Petition for a Writ of Habeas Corpus 28 U.S.C. §2241

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MIGUEL ANGEL RODRIGUEZ BRIZUELA,
Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security;
TODD M. LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
MIGUEL VERGARA, in his official capacity as Director of the San Antonio Field Office of Immigration and Customs Enforcement, Enforcement and Removal Operations;
RAYMOND E. THOMPSON, Warden of the Karnes County Immigration Processing Center; and
DAREN K. MARGOLIN, in his official capacity as Director of the Executive Office for Immigration Review,
Respondents.

Civil Action No. 5:26-cv-279

Immigration No. [redacted]

PLAINTIFF'S VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner Miguel Angel Rodriguez Brizuela (A# [redacted], hereinafter referred to as "Petitioner" or "Mr. Rodriguez," is a native and citizen of Honduras who has resided in the United States for approximately seventeen (17) years. He is currently subject to continued detention following his apprehension by U.S. Immigration and Customs Enforcement ("ICE") in Texas and is detained at the Karnes County Immigration Processing Center in Karnes City, Texas. *See* Petitioner's Ex. 1, ICE Detainee Locator search results.

2. Mr. Rodriguez has been placed in removal proceedings pursuant to Section 240 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1229a. *See* Petitioner's Ex. 2, Documents of Immigration Proceedings.

3. In recent months, immigration judges have denied requests for bond hearings in cases substantially similar to that of Mr. Rodriguez based on a perceived lack of jurisdiction. These denials have relied on recent Board of Immigration Appeals ("BIA") precedent, including *Matter of Q. Li,* 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). However, numerous federal district courts, including courts within the Fifth Circuit, have made clear that similarly situated noncitizens detained under Section 236(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1226(a), are entitled to individualized bond hearings.

4. Despite this posture, immigration judges continue to refuse to provide noncitizens such as Mr. Rodriguez 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 Administrative Procedure Act ("APA"), because detention in § 240 proceedings is governed by INA § 236(a) [8 U.S.C. § 1226(a)], which clearly provides that noncitizens are entitled to bond hearings.

5. Mr. Rodriguez therefore petitions this Court for habeas relief under 28 U.S.C. § 2241, and seeks immediate injunctive relief, including a preliminary injunction directing Respondents to release him under reasonable conditions or provide him an individualized custody hearing without delay.

II. JURISDICTION AND VENUE

6. 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. This Court also has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to hear habeas petitions filed by persons held in custody in violation of federal law or the Constitution. This action also invokes the Court's authority under the All-Writs Act, 28 U.S.C. § 1651.

7. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor seek class-wide relief. Detention-based habeas claims are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or ultra vires attempts to switch a non-final INA § 240 case into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as "*Reno v. AADC*"). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

8. Venue is proper in this District, and in the San Antonio Division, because Petitioner is detained at the Karnes County Immigration Processing Center in Karnes City, Texas, within this Court's jurisdiction, whereas Petitioner's immigration detention is controlled by the San Antonio Office of ICE – Enforcement and Removal Operations. *See* Petitioner Ex. 1.

III. PARTIES

9. Petitioner, Miguel Angle Rodriguez Brizuela ("Mr. Rodriguez"), is a citizen and national of Honduras who has lived in the United States for nearly seventeen (17) years, having arrived in the United States on or about August 23, 2009. He was detained about August 11, 2025, and now

resides at the Karnes County Immigration Processing Center, where he remains detained. *See* Petitioner Ex. 1.

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

11. Respondent TODD M. 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.

12. Respondent MIGUEL VERGARA is the Acting Director of the San Antonio Field Office of ICE – Enforcement and Removal Operations ("ERO"), and therefore, he oversees the Karnes Sub-Office of ERO San Antonio, which has jurisdiction over Petitioner. He is sued in his official capacity as Petitioner's local custodian and DHS's local decisionmaker.

13. Respondent, RAYMOND E. THOMPSON, Warden of the Karnes County Immigration Processing Center, is responsible for housing noncitizens from various regions of Texas in ICE custody pending the completion of their removal proceedings. The Karnes County Immigration Processing Center is located at 409 FM 1144, Karnes City, TX 78118. Respondent is sued in his official capacity as Petitioner's immediate physical custodian as of the filing of this petition.

14. Respondent, DAREN K. MARGOLIN, is Director of the Executive Office for Immigration Review. As such, he is responsible for directing and coordinating policy for the United States Immigration Court system, including policies relating to immigration bond applications and requests for custody redeterminations in immigration court. He is sued in his official capacity only.

15. Respondents Noem and Lyons, who represent DHS and ICE, are properly included herein as the executives of federal agencies within the meaning of the APA ("APA").

IV. FACTUAL BACKGROUND

16. Mr. Rodriguez is a citizen and national of Honduras, born on [redacted] 1985. He has lived continuously in the United States since his initial entry on or about August 23, 2009, when he entered the United States at or near Laredo, Texas. *See* Petitioner Ex. 2. Since that time, he has continuously resided in Texas and has established substantial family ties. He is married has three U.S. citizen children. These longstanding ties demonstrate that Mr. Brizuela is not a flight risk and has a strong incentive to appear for and comply with his immigration proceedings.

17. On or about August 27, 2012, Petitioner was stopped by San Antonio Police Officers who conducted a vehicle stop. The driver was identified to be Petitioner, Mr. Rodriguez, who was cited for driving without a license and for driving through a red light. Mr. Rodriguez was turned over to immigration officials who released him on his own recognizance and initiated removal proceedings. *See* Petitioner's Ex. 2. Mr. Rodriguez was then encountered at the City of San Antonio Magistrate Office in San Antonio, Texas on April 27, 2013, subsequent to an arrest for Driving While Intoxicated. He was interviewed by U.S. Immigration officials and released under his same order of release on recognizance. *Id.* Mr. Brizuela has no prior and or subsequent criminal history outside of this event. *See* Petitioner Ex. 3, TX DPS Criminal Conviction Search results for Petitioner. He has since complied with the conditions of his release and appeared for ICE check-in appointments and his scheduled immigration court appearances.

18. On or about August 11, 2026, Petitioner dutifully appeared for his scheduled ICE appointment where he expected a routine check-in. Without warning or explanation, ICE officers detained him on the spot and refused to release him. ICE officers informed Mr. Rodriguez that he would now be detained, despite his history of appearing at ICE check-ins while in removal proceedings for previous years.

19. Following his apprehension, Mr. Rodriguez was placed into ICE custody and transferred to the South Texas ICE Processing Center in Pearsall, Frio County, Texas, before being transferred to the Karnes County Immigration Processing Center in Karnes City, Texas, where he remains detained. His detention at the facility is confirmed by ICE's detainee Locator System. *See* Petitioner's Ex. 1.

20. Prior to his arrest and subsequent detention, Mr. Rodriguez had lived in Texas for many years. He maintained steady employment in the construction industry and developed meaningful community ties. Mr. Rodriguez has no history of violence and has reformed himself since his arrest in 2013. His current detention does not arise in connection to any criminal conduct, but arises solely from civil immigration enforcement, underscoring that he does not pose a danger to the community.

21. On or about August 27, 2025, the Department of Homeland Security ("DHS"), through ICE, served Mr. Rodriguez with Additional Charges of Inadmissibility/Deportation, charging him as removable under INA § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)], based on his alleged entry without inspection in or about 2009, and INA § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i), based on not being in possession of a valid entry document.

22. As of the filing of this petition, Mr. Rodriguez remains detained at Karnes County Immigration Processing Center. *See* Petitioner's Ex. 1. Under current ICE and EOIR policies, he has been denied an opportunity to seek an individualized custody determination or bond hearing pursuant to INA § 236(a), notwithstanding his placement in § 240 removal proceedings. As a result, his detention continues without meaningful administrative or judicial review.

23. Mr. Rodriguez's continued detention fails to account for his lengthy residence in the United States, his single incident of criminal history in 2013, and his individualized circumstances. As a

noncitizen in civil removal proceedings, Mr. Rodriguez is entitled to the protections of due process guaranteed by the Immigration and Nationality Act and the Fifth Amendment, including the opportunity for an individualized custody determination under INA § 236(a).

24. Instead, current immigration policy treats Mr. Rodriguez as categorically ineligible for a bond hearing. ICE has denied him any opportunity to seek release on bond before an immigration judge or to demonstrate that he is neither a danger to the community nor a flight risk. This denial is not based on any individualized assessment of Mr. Rodriguez's circumstances.

25. The government's position relies on recent Board of Immigration Appeals decisions, including *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which purports to limit immigration judges' authority to conduct bond hearings in cases such as Mr. Rodriguez's. These decisions have resulted in the prolonged civil detention of noncitizens without individualized custody determinations.

26. As a result of ICE's actions, Mr. Rodriguez remains detained at the Karnes County Immigration Processing Center, a facility located far from his community and support network. *See* Petitioner's Ex. 1. He is detained under conditions comparable to those imposed on individuals subject to mandatory detention, despite the absence of any criminal conviction that would render him ineligible for bond under INA § 236(c).

27. In sum, Mr. Rodriguez is a longtime resident of the United States with substantial ties to this country and no substantial crimes that would justify mandatory detention. His continued detention, without access to an individualized bond hearing is arbitrary, unlawful, and inconsistent with the Immigration and Nationality Act and the Constitution.

V. LEGAL FRAMEWORK

A. Statutory Framework for Immigration Custody Determination

28. 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.

29. Congress designed INA § 236(a) [8 U.S.C. § 1226(a)] to govern the detention of individuals who, like Petitioner, are in regular removal proceedings under INA § 240 [8 U.S.C. § 1229a]. The statutory text expressly provides for release on bond, subject only to conditions ensuring appearance and protecting the community.

30. 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) [8 U.S.C. § 1225(b)] mandatory detention and INA § 236(a) [8 U.S.C. § 1226(a)] discretionary custody). The Board of Immigration Appeals itself recognized for decades that individuals in INA § 240 proceedings after entry without inspection were eligible for custody redeterminations. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

31. 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.

32. In recent weeks, multiple district courts in 2025 have directly addressed the Government's efforts to expand INA § 235(b)(2)(A) [8 U.S.C. § 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 INA § 236(a) [8 U.S.C. § 1226(a)] permits noncitizens who arrived without inspection—persons in precisely the same legal circumstances as Mr. Rodriguez —are eligible to request bond hearings before the immigration court.

33. For example, in the San Antonio Division of the Western District of Texas, *Rego Guerra v. Noem*, No. 5:25-cv-01725-JKP (filed December 12, 2025), the court concluded that jurisdiction was proper though habeas relief correct statutory misclassification and to preserve the petitioner's due process rights. The court concluded the Petitioner subject to detention under INA § 236(a) [8 U.S.C. § 1226(a)], rejecting the Government's assertion that INA § 235(b) [8 U.S.C. § 1225(b)] applied. *Id.* The district court ordered petitioner's direct release under reasonable conditions finding no evidence submitted that she had violated the conditions of her initial release on recognizance when processed by DHS. *Id.*; *see also e.g., Acea-Martinez v. Noem*, No. 5:25-CV-01390-XR (filed Oct. 28, 2025) (addressing § 1225(b)(2)); *Guevara-Vasquez v. Thompson*, No. 5:25-CV-01372-XR (filed Nov. 25, 2025) (addressing § 1225(b)(1)).

34. 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 8 U.S.C. § 1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause.

35. Additionally, Petitioner's position is reinforced by the recent decision in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr et al*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), where the federal court granted partial summary judgment in favor of petitioners, holding that

mandatory detention without individualized bond hearing violates due process and exceeds statutory authority under INA § 236(a). In that class action, the Court rejected the government's expansive interpretation of INA § 235(b) [8 U.S.C. § 1225(b)] and emphasized that noncitizens in regular removal proceedings are entitled to custody review. This ruling, supported by multiple amicus briefs, underscores the growing judicial consensus against blanket denial of bond hearings. *Cf.* Maldonado Bautista, Order of Nov. 20, 2025 (granting partial summary judgment).

36. Similarly, recent decisions from district courts within the Fifth Circuit, such as *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 8 U.S.C. § 1225(b)(2)(A) to individuals who are properly subject to INA § 236(a) [8 U.S.C. § 1226(a)]. *See also Buenrostro-Mendez v. Bondi*, No. 4:25-cv-3726, slip op. at 3 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112, slip op. at 3-4 (S.D. Tex. Oct. 8, 2025) (reviewing new detention policy). This Court should follow suit.

37. These holdings reflect a growing consensus that federal 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. Rodriguez is entitled to bond consideration under INA § 236(a) [8 U.S.C. § 1226(a)].

VI. CLAIMS FOR RELIEF

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

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

39. Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and the recent decisions of multiple federal district courts from around the country, including courts within the Fifth Circuit.

40. 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."

41. By its plain text, Section 236(a) [8 U.S.C. § 1226(a)] applies to all noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 236(c) [8 U.S.C. § 1226(c)] applies.

42. In interpreting the plain language of Section 236(a) [8 U.S.C. § 1226(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 applications by detained aliens pending the outcome of their removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

43. Petitioner was served an NTA indicating his placement into removal proceedings under Section 240 of the INA [8 U.S.C. § 1229a]. Mr. Rodriguez remains detained at the Karnes County Immigration Processing Center, with his case placed on the detained docket of the Pearsall Immigration Court. Because Petitioner has been detained for removal proceedings, and because he has now lived in the United States for several years his custody is determined by § 236(a) [8 U.S.C. § 1226(a)], not § 235(b) [8 U.S.C. § 1225(b)].

44. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a) [8 U.S.C. § 1226(a)], Respondents have acted contrary to statutory authority requiring consideration of such a bond application. This policy 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.

45. Accordingly, this Court should grant the writ and order that Petitioner be released, or in the alternative, receive an individualized bond hearing under INA § 236(a) [8 U.S.C. § 1226(a)], as recently made clear by the decisions of multiple federal district courts to examine these issues around the country.

Count II – Fifth Amendment Due Process Violation

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

47. 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.

48. 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.

49. Because Petitioner is detained by ICE at the Karnes County Immigration Processing Center, he is categorically barred from presenting evidence that he is not a danger to the community and that he 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) [8 U.S.C. § 1226(a)].

50. 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. The government has no legitimate basis to insist that Petitioner's detention be mandatory, yet he remains confined with no opportunity for release.

51. Denying Petitioner any access to a bond hearing deprives him 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).

52. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a) [8 U.S.C. § 1226(a)], Respondents have acted contrary to statutory authority requiring consideration of such a bond application.

53. Petitioner is an individual who has long resided in the United States, with nearly seventeen (17) years of continuous presence. He has strong family and community ties in Texas. There has been no finding that he is a danger to the community or a flight risk. Yet, solely because of recent, erroneous BIA decisions—decisions not binding in the Fifth Circuit—he has been categorically denied the process to which he is entitled. This amounts to an arbitrary deprivation of liberty in violation of the Fifth Amendment.

54. Accordingly, the Court should grant habeas relief on constitutional grounds and order that Petitioner be released from custody pending the final outcome of his Section 240 [8 U.S.C. § 1229a] removal proceedings, or be afforded an immediate custody redetermination hearing.

Count III – Unlawful Agency Action (APA)

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

56. Respondents' continued detention of Petitioner without affording him 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 a reasoned explanation violates the Administrative Procedure Act.

57. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA § 236(a) [8 U.S.C. § 1226(a)], including those who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). 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 danger to the community and flight risk as relevant factors in bond determinations);
- *In re L-E-V-H-*, AXXX-XXX-504 (BIA Dec. 21, 2018) (holding that a noncitizen who entered without inspection was not an "arriving alien");
- *In re A-R-S-*, AXXX-XXX-161 (BIA June 25, 2020) (remanding to develop the record where a noncitizen was allegedly misclassified as an "arriving alien");
- *In re M-D-M-*, AXXX-XXX-797 (BIA Aug. 24, 2020) (granting bond to a long-term resident notwithstanding a recent arrest); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA Oct. 22, 2020) (granting bond where the immigration judge failed to consider alternatives to detention).

58. 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.

59. 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).

60. Although Petitioner has not filed a bond application since entering ICE custody on or about August 11, 2025, doing so would be futile, as immigration judges refuse to exercise jurisdiction, expressly relying on this recent BIA policy shift. By treating individuals such as Petitioner as subject to mandatory detention under Section 235(b) [8 U.S.C. § 1225(b)], Respondents have applied an unlawful, arbitrary interpretation of the statute that is inconsistent with the plain language of Section 236(a) [8 U.S.C. § 1226(a)] and unsupported by reasoned analysis.

61. Accordingly, Respondent's 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

VII. REQUEST FOR INJUNCTIVE RELIEF

62. Petitioner respectfully requests that this Court issue a preliminary injunction directing Respondents to release him under reasonable conditions of supervision, or in the alternative, to provide him with an immediate individualized custody redetermination hearing under INA §

236(a) [8 U.S.C. § 1226(a)] within seven (7) days. Upon a final hearing, Petitioner asks for permanent injunctive relief as appropriate.

63. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Petitioner satisfies each of these factors.

A. Mr. Rodriguez is Likely to Succeed on the Merits of His Petition.

64. Mr. Rodriguez has a strong likelihood of success on the merits of his claims. As explained more fully hereinabove, numerous district courts, including some from within the Fifth Circuit, have already determined that noncitizens in circumstances substantially similar to those of Mr. Rodriguez, who are detained under Section 236(a) [8 U.S.C. § 1226(a)], are entitled to individualized bond hearings before an immigration judge.

65. Current BIA policy prohibiting immigration judges from exercising jurisdiction over any immigration bond request that Mr. Rodriguez might file—due to 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)—cannot override the clear and unambiguous language of Section 236(a) [8 U.S.C. § 1226(a)]. This conclusion is further supported by the recent ruling in *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), which invalidated similar policies denying bond hearings to noncitizens in regular removal proceedings.

66. Additionally, Mr. Rodriguez raises a constitutional claim under the Fifth Amendment, as prolonged detention without any opportunity for individualized custody review violates due process.

67. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success is the most critical factor in evaluating interim relief. Here, Petitioner's claim is exceptionally strong.

B. Mr. Rodriguez Will Suffer Irreparable Harm if a Preliminary Injunction Does Not Issue.

68. If this Court does not grant immediate relief, Mr. Rodriguez will continue to suffer irreparable harm. The Supreme Court has 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 Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Everyday Mr. Rodriguez remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

69. Even if Mr. Rodriguez were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—loss of liberty, disruption of family life, psychological strain, and reputational damage—could never be undone. As *Nken* instructs, irreparable harm cannot be speculative; it must be actual and concrete. *Nken* 556 U.S. at 435. Mr. Rodriguez's ongoing imprisonment without a lawful hearing meets that standard.

C. Balance of Equities Weighs in Favor of Mr. Rodriguez

70. The balance of equities tips decisively in Petitioner's favor. On his side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government's side, the only asserted interest is administrative convenience in applying the BIA's recent, and in this Circuit nonbinding, precedents.

71. There is no evidence that Petitioner poses a danger to the community or a risk of flight, and he has no substantial criminal history. In contrast, every additional day of unlawful confinement inflicts significant harm on Petitioner. When weighed against each other, the equities clearly support granting immediate relief.

D. There is a Strong Public Interest in Maintaining the Pre-2025 Status Quo.

72. Finally, the public interest strongly supports the issuance of a preliminary injunction. The Supreme Court in *Nken* explained that when the government is the opposing party, the balance of equities and the public interest merge. *Nken*, 556 U.S. at 435. The public has no interest in perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

73. Granting Petitioner an individualized bond hearing promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the arbitrary deprivation of liberty. Protecting fundamental due process rights is not just in Petitioner's interest, but in the interest of the public at large.

74. Each factor of the equitable test weighs heavily in Mr. Rodriguez's favor. He has shown a substantial likelihood of prevailing on the merits based on the interpretation of Section 236(a) [8 U.S.C. § 1226(a)] by various federal district courts and the Due Process Clause; he faces irreparable harm each day he remains detained without lawful process; the equities tilt overwhelmingly toward protecting his liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.

75. For these reasons, this Court should issue a Preliminary Injunction at the earliest possible opportunity, requiring Respondents to release Mr. Rodriguez, or in the alternative provide an immediate custody redetermination hearing.

VIII. PRAYER FOR RELIEF

76. For the above and foregoing reasons, Petitioner respectfully requests that this Court take the following actions:

a. Issue a writ of habeas corpus ordering Respondents to release Petitioner from custody, or alternatively provide him 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. Grant a preliminary injunction requiring Petitioner's immediate release, or alternatively such a hearing;

c. Grant a Temporary Restraining Order or Preliminary Injunction prohibiting the Respondents from removing the Petition from the United States or transferring Petitioner from the current detention center where he is being held in custody or outside the jurisdiction of this Court;

d. Order Respondents to return any of Petitioner's identity documents confiscated upon detention including Petitioner's passport, government issued-identification, driver's license, and immigration case documentation, if released;

d. Issue a declaration that the plain language of INA § 236(a) [8 U.S.C. § 1226(a)] permits immigration judges to consider bond requests of noncitizens who are present without admission and are not classified as arriving aliens;

e. Grant permanent injunctive relief as appropriate;

f. Award Plaintiff reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and

g. Grant such other relief as this Court deems just and proper.

DATE:January 20, 2026

Respectfully submitted,

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By: */s/ Guillermo M. Hernández, III*
Guillermo M. Hernández, III
Texas Bar No. 24073310
ATTORNEY FOR PETITIONER

VERIFICATION

STATE OF TEXAS §
§
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared Janie Reyes Rodriguez, ("AFFIANT"), known to me to be the person whose name is included in the foregoing document as Petitioner's spouse, and who after being by me duly sworn, stated that she is above the age of twenty-one (21) years of age, is of sound mind, and is in all ways competent to execute this verification. Affiant acknowledged that she had read the substance of the foregoing document, that she has personal knowledge of the facts contained herein, and that the factual statements contained herein above are true and correct to the best of Affiant's knowledge and belief.

Janie Reyes Rodriguez,
Affiant

NOTARIAL CERTIFICATE

State of Texas §
County of Bexar §

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public, on this the 16th day of January, 2026.

NOTARY PUBLIC in and for the
STATE OF TEXAS
My commission expires: 02/13/2027

MARIA LEON
Notary Public, State of Texas
Comm. Expires 02-13-2027
Notary ID 134199393

CERTIFICATE OF INTERPRETATION FOR AFFIDAVIT OF

JANIE REYES RODRIGUEZ

I, Diana Barba, am competent to translate and interpret from Spanish into English, and I certify that I have read this entire document to the Affiant in Spanish, and that the Affiant stated that they understood the document before they signed the affidavit above.

(Signature of interpreter)

Diana Barba
(typed/printed name of interpreter))

CERTIFICATE OF SERVICE

I hereby certify that on January 20, 2026, a true copy of the above document was filed via the Court's CM/ECF and that a copy will be sent automatically to all counsel of record.

Date: Janurary 20, 2026

/s/Guillermo M. Hernandez, III

Guillermo M. Hernandez, III
Attorney
Texas Bar No. 24073310
5835 Callaghan Rd, Suite 503
San Antonio, TX 78228
Tel. (210) 922-8541
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Email: ghernandez@rhc.law

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Date: Janurary 20, 2026

/s/Guillermo M. Hernandez, III

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