FILED

JAN 12 2026

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ELIMAR TERESA BRITO MEJÍAS,
Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
Jose Rodriguez. Jr., Field Office Director, San Antonio Field Office, United States Immigration and Customs Enforcement;
Respondents.

Civil Action No. SA26CA0212JKP

Immigration No. [redacted]

PLAINTIFF'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PRO SE UNDER 28 U.S.C. § 2241

I. INTRODUCTION

1. Petitioner Elimar Teresa Brito Mejías respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of her arrest and continued civil immigration detention by U.S. Immigration and Customs Enforcement ("ICE").

2. Petitioner is currently detained at the Dilley Immigration Processing Center in Dilley, Texas, within the jurisdiction of this Court.

3. Petitioner was place into removal proceedings before under INA § 240, 8 U.S.C. § 1229a, following her recent arrest by ICE officers near her home in Florida. *See* Ex. B, Notice to Appear.

4. In recent months, immigration judges have routinely denied requests for a bond hearing to individuals in situations substantially similar to that of Petitioner, due to a perceived lack of jurisdiction. These denials have relied on recent Board of Immigration Appeals ("BIA") precedent

in Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025), and Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). See Ex. C, Recent BIA Decisions on Bond. However, numerous federal district court, including some from within the jurisdiction of the United States Court of Appeals for the Fifth Circuit, have made clear that noncitizens detained under INA § 236(a) are entitled to individualized bond hearings.

5. Despite this posture, immigration judges continue to refuse to provide noncitizens such as Petitioner with an individualized custody redetermination hearing, asserting a lack of jurisdiction based on erroneous Board of Immigration Appeals precedent. The refusal to provide such a hearing violates the INA, the Due Process Clause of the Fifth Amendment, and the APA, because apprehension of those from the interior of the country is governed by INA § 236(a), which clearly provides that noncitizens are entitled to bond hearings.

6. Petitioner therefore petitions this Court for habeas relief under 28 U.S.C. § 2241 and seeks injunctive relief directing Respondents release her or provide her with an individualized custody hearing or release her under reasonable conditions without delay, in order to restore Petitioner's constitutional and statutory rights and to prevent her unlawful and indefinite imprisonment. Injunctive relief, including a temporary restraining order, is warranted to halt the irreparable harm caused by her ongoing detention. Without immediate judicial intervention, Petitioner will continue to suffer deprivation of her liberty, interruption of her pursuit of asylum, and the crushing anxiety of being indefinitely confined despite her full compliance with the government's supervision regime

7. Petitioner's detention violates the Fourth Amendment and the Fifth Amendment Due Process Clause, because she was initially seized without probable cause, misled about the purpose of her detention, and is now subjected to prolonged civil detention without a meaningful

individualized bond determination, despite strong evidence that she poses no flight risk and no danger to the community.

8. Petitioner seeks immediate release, or in the alternative, a constitutionally adequate bond hearing at which the Government bears the burden of proof.

II. JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202.

10. This Court has jurisdiction under 28 U.S.C. § 2241, because Petitioner is in federal custody and challenges the legality of that custody under the Constitution and laws of the United States. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. § 1651.

11. Venue is proper in the Western District of Texas, because Petitioner is physically detained at the Dilley Immigration Processing Center, 300 El Rancho Way, Dilley, TX 78017 and her immediate custodian is located within this District. Enforcement and Removal Operations See Ex. A.

12. Jurisdiction and venue are proper under Rumsfeld v. Padilla, because the Petition names Petitioner's immediate custodian and is filed in the district of confinement.

III. PARTIES

13. Petitioner, Elimar Teresa Brito Mejías, A#  is a citizen and national of Venezuela. Petitioner is currently in active removal proceedings under 8 U.S.C. § 1229a (INA § 240).

14. Respondent, Jose Rodriguez Jr. Warden / Facility Director, Dilley Immigration Processing Center (Immediate Custodian);

15. Respondent, KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is sued in her official capacity.

16. Respondent, TODD LYONS is the Acting Director of Immigration and Customs Enforcement ("ICE"), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

IV. STATEMENT OF FACTS

17. Petitioner, Elmira Teresa Brito Mejias, is a 48 year old female citizen of Venezuela. She entered the United States January 18, 2022. She is a member a member of National TPS Alliance and represented in NTPSA v. Noem. On December 31, 2025 the United States District Court Judge of Northern District of California Trina Thompson found that Department of Homeland Security Secretary Kristi Noem did not go through the proper federal procedures to end the designations for Temporary Protected Status for three nations, including Venezuela and issued a temporary stay and denied a summary judgement declaring that the termination of the TPS were unlawful under the APA. The Judge stated that 'The President is not above the law,'…. "Neither are his cabinet officials. The Administrative Procedures Act ensures government accountability by making agencies transparent, require public participation, setting fair rulemaking standards, and allowing courts to review actions for legality and rationality." See Ex H.

18. On December 3, 2025, at approximately 4:30 a.m., Petitioner was driving to her place of employment, Pinecrest Bakery in Key Largo, Florida, where Petitioner was stopped by a marked police patrol vehicle.

19. Petitioner immediately pulled over and cooperated. Officers asked where Petitioner was going and requested documents, which was provided.

20. Despite this, officers told Petitioner she had to accompany them due to an alleged issue involving an expired document, which they did not clearly explain. Petitioner was told this was only for fingerprinting purposes.

21. Petitioner was not informed that she was being detained for immigration enforcement purposes. Petitioner was moved between multiple locations and vehicles over several hours, including hidden parking areas where ICE agents were present.

22. Petitioner was taken to Rowell's Waterfront Park, where several other individuals were detained, and later transported to the Border Patrol office in Marathon, Florida.

23. Petitioner was handcuffed for approximately 25 hours, including during restroom use. The officers involved were all men, all wearing face coverings. Petitioner was extremely afraid and felt completely powerless.

24. Petitioner was later transferred to Broward Transitional Center and ultimately to Texas. Throughout this process, Petitioner was restrained, misled about the reasons for her detention, and treated as a number rather than a person.

25. To further exacerbate what petitioner has gone through the "agents" who initially detained her would not allow her to call anyone to get her call where she had nearby friends who could come and pick up the car. Not even a month has gone by and she has received notice that the car is being placed on sale. See Exh. H.

26. Critically, when Mrs. Brito's case was filed with the immigration court and served upon her, it placed her into § 240 removal proceedings. As a result of this, Mr. Brito is entitled to the full panoply of due process guaranteed by the INA, including a hearing on relief from removal and

a bond hearing under § 236(a), and not merely a summary expulsion—a natural result, in view of his lengthy history in this country.

27. Despite this posture, Mrs. Brito has been treated for bond immigration purposes as though she were subject to the harshest form of "arriving alien" detention, even though she has been properly placed in § 240 proceedings. Instead of being allowed to seek release on bond before an immigration judge, ICE has categorically denied her any chance to demonstrate that she is neither a danger to the community nor a flight risk. This blanket denial is not based on any individualized finding, but on the government's insistence on applying the Board of Immigration Appeals' recent decisions in Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025), and Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). Those decisions—issued without notice-and-comment rulemaking, and in direct tension with binding circuit law—purport to strip immigration judges of authority to hold bond hearings for individuals like Mrs. Brito.

28. As a result, Mrs. Brito now finds herself locked away at the DILLEY IMMIGRATION PROCESSING CENTER, a remote facility hundreds of miles from her community in Florida. See Ex. A. She is held under conditions indistinguishable from those reserved for dangerous criminals, despite the absence of any criminal conviction that would bar her release under Section 236(c) of the INA. Each day of confinement exacerbates the harm—separating her from family and community support, impeding her ability to consult with counsel, and inflicting the psychological strain that prolonged and unnecessary detention inevitably produces.

29. In sum, Mrs. Brito is a woman with deep roots in the United States, strong claims for humanitarian protection, and no disqualifying criminal record. She has been thrust into prolonged civil detention solely because of the government's reliance on recent, non-binding BIA decisions that contravene the plain language of the INA and the controlling law of this Circuit. Her detention,

absent the possibility of an individualized bond hearing, is unlawful, arbitrary, and profoundly unjust.

V. LEGAL STANDARD

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

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

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

33. Despite this clear statutory scheme, DHS has invoked recent BIA decisions (i.e., Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025); Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)) to strip immigration judges of bond authority in cases such as those of Petitioner. Those decisions, however, cannot override the plain language of the statute.

34. In recent weeks, multiple district courts in 2025 have directly addressed the Government's efforts to expand § 1225(b)(2)(A) beyond its intended scope by assessing habeas petitions for noncitizens in similar circumstances and have repeatedly concluded that the clear and

unambiguous language of Section 236 of the INA permits noncitizens who arrived without inspection-persons in precisely the same legal circumstances as Mr. Perez-are eligible to request bond hearings before the immigration court.

35. For example, in Santos v. Noem, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the court emphasized that habeas relief is proper to correct statutory misclassification and to preserve the petitioner's due process rights. In Kostak v. Trump, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the court ordered bond eligibility under § 1226(a), rejecting the Government's assertion that § 1225(b) applied. Likewise, in Salazar v. Dedos, 2025 U.S. Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under § 1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause.

36. Similarly, Lopez v. Hardin, 2025 U.S. Dist. LEXIS 188368 (N.D. Tex. 2025), and Lopez-Arevelo v. Ripa, 2025 U.S. Dist. LEXIS 188232 (S.D. Tex. 2025), further confirm that courts are rejecting agency efforts to apply § 1225(b)(2)(A) to individuals who are properly subject to § 1226(a).

37. These holdings reflect a growing consensus that district courts retain jurisdiction to intervene where detention rests on a statutory misapplication and results in ongoing constitutional harm. The cumulative weight of these decisions underscores that Mr. Perez is entitled to bond consideration under § 1226(a).

38. Furthermore, Immigration detention is civil, not punitive, and must comply with the Fourth Amendment and Fifth Amendment Due Process Clause.

39. Habeas relief is appropriate where detention is unlawful at its inception, becomes constitutionally excessive, or lacks adequate procedural safeguards.

VI. CLAIMS FOR RELIEF

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

40. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

41. Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and controlling precedent of the United States Court of Appeals for the Fifth Circuit.

42. INA § 236(a), 8 U.S.C. § 1226(a), provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and that the Attorney General "may continue to detain the arrested alien" or "may release the alien on—(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole."

43. By its plain text, Section 236(a) applies to all noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 236(c) applies.

44. In interpreting the plain language of Section 236(a), various federal district courts confirmed that noncitizens detained under Section 236(a) are statutorily eligible for individualized bond determinations before an immigration judge. Thus, the Attorney General must consider bond application by detained aliens pending the outcome of their removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

45. Petitioner is now in removal proceedings under Section 240 of the INA [8 U.S.C. § 1229a],. because Petitioner is detained in the context of ongoing removal proceedings, her custody is governed by § 236(a), not § 235(b).

46. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a), Respondents have acted contrary to statutory authority requiring consideration of such bond application. This policy has supports the conclusion that the filing of a bond application with the immigration courts is currently a futile endeavor. Petitioner's continued detention without access to an individualized custody redetermination violates the INA and must be corrected through habeas relief.

47. Accordingly, this Court should grant the writ and order that Petitioner receive an individualized bond hearing under INA § 236(a), as mandated by controlling law in this Circuit.

Count II - (Violation of the Fifth Amendment – Due Process)

48. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

49. Petitioner's detention has become prolonged and unreasonable, with her individual immigration hearing scheduled years in the future.

50. Petitioner's continued detention without access to an individualized custody redetermination hearing also violates the Due Process Clause of the Fifth Amendment. Prolonged detention without bond review is arbitrary, punitive, and unconstitutional.

51. Petitioner has a pending asylum application, approved employment authorization valid through 2030, strong family ties, lawful residence, and community support.

52. ICE has failed to provide a meaningful individualized bond hearing where the Government bears the burden of justifying continued detention.

53. Continued detention under these circumstances violates the Fifth Amendment Due Process Clause.

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

55. Because Petitioner is detained by ICE at the DILLEY IMMIGRATION PROCESSING CENTER, she is categorically barred from presenting evidence that she is not a danger to the community and that she poses no flight risk. The blanket denial of access to a bond hearing strips Petitioner of the individualized determination required by due process and by the plain language of Section 236(a).

56. Unlike noncitizens subject to mandatory detention for serious criminal offenses under Section 236(c) [8 U.S.C. § 1226(c)], Petitioner has no qualifying convictions that justify a categorical denial of release. Her only arrest was conducted by ICE as a result of perceived alienage. The government has no legitimate basis to insist that Petitioner's detention be mandatory, yet she remains confined with no opportunity for release.

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

58. Petitioner is a long-time resident of the United States, with over two years of continuous presence. She has strong family and community ties in Florida. There has been no finding that she is a danger to the community or a flight risk. Yet, solely because of recent, erroneous BIA decisions—decisions not binding in this Circuit—she has been categorically denied the process to

which she is entitled. This amounts to an arbitrary deprivation of liberty in violation of the Fifth Amendment.

59. Accordingly, the Court should grant habeas relief on constitutional grounds and order that Petitioner be afforded an immediate bond hearing, or that she be released from custody pending the final outcome of his Section 240 removal proceedings.

Count III – Unlawful Agency Action (APA)

60. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

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

62. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA § 236(a), including those who entered without inspection. See Matter of Guerra, 24 I&N Dec. 37 (BIA 2006); see also Ex. E, Pre-2025 Unpublished BIA Bond Decisions. That framework allowed for individualized custody determinations consistent with both statutory text and constitutional principles. These cases include, without limitation, the following:

- Matter of Guerra, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests);
- In re L-E-V-H-, A [redacted] (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");

- In re A-R-S-, A[redacted] (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien");
- In re M-D-M-, A[redacted] (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- In re F-P-J-, A[redacted] (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

63. In 2025, the BIA issued Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025), and Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), which held that certain noncitizens who entered without inspection are subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b). These decisions abruptly stripped immigration judges of bond authority for a large class of detainees, including Petitioner, without notice-and-comment rulemaking and without reasoned explanation for abandoning prior precedent.

64. The APA requires agencies to engage in reasoned decision-making, and prohibits arbitrary or capricious action. 5 U.S.C. § 706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very definition of arbitrary and capricious action. See Encino Motorcars, LLC v. Navarro, 579 U.S. 211, 221–22 (2016).

65. Although Petitioner has not filed a bond application since entering ICE custody on or about December 3, 2025, doing so would be futile, as immigration judges refuse to exercise jurisdiction, expressly relying on this recent BIA policy shift. See Ex. F, Sample IJ Bond Decision. By treating individuals such as Petitioner as subject to mandatory detention under Section 235(b), Respondents

have applied an unlawful, arbitrary interpretation of the statute that is inconsistent with the plain language of Section 236(a) and unsupported by reasoned analysis.

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

COUNT IV - (Violation of the Fourth Amendment – Unlawful Seizure)

67. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

68. Petitioner incorporates by reference the foregoing factual allegations and asserts an additional, independent claim arising under the Fourth Amendment to the United States Constitution.

69. Petitioner was seized without a warrant and without probable cause.

70. On or about the morning of December 3, 2025, Mrs. Brito was arrested by ICE officers while she was on her way to work in Florida. The officers did not present a warrant or have any individualized basis to believe that Mrs. Brito had committed any immigration violation. Instead, the agents addressed her in Spanish and began questioning her about her immigration status.

71. This pattern of conduct demonstrates that ICE agents acted not pursuant to individualized suspicion, but rather engaged in a form of dragnet racial profiling directed at individuals of Hispanic appearance. Such conduct violates the Fourth Amendment's guarantee that "[t]he right of the people to be secure in their persons … against unreasonable searches and seizures, shall not be violated." U.S. Const. amend. IV. The Supreme Court has made clear that seizures without probable cause, or predicated solely on race or ethnicity, are unconstitutional. See United States v.

Brignoni-Ponce, 422 U.S. 873, 885-87 (1975) (holding that apparent Mexican ancestry alone cannot justify a stop by immigration officers).

72. Here, there is no evidence that ICE possessed either (1) a valid arrest warrant specifically naming Petitioner, or (2) reasonable suspicion particularized to Petitioner that would justify a seizure. Instead, the agents' conduct fits precisely within the type of generalized, race-based enforcement action that Brignoni-Ponce and its progeny forbid. By seizing Petitioner without lawful authority, Respondents violated the Fourth Amendment.

73. This violation is not a mere procedural irregularity: it taints the very basis of Petitioner's detention. As courts have recognized, unlawful seizures may warrant suppression of evidence in immigration proceedings, and they independently justify habeas relief where continued detention is the fruit of a Fourth Amendment violation. See, e.g., Oliva-Ramos v. Att'y Gen., 694 F.3d 259, 279-80 (3d Cir. 2012) (suppression warranted where ICE engaged in warrantless, suspicionless home raids); Yanez-Marquez v. Lynch, 789 F.3d 434, 449-50 (4th Cir. 2015) (held that exclusionary rule stemming from Fourth Amendment violations applies even in removal proceedings, because "[t]o hold otherwise would give no effect to the language used by the Supreme Court in Lopez-Mendoza expressing concern over fundamentally unfair methods of obtaining evidence and would ignore the fact that eight justices in Lopez-Mendoza seem to have agreed that the exclusionary rule applies in removal proceedings in some form"); Orhorhaghe v. INS, 38 F.3d 488, 501 (9th Cir. 1994) (suppressing evidence obtained through race-based immigration stop).

74. Moreover, Petitioner's arrest, effected in a public place without a judicial warrant, violated 8 U.S.C. § 1357(a)(2), which requires that immigration officers may arrest an alien without a warrant only where they have "reason to believe" the person is in violation of the law and is "likely

to escape before a warrant can be obtained." No such exigent circumstances existed here. Petitioner was simply on her way to work.

75. Therefore, it is clear that Petitioner's ongoing detention is the direct product of an unconstitutional seizure and should be declared unlawful. This Court should grant habeas relief and order her release, or at minimum, declare that her seizure violated the Fourth Amendment and enjoin Respondents from continuing to detain her on the basis of this unconstitutional arrest.

76. She was misled into believing the encounter was administrative fingerprinting, while in reality she was being subjected to immigration detention.

77. The seizure was prolonged, coercive, and unreasonable under the Fourth Amendment, rendering the initial detention unlawful.

78. Continued detention flowing from an unlawful seizure violates the Constitution and cannot be cured by later administrative processing.

VII. EXHAUSTION

79. Petitioner has no adequate or effective administrative remedy to address these constitutional violations in a timely manner. Habeas relief is therefore appropriate. See Ex. G.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Grant this Petition for Writ of Habeas Corpus; ordering Respondents to provide Petitioner with an individualized bond hearing under INA § 236(a), 8 U.S.C. § 1226(a) within seven (7) days of the Court's order;

B. Order Petitioner's immediate release from ICE custody;

C. In the alternative, order a prompt and constitutionally adequate bond hearing with the burden on the Government declaring that the plain language of INA § 236(a) permits immigration judges to consider bond requests of noncitizens who are present without admission and are not classified as arriving aliens;

D. Grant such other and further relief as the Court deems just and proper, including, but not limited, the possibility of restitution for the economic loss of her car.

IX. VERIFICATION

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

Date: 01/05/2026

Signature: Elimar Brito

Elimar Teresa Brito Mejías

A# [redacted]

Petitioner, Pro Se

X. CERTIFICATE OF SERVICE

I certify that on this date I served a copy of this Petition by U.S. Mail on ICE and OPLA.

Date: 01/05/2026

Signature: Elimar Brito

Petitioner, Pro Se

INDEX OF EXHIBITS IN SUPPORT OF

PETITION FOR WRIT OF HABEAS CORPUS

SA26CA0212JKP

Exhibit	Description
A.	Proof of Detention in ICE Custody
B.	Notice to Appear
C.	Recent BIA Decisions on Bond
	• *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025)
	• *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)
D.	Venezuelan Passport
E.	Group Exhibit: Pre-2025 Unpublished BIA Bond Decisions
	• *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests)
	• *In re L-E-V-H-*, [redacted] (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");
	• *In re A-R-S-*, [redacted] (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien"); and
	• *In re M-D-M-*, [redacted] (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years)
	• *In re F-P-J-*, [redacted] (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years)
F.	Sample IJ Decision Denying Bond
G.	Appendix of Recent Habeas Decisions
H.	National TPS Alliance, et. al., v. Kristi Noem, et. al.

I. Letter stating that car will be sold less than a month detained, loss of property

J. Form I-589 (Asylum Application)

K. ICE I-797 Receipts (I-589)

L. EOIR original next court date

M. I-797 Approval or I-765 and copy of EAD Expiring 2030

N. Family Relationship Documents

O. Proof of Residence and Community Ties

P. Employment and Tax Documentation

Q. Letters of Support