with

continued detention for an indefinite period, is constitutionally inadequate and inconsistent with the individualized fact determination the Fifth Amendment requires.

35. The agency's continued deprivation of Petitioner's liberty without any opportunity to present evidence of his eligibility for release is therefore unconstitutional and must be remedied.

**COUNT III - GOVERNMENT ACTION IN VIOLATION OF THE SUSPENSION
CLAUSE OF THE U.S. CONSTITUTION**

Suspension Clause (Alternative Canon of Constitutional Avoidance and Backstop)

36. The **Suspension Clause** of the U.S. Constitution guarantees a **meaningful opportunity** to all persons to challenge unlawful detention and deprivation of their liberty and freedom. Any construction of the INA that would foreclose *habeas* review or meaningful bond process for prolonged civil detention raises serious constitutional concerns; see U.S. Const., Art.1,S.9,Cl.2; *Boumediene v. Bush*, 553 U.S. 723, 739–71 (2008); *INS v. St. Cyr*, 533 U.S. 289, 300–14 (2001); *Kambo v. Poppell*, 2007 U.S. Dist. LEXIS 77857 (W.D. Texas, Oct. 18, 2007) at 55-58 (which learned decision reviews the long arc of Supreme Court jurisprudence on Constitutional Due Process challenges to various regulatory and statutory detention schemes governing persons detained in various stages of their immigration enforcement and removal procedures).
37. Consistent with *Boumediene* and *St. Cyr* and other applicable jurisprudence previously cited, this Court should construe the INA to preserve § 2241 review and to require procedures adequate to test the legality of continued confinement, particularly where the only legal justification for denying relief or access to a bond hearing was “no jurisdiction” without any predicate or individualized fact-finding to determine a basis for the Immigration Court's purported lack of subject-matter jurisdiction here.

38. By continuing to collectively detain Petitioner and deprive him of his liberty without an opportunity to be heard, Respondents' actions are *ultra vires* the Suspension Clause, as is any interpretation of the applicable statute that would similarly deprive Petitioner of his liberty.

39. Such deprivations of liberty must be remedied at the risk of our society's most fundamental constitutional principles of justice and due process. Justice may aspire to be blind, but it cannot be deaf and dumb in the face of jailed asylum-seekers deprived of any opportunity to present evidence of their benevolence and good moral character.

REQUESTED RELIEF

Petitioner respectfully asks this Court to:

A. **Declare** that Petitioner's detention is governed by **INA § 236(a)** [8 U.S.C. § 1226(a)] and that continued detention absent an individualized bond determination is unlawful;

B. **Grant the writ and order immediate release or, in the alternative, order a prompt bond hearing** by a date certain at which:

1. The **Government bears the burden** to prove by **clear and convincing evidence** that detention remains necessary due to danger to the community or flight risk;
2. The IJ must consider **less-restrictive alternatives** and the **Petitioner's ability to pay** any bond; and
3. The IJ must make **individualized findings** addressing the *Guerra* factors.

C. **Enjoin transfer** outside this District pending the hearing and final disposition of this petition;

D. **Award fees and costs** where authorized; and

E. Grant such other relief as the Court deems just and proper.

Respectfully submitted, this 7th day of January, 2026,

/s/ William Shipley

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