UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

Case No. _____

CARLOS EDUARDO GOMEZ ROMERO,

Petitioner,

v.

WARDEN OF FOLKSTON ICE PROCESSING CENTER, in his official capacity;

KRISTI NOEM, in her official capacity as the Secretary of the U.S. Department of Homeland Security;

PAMELA BONDI, in her official capacity as Acting Attorney General of the United States.

Respondents.
_____/

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Carlos Eduardo Gomez Romero ("Mr. Gomez Romero"), through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and alleges as follows:

1. Petitioner Carlos Eduardo Gómez Romero is a Venezuelan national who has been held without bond for approximately five (5) months following a large-scale ICE enforcement operation at a Hyundai-affiliated manufacturing plant in Ellabell, Georgia. Petitioner has an active asylum case pending before the Immigration Court, through which he seeks protection from deportation to Venezuela. He remains detained despite the fact that he is not a danger or a flight risk, and despite his deteriorating medical condition.

2. Petitioner's ongoing detention is predicated on an erroneous agency decision, *see Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), that asserts that he is subject to mandatory detention under Section 1225(b)(2)(A), Title 8 of the U.S. Code. This agency decision would treat Petitioner as if he were recently arriving at the border and "seeking admission." Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and have been long domiciled in the United States. Instead, such individuals are subject to a different statute, Section 1226(a), which allows for release on conditional parole or bond. That statute applies to people who—like Petitioner—already effected an entry into the United States and established a domicile in the United States pending their removal proceedings. ICE arrested Petitioner more than a year and a half after he entered the United States at a location well within the interior of the United States, not at an international border or a port-of-entry.

3. Respondents' erroneous legal interpretation is plainly contrary to the statutory framework governing immigrant detention and contrary to decades of agency practice applying § 1226(a)—a discretionary detention statute—to people like Petitioner. Petitioner seeks a writ of habeas corpus requiring that she be released unless Respondents provide a bond hearing under § 1226(a) within seven (7) days.

JURISDICTION & VENUE

4. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

5. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

6. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is currently detained in this district and division and events or omissions giving rise to this action occurred in this district and division.

PARTIES

7. Petitioner, Carlos Eduardo Gómez Romero, is a native and citizen of Venezuela who is currently detained by U.S. Immigration and Customs Enforcement ("ICE") within the Southern District of Georgia. Petitioner is in ICE custody in connection with ongoing removal proceedings and a pending asylum application.

8. Respondent Warden of the Folkston ICE Processing Center is sued in his official capacity. In that capacity, Respondent he is charged with overseeing ICE detention operations at Folkston, and is Petitioner's immediate custodian.

9. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). She supervises ICE, an agency within DHS that is responsible for the administration and enforcement of immigration laws, and she has supervisory responsibility for and authority over the detention and removal of non-citizens throughout the United States. Secretary Noem is the ultimate legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

10. Respondent Pamela Bondi is the Attorney General of the United States. As the Attorney General, she oversees the Executive Office for Immigration Review (EOIR), including all immigration judges (IJs) and the BIA. Respondent Bondi is sued in her official capacity.

LEGAL BACKGROUND

A. Detention During Removal Proceedings

11. Section 1229a of Title 8 of the U.S. Code (Section 240 of the INA) describes the primary process through which the government seek to remove non-citizens from the United States. It specifies that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be . . . removed from the United States." 8 U.S.C. § 1229a(a)(3).

12. To initiate removal proceedings against a non-citizen under Section 1229a, the Government must issue the non-citizen an NTA. 8 U.S.C. § 1229(a)(1). Most non-citizens go through removal proceedings from outside detention. But ICE is increasingly detaining non-citizens during their removal proceedings.

13. Section 1226 of Title 8 of the U.S. Code (Section 236 of the INA) is the default provision that governs the arrest and detention of non-citizens pending removal proceedings. It states that "on a warrant issued by the Attorney General,[1] a[] [non-citizen] may be arrested and detained pending a decision on whether the [non-citizen] is to be removed from the United States" 8 U.S.C. § 1226(a). Non-citizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek bond from an IJ. *Id.* § 1226(a)(2).

14. A separate provision governs the detention of people who seek admission to the United States at the border. It states that "in the case of a [non-citizen] who is an applicant for admission, if the examining immigration officer determines that a [non-citizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the non-citizen shall be

[1] In 2003, the Immigration and Naturalization Service (INS) within the Department of Justice (DOJ) became what is now ICE, which is housed within DHS. Therefore, some statutory references to the "Attorney General," like this one, now refer to the Secretary of DHS.

detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A). IJs do not have jurisdiction to grant bond for such "applicant[s] for admission," though DHS retains the discretion to release such non-citizens on a specific type of parole "for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. No exhaustion is statutorily required for the petitioner's habeas claims be- cause "Section 2241 itself does not impose an exhaustion requirement," *Santiago-Lugo v. Warden*, 785 F. 3d 467, 474 (CA11 2015).

16. Regardless, "[w]here Congress does not say there is a jurisdictional bar, there is none." *Santiago-Lugo v. Warden*, 785 F.3d 467, 473 (11th Cir. 2015). The fact that it did not limit courts' subject matter jurisdiction to decide unexhausted § 2241 claims compels the conclusion that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect." *Id.* at 474.

17. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision that rests soundly within the broad discretion. of district courts. *See J.N.C.G. v. Warden, Stewart Detention Ctr.*, No. 4:20-CV- 62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm'n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

18. Here, there is no reason to require additional exhaustion of administrative remedies, as Petitioner has no meaningful alternative to habeas relief, and has already requested bond from the immigration court. *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001) ("[A] petitioner need not exhaust their administrative remedies where the administrative remedy

will not provide relief commensurate with the claim."); *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982) ("[E]xhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]"). In light of the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), exhaustion would be futile because the outcome of the administrative process can be reasonably anticipated and would not constitute an adequate remedy.

19. Accordingly, Petitioner urgently seeks and is entitled to habeas relief because he has no meaningful opportunity to challenge the constitutionality of his detention through any available administrative process. *See Boumediene v. Bush*, 553 U.S. 723, 783 (2008).

STATEMENT OF FACTS

20. Petitioner Carlos Eduardo Gómez Romero is a native and citizen of Venezuela, born on [redacted] See Exh. "A," Venezuelan Identification.

21. Mr. Gomez Romero fled Venezuela due to conditions that form the basis of his pending asylum claim, including politically-motivated violence and repression of dissidents, and sought protection in the United States.

22. Petitioner entered the United States on or about December 18, 2023, near Eagle Pass, Texas, without inspection. See Exh. "B," Notice to Appear dated December 23, 2023.

23. On December 23, 2023, the Department of Homeland Security issued a Notice to Appear, charging Petitioner under INA § 212(a)(6)(A)(i) as an alien present without being admitted or paroled. See id.

24. Petitioner would later timely apply for asylum on or about July 10, 2024, invoking his statutory right to seek protection under U.S. and international law. See Exh. "C," Form I-589, Application for Asylum and Withholding of Removal dated July 10, 2024.

25. After entering the United States, on or about December 23, 2023, DHS issued an Order of Release on Recognizance, reflecting that Petitioner was initially determined eligible for release and not considered a danger or flight risk. See Exh. "D," Order of Release on Recognizance dated December 23, 2023.

26. That Order of Release reflected Respondent's own determination that Petitioner was subject to detention under Section 236 of the Immigration and Nationality Act [Section 1226 of the U.S. Code] and that he was subject to discretionary detention on that basis. See id.

27. In 2025, Petitioner obtained an employment authorization document and began working at a Hyundai-affiliated manufacturing plant in Georgia, where he was steadily employed and supporting himself. See Exh. "E," Employment Authorization Document.

28. Petitioner was arrested during a large-scale ICE workplace enforcement operation on September 4, 2025, despite having no criminal history and no prior violations of release conditions. That enforcement action was widely reported by national and local media as part of one of the most significant immigration raids in the state. [2]

29. Since that arrest, Petitioner has been continuously detained by ICE without bond, with no individualized determination justifying his continued confinement. Petitioner has no extant criminal record or other derogatory information of significance. The only known contact Petitioner has ever had with the criminal legal system was for a minor traffic issue in Chatham County, Georgia. That citation was fully resolved and paid in full on or about May 28, 2025, pursuant to a court-approved payment plan and case dispositions. See Exh. "F," Recorder's Court Payment Plan Summary and Dispositions. Petitioner complied with all court requirements, made

[2] Georgia Recorder "Federal Operations at Savannah-area Hyundai Plant Nets 475 detentions." Available at: *Federal operation at Savannah-area Hyundai plant nets 475 detentions*"

timely payments, and successfully closed the matter, further demonstrating his respect for the law and reliability.

30. Multiple letters of support written on Petitioner's behalf attest to his good moral character, work ethic, and positive contributions to his community. See Exh. "G," Letters of Support.

31. Community members describe Petitioner as hardworking, respectful, honest, family-oriented, and trustworthy, and uniformly express that he poses no danger to the community and should be allowed to remain free while his immigration case proceeds.

32. Since his detention, Petitioner has experienced worsening dental and gastrointestinal health issues, causing pain and discomfort that have not been adequately addressed in custody. Continued detention without a bond hearing under these conditions is harmful, dangerously exacerbates his health problems, and raises serious constitutional concerns under the Due Process Clause.

ARGUMENT

A. Petitioner's Continued Detention Is Unlawful Because He Is Not Subject to Mandatory Detention Under 8 U.S.C. § 1225(b)(2)

33. Respondents have unlawfully subjected Petitioner to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2), despite the fact that he was apprehended inside the United States after having resided here for well over a year. As a result, Respondents have deprived him of his liberty in violation of due process and the relevant statutory detention framework, contrary to the Fifth Amendment and the INA.

34. Immigration courts are relying on the BIA decision *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), to categorically deny bond to persons who entered the United States without inspection. District courts across the country have roundly rejected this agency

interpretation. *See e.g., Barrera v. Tindall*, No. 3 :25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Zumba v. Bondi*, No. 25-CV-14626-KSH-, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Lopez-Campos*, No. 2:25-CV12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV07492-RFL, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025). This Court should also decline to follow *Matter of Yajure Hurtado*, whose interpretation of § 1225 is at odds with the text of § 1225 and § 1226, is inconsistent with earlier BIA decisions, and renders superfluous the recent Laken Riley Act amendments to § 1226(c).

35. As another district court within the Eleventh Circuit explained:

> "Respondents' reliance on the BIA's decision in *Matter of Yajure Hurtado* — rejecting the argument that a noncitizen who entered the United States without inspection and has resided here for years is not 'seeking admission' under section 1225(b)(2)(A) — is also misplaced. The Court need not defer to the BIA's interpretation of law simply because the statute is ambiguous. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) ("[C]ourts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous." (alteration added)). As explained, the statutory text, context, and scheme of section 1225 do not support a finding that a noncitizen is 'seeking admission' when he never sought to do so. Additionally, numerous courts that have examined the interpretation of section 1225 articulated by Respondents — particularly following the BIA's decision in *Matter of Yajure Hurtado* — have rejected their construction and adopted Petitioner's. ... For these reasons, the Court finds that section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a)."

See Alvarez Puga v. Assistant Field Office Director, Krome North Service Processing Center et al., No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025) at *10.

36. This case turns on the statutory distinction between § 1226(a) and § 1225(b)(2) of the INA. Section 1226(a) governs the arrest and detention of noncitizens already present in the United States pending removal proceedings, while § 1225(b)(2) governs the detention of noncitizens arriving at the border or ports of entry. In enacting these provisions, Congress expressly recognized the greater due process rights of noncitizens residing within the United

States as compared to those of "arriving" noncitizens. *See* H.R. REP. 104-469, pt. 1, at 163–66 ("an alien present in the U.S. has a constitutional liberty interest to remain in the U.S."), citing *Knauff v. Shaughnessy*, 338 U.S. 537 (1950).

37. Consistent with this statutory framework, immigration agencies and courts have long applied § 1226(a)—not § 1225(b)(2)—to noncitizens apprehended inside the United States who were not seeking admission at the border. *See Maldonado v. Feely*, No. 25-cv-01542-RFB-EJY (D. Nev. Sept. 17, 2025) ("Despite being applicants for admission, aliens who are present without admission or parole will be eligible for bond and bond redetermination... inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge, while arriving aliens do not.") (citing *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)).

38. Nonetheless, on July 8, 2025, DHS issued a notice instructing ICE officers to detain all noncitizens "who have not been admitted" under § 1225(b)(2), regardless of where they were apprehended. *See* ICE Memo: *Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025). The Notice purports to eliminate bond eligibility for such individuals, directing that they "may not be released from ICE custody except by INA § 212(d)(5) parole."

39. This expansive interpretation contradicts the statutory text, legislative history, and consistent judicial authority in multiple circuits. *See, e.g.*, *Merino v. Noem*, No. 25-cv-23845 (S.D. Fla. Oct. 15, 2025), *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa*, No.

2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025). Each of these courts rejected DHS's position and held that noncitizens residing in the United States when taken into custody are detained under § 1226(a) and therefore entitled to a bond hearing.

40. Petitioner, who has lived in the United States for over a year and was apprehended well inside the country, is therefore not properly classified as an "arriving alien." His detention under § 1225(b)(2) is unlawful. Because § 1226(a) governs his custody, Petitioner is entitled to a custody redetermination and to consideration for bond based on individualized factors. The government's continued reliance on § 1225(b)(2) to deny bond violates both the statute and Petitioner's constitutional right to due process.

B. Petitioner's Continued Detention Violates His Substantive and Procedural Due Process Rights

41. The Fifth Amendment guarantees that no person shall be deprived of life, liberty, or property without due process of law. U.S. CONST. amend. V. This protection extends to all persons within the United States—citizens and noncitizens alike—regardless of immigration status. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Because Petitioner has been detained for an extended period without a meaningful opportunity to seek release, his detention offends both procedural and substantive due process.

42. Civil immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has made clear that there are only two plausible purposes for immigration detention: ensuring a non-citizen's appearance at his removal proceedings and/or preventing danger to the community. *Zadvydas*, 533 U.S. at 690. Indeed, where civil detention "is of potentially *indefinite* duration," courts have "also demanded that the dangerousness rationale be accompanied by some other special circumstance." *Id.* If immigration

detention is not reasonably related to one of these purposes, it is essentially punitive and therefore violative of the Due Process Clause. *See id.*

43. To determine whether the Government's procedures satisfy procedural due process, courts apply the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Under *Mathews*, courts consider: (1) the private interest affected by the government action; (2) the risk of erroneous deprivation of that interest through existing procedures and the probable value of additional safeguards; and (3) the government's interest, including administrative or fiscal burdens of additional process. *Mathews*, 424 U.S. at 335. Each of these factors strongly favors Petitioner.

44. First, the Petitioner's liberty interest is undoubtedly substantial. Freedom from physical constraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Petitioner has been detained for months without any individualized assessment of flight risk or danger despite his long residence in the United States, family ties, and lack of any disqualifying criminal record because no IJ will consider those factors, absent habeas relief.

45. Second, the risk of erroneous deprivation is extreme. The immigration courts' current refusal to even consider bond, based on DHS's position that Petitioner is subject to "mandatory detention" under §1225(b)(2), deprives him of the only procedural mechanism designed to test the necessity of his continued confinement. Absent habeas relief, Petitioner has no meaningful opportunity to contest his detention. Courts have consistently held that procedures which categorically foreclose individualized review of detention violate due process. *See Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154 (D. Minn. May 21, 2025) (describing

DHS's unilateral detention authority as creating "not just a risk, but a likelihood" of erroneous deprivation).

46. Third, the Government's interests are adequately protected by the individualized bond determination procedure already contemplated by §1226(a). As the Ninth Circuit recognized in *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017), "the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future proceedings can be reasonably ensured by less restrictive conditions." Far from imposing any undue burden, allowing bond hearings for noncitizens apprehended inside the United States promotes fairness and efficiency.

47. Accordingly, under *Mathews*, the procedures used to detain Petitioner fail to satisfy procedural due process. The IJ's refusal to exercise jurisdiction, based solely on DHS's misclassification of Petitioner as subject to §1225(b)(2), constituted a denial of any meaningful opportunity to be heard. The Government's blanket invocation of "mandatory detention" cannot substitute for constitutionally required process.

48. Even apart from procedural deficiencies, Petitioner's continued confinement violates substantive due process. Government detention is constitutionally permissible only when it occurs in a criminal context with robust procedural protections, or in civil circumstances where a "special justification" outweighs the individual's liberty interest. *Zadvydas*, 533 U.S. at 690. No such justification exists here.

49. Petitioner's confinement is purely civil and ostensibly intended to ensure his presence for removal proceedings. Yet the Government has offered no individualized justification for his ongoing detention, no finding that he poses a danger or flight risk, because no IJ has been

permitted to reach those issues. Detaining a noncitizen without such a finding serves no legitimate regulatory goal and instead amounts to impermissible punishment.

50. Respondents rely on *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), to argue that IJs lack jurisdiction to consider bond. As discussed *supra*, Petitioner was apprehended well inside the United States, after residing here for just under two years. He is therefore properly detained under §1226(a), which provides for discretionary release on bond. The BIA's decision in *Yajure-Hurtado* cannot override Congress's clear statutory distinction between §1225(b)(2) (governing those seeking admission at the border) and §1226(a) (governing those already present in the United States).

51. By adopting DHS's erroneous interpretation, Petitioner's continued detention is arbitrary, indefinite, and unconstitutional. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) (holding that detention of noncitizens apprehended within the U.S. under §1225(b)(2) violates due process and exceeds statutory authority).

52. Because Petitioner's detention falls under §1226(a), he is entitled to a prompt and meaningful bond hearing at which the Government bears the burden to justify continued detention by clear and convincing evidence. The IJ's refusal to conduct such a hearing, and DHS's misapplication of *Yajure-Hurtado*, violated the Due Process Clause of the Fifth Amendment.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Substantive Due Process

53. The Supreme Court has found that the "Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 682.

54. Immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527. Petitioner has been detained for almost a month without any individualized custody determination. At his initial bond hearing, the Immigration Judge declined to exercise jurisdiction, citing *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), and therefore refused to assess whether Petitioner posed a danger or flight risk. As a result, Petitioner remains confined without any finding that his detention is necessary to serve a legitimate regulatory purpose. Such unexamined and indefinite detention bears no reasonable relation to ensuring appearance at removal proceedings or protecting public safety.

55. By categorically denying Petitioner the opportunity for individualized review, Respondents have transformed a civil regulatory scheme into punitive confinement in violation of substantive due process. The Fifth Amendment forbids detention that is arbitrary, excessive in relation to its purpose, or unsupported by individualized justification. *See Zadvydas*, 533 U.S. at 690. Because Petitioner has never been found to be a danger or flight risk, and because Respondents have provided no special justification for continued incarceration, his detention is not reasonably related to its purpose and thereby violates his due process rights.

COUNT II

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

Procedural Due Process

56. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals' due process rights.

57. Petitioner has been denied any meaningful process to challenge his confinement. Although the Immigration Court scheduled a bond hearing, the Immigration Judge declined jurisdiction and refused to consider release, citing *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025). As a result, Petitioner was never afforded an individualized determination of whether he poses a danger or flight risk. Respondents' application of *Matter of Yajure-Hurtado* and the resulting refusal to hold a bond hearing violate the procedural component of the Due Process Clause of the Fifth Amendment.

COUNT III

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

No Authority to Detain

58. 8 U.S.C. § 1226(a) authorizes immigration detention only during pending removal proceedings. Respondents' reliance on § 1225(b)(2) to deny Petitioner a bond hearing and to classify him as subject to mandatory detention is contrary to the plain language and structure of the INA, as well as its legislative history and judicial interpretation.

59. Because Petitioner is not subject to mandatory detention, Respondents lack authority to detain him without providing a meaningful opportunity for release on bond. Continued confinement under § 1225(b)(2) exceeds the government's statutory authority and violates both the INA and the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Respondents not transfer

Petitioner outside of the jurisdiction of the U.S. District Court for the Southern District of Georgia during the pendency of this petition;

c. Declare that Respondents' actions or omissions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and/or the Immigration and Nationality Act;

d. Order Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing before An Immigration Judge with jurisdiction under 8 U.S.C. § 1226(a), at which the Government bears the burden of proving by clear and convincing evidence that continued detention is justified;

e. In the alternative, order Petitioner's immediate release from custody if a bond hearing is not held within fourteen (14) days of this Court's order;

f. Award Petitioner reasonable fees under the Equal Access to Justice Act, 5 U.S. Code § 504;

g. Grant any other further relief this Court deems just and proper.

[*Verification Page Follows*]

Respectfully submitted,

Dated: January 4, 2026

s/ Felix A. Montanez
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Counsel for Petitioner

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner's family the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

Dated: January 10, 2026

s/ Felix A. Montanez
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