

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ARNALDO SEIJAS AQUINO

Petitioner,


v.

J.L. JAMISON, in his official capacity as Warden:
of Federal Detention Center, Philadelphia;
BRIAN MCSHANE, in his official capacity as
Acting Philadelphia Field Office Director,
United States Immigration and Customs
Enforcement; TODD LYONS, in his
Official capacity as Acting Director of
Immigration and Customs Enforcement;
KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security; THE U.S. DEPARTMENT OF
HOMELAND SECURITY; PAMELA BONDI,
Attorney General of the United States


Respondents.

:
:
: Case No.:
:
: Before the Honorable _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Arnaldo Jose Seijas Aquino, , submits this petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and the Suspension Clause (Article 1, Section 9, Clause 2) of the United States Constitution. Petitioner requests that this Court release him from detention by the Immigration and Customs Enforcement (“ICE”) or, alternatively, conduct or order a bond hearing

in which the Respondents bear the burden of justifying Petitioner's continued detention.

Mr. Seijas Aquino is a native of Venezuela seeking asylum with his family in the United States. Mr. Seijas Aquino entered the United States on June 20, 2023. He and his family were released into the United States on their own recognizance on June 21, 2023. Mr. Seijas Aquino timely submitted his application for asylum based on his fear of persecution in Venezuela at the hands of 



On January 16, 2025, Mr. Seijas Aquino was arrested by ICE agents. Mr. Seijas Aquino was ordered to be released from custody under bond by an Immigration Judge on February 5, 2025. He was then released from ICE custody and returned to live with his family in Philadelphia. On January 21, 2026, Mr. Seijas Aquino was arrested by ICE agents again outside of his home. The ICE agents arrested Mr. Seijas Aquino without a stated justification. Thus, Respondents arbitrarily detained Mr. Seijas Aquino despite the requirement under 8 U.S.C. §§ 1226(a)-(b) and its implementing regulations that immigration officials make an individualized custody determination. Moreover, Respondents have adopted policies contrary to law enshrined in administrative decisions by the Board of

Immigration Appeals (“BIA”) that subject non-citizens like Mr. Seijas Aquino to mandatory detention in violation of Section 1226(a).

Mr. Seijas Aquino is presently detained in the Federal Detention Center in Philadelphia.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question); 5 U.S.C. § 702 (Administrative Procedures Act); U.S. Const. amend. V (Due Process Clause); and U.S. Const. art. I, § 9, cl. 2 (Suspension Clause).

2. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 2241(d), because at the time of filing his Petition for Writ of Habeas Corpus (Doc. 1), Mr. Seijas Aquino is detained in Philadelphia, PA.

PARTIES

3. Petitioner Seijas Aquino is a native of Venezuela seeking asylum in the United States. Mr. Seijas Aquino was arrested by immigration officials and his last known location of detention was at the Federal Detention Center (“FDC”) in Philadelphia.

4. Respondent J.L. Jamison is named in his official capacity as the Warden of FDC, Philadelphia, which detains individuals suspected of civil immigration violations. Respondent Jamison is the immediate physical custodian responsible for the detention of Petitioner.

5. Respondent Brian McShane is the Acting Philadelphia Field Office Director for Immigration and Customs Enforcement's ("ICE") Enforcement and Removal Operations. In this capacity he is responsible for the custody of all noncitizens detained by ICE at either the ICE Field Office or FDC, Philadelphia and has the authority to release Mr. Seijas Aquino or transfer him to a different facility. He is one of Mr. Seijas Aquino's immediate custodians and is sued in his official capacity.

6. Respondent Todd Lyons is the Acting Director of ICE. In this capacity he is responsible for enforcing immigration laws, and as such is a legal custodian of Mr. Seijas Aquino. He is sued in his official capacity.

7. Respondent Kristi Noem is Secretary of Homeland Security. In this capacity she runs the Department of Homeland Security, and is charged pursuant to 8 U.S.C. 1103(a)(1) with administering and enforcing immigration laws. She is the ultimate legal custodian of Mr. Seijas Aquino, and is sued in her official capacity.

8. The Department of Homeland Security (“DHS”) is the agency of the federal government responsible for enforcing the immigration laws. DHS is also Mr. Seijas Aquino’s legal custodian.

9. Respondent Pamela Bondi is the Attorney General of the United States and the head of the U.S. Department of Justice, which encompasses the Board of Immigration Appeals (“BIA”) and immigration courts, known collectively as the Executive Office of Immigration Review (“EOIR”). Ms. Bondi shares responsibility for the implementation and enforcement of immigration laws along with Respondent Noem. Ms. Bondi is a legal custodian of Mr. Seijas Aquino. She is sued in her official capacity.

LEGAL FRAMEWORK

10. For non-citizens attempting to enter the United States, the INA provides under 8 U.S.C. § 1225(b)(2)(A) that “in the case of [a noncitizen] who is an applicant from admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). “A noncitizen detained under Section 1225(b)(2) may be released only if he is paroled ‘for urgent humanitarian reasons or significant public benefit’ pursuant to 8 U.S.C.

§ 1182(d)(5)(A).” *Gomes v. Hyde*, 25 Civ. 11571, 2025 WL 1868288, at *2 (D. Mass. July 7, 2025) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018)).

11. “Courts have interpreted § 1226 to ‘appl[y] to [noncitizens] already present in the United States’ and to ‘create[] a default rule for those [noncitizens] by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings.’” *Ndiaye v. Jamison*, No. 25-6007, 2025 U.S. Dist. LEXIS 227253, *14 (E.D. Pa. Nov. 19, 2025) (citing *Jennings*, 583 U.S. at 303); *see also Abreu v. Crawford*, 2025 WL 51475, at *3 (E.D. Va Jan. 8, 2025) (“There is a statutory distinction between noncitizens who are detained upon arrival into the United States and those who are detained after they have already entered the country, legally or otherwise.”) (emphasis in the original).

12. Section 1226(a) provides in relevant part as follows:

(a) Arrest, Detention, and Release. On 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*. Except as provided in subsection (c) and pending such decision, *the Attorney General—*

(1) *may continue to detain the arrested alien*; and

(2) *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 ...

8 U.S.C. § 1226(a) (emphasis added).

The Supreme Court has interpreted similar “may” language in other provisions of the INA to require “some level of individualized determination.” *I.N.S. v. Nat’l Ctr. For Immigrants’ Rights*, 502 U.S. 183, 194 (1991).

13. Accordingly, “the regulations implementing § 1226(a) delegate to DHS officers the authority to grant bond or conditional parole, and pursuant to such authority, a DHS officer must make an individualized determination as to the appropriateness of detention based on two factors—whether the non-citizen is a ‘danger to property or persons’ and is ‘likely to appear for any future proceeding.’” *Benitez v. Francis*, 25 Civ. 5937, 2025 WL 2371588, at *10 (S.D.N.Y., Aug. 13, 2025) (citing 8 C.F.R. §§ 236.1(c)(8); 1236.1(c)(8)). If DHS takes the non-citizen into custody, this “initial custody determination” made by the DHS officer may be appealed to an immigration judge. 8 C.F.R. §§ 236.1(d)(1); 1236.1(d)(1).

14. Noncitizens may request a review of an initial custody determination before an Immigration Judge (“IJ”). 8 C.F.R. § 1236.1(d)(1); 8 C.F.R. § 1002.19(a). At this hearing an IJ may make the decision “upon any information that is available to the [Immigration Judge] or that is presented to him or her by the [noncitizen] or the [government].” 8 C.F.R. § 1003.19(d); *see also Matter of Guerra*, 24 I&N Dec. 37, 39 (BIA 2006). Noncitizens may appeal a negative decision in a custody review before an IJ to the Board of Immigration Appeals. 8

C.F.R. § 1236.1(d)(3)(i). The current statutory scheme was created through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”).

15. “The Attorney General at any time may revoke a bond or parole authorized under [§ 1226(a)], rearrested the [noncitizen] under the original warrant, and detain the [noncitizen]. However, "where a previous bond determination has been made by an immigration judge, no change should be made by a District Director absent a change of circumstance." *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981).

16. For the first time in nearly three decades, Respondents have taken the position through a series of precedential decisions by the Board of Immigration Appeals that noncitizens residing in the interior of the United States are not entitled to a custody redetermination (a “bond hearing”) before an Immigration Judge.

17. First, in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the BIA held that a noncitizen who had been apprehended near the border and subsequently released into the United States is subject to mandatory detention without a possibility of bail upon re-detention, pursuant to 8 U.S.C. § 1225(b), even if that re-detention occurs years after their initial release from custody. The BIA reasoned that “an applicant for admission who is arrested and detained without a warrant while in the

process of arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section [1225(b)] [], and is ineligible for any subsequent release on bond under section [1226(a)].” *Q. Li*, 29 I&N Dec. at 74.

18. Then in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the BIA stated that all non-citizens who are present in the United States without admission are subject to mandatory detention under Section 1225(b)(2), regardless of how long they have been residing in the U.S. and absent any prior interaction with immigration authorities. In several hundred decisions across the country district courts have rejected the BIA’s reasoning. *See Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 U.S. Dist. LEXIS 226877, *2 (E.D. Pa. Nov. 18, 2025) (counting 288 recent decisions).

FACTS AND PROCEDURAL HISTORY

19. Mr. Seijas Aquino is a native of Venezuela. Mr. Seijas Aquino and his family received threats from [REDACTED] [REDACTED] [REDACTED] Venezuela. Mr. Seijas Aquino and his family feared for their lives and fled Venezuela in 2021.

20. Mr. Seijas Aquino and his family resided in Colombia until 2023. They were not able to obtain legal status in Colombia or any other country.

21. On June 20, 2023, Mr. Seijas Aquino entered the U.S. with his wife [REDACTED] and their three minor children. Officials from Customs and Border Patrol (“CBP”), a sub-agency of DHS, detained Mr. Seijas Aquino and his family.

22. After a brief period of detention Mr. Seijas Aquino and his family were released with Notices to Appear charging them as removable from the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) (“A [non-citizen] present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible”). Exh. A.

23. An Order of Release Recognizance issued by CBP officials states that Mr. Seijas Aquino was being released “[i]n accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations”. Exh. B. A Warrant of Arrest of Alien and Notice of Custody Determination state that Mr. Seijas Aquino had been detained pursuant to Section 236 of the INA. Exh. D; Exh. E.

24. Mr. Seijas Aquino and his family settled in Philadelphia, PA. Mr. Seijas Aquino worked in order to support his family, including his wife of 15 years and their three children.

25. Mr. Seijas Aquino timely applied for asylum on May 7, 2024. Mr. Seijas Aquino also filed for TPS and his application is currently pending.

26. Mr. Seijas Aquino regularly attended his scheduled immigration check-in appointments at the local ICE office throughout 2024. On January 16, 2025, Mr. Seijas Aquino was detained without prior warning outside of his home.

27. On February 5, 2025, an Immigration Judge granted Mr. Seijas Aquino's custody redetermination request to be released from custody under bond of \$4,500.00. Exh. C.

28. Mr. Seijas Aquino was released from ICE custody and returned to live with his family. He attended his ICE check-ins as required on May 16, 2025 and November 12, 2025. His next ICE check-in was scheduled for February 10, 2026.

29. On the morning of January 21, 2026, without prior warning, Mr. Seijas Aquino was arrested by ICE officials outside of his home. Mr. Seijas Aquino was transported to the ICE field office located at 114 N. 8th Street, Philadelphia, PA 19107. Mr. Seijas Aquino's attorney entered her appearance electronically with ICE

Enforcement and Removal Operations (ERO). Mr. Seijas Aquino's attorney contacted the ICE field office to obtain further information for the reasoning for Mr. Seijas Aquino's reestablished detention. ICE officials refused to speak with Mr. Seijas Aquino's attorney. Hours later, Mr. Seijas Aquino was permitted to call his attorney. Mr. Seijas Aquino was only granted a two-minute phone call. Mr. Seijas Aquino was able to briefly explain that he had just been detained and that he was at the ICE field office. Mr. Seijas Aquino was told that he would later be transferred to the Federal Detention Center (FDC). ICE officials again refused to speak to Mr. Seijas Aquino's attorney over the phone upon request for more details.

30. There have been no changes to Mr. Seijas Aquino's criminal history since his last detention by ICE on January 16, 2025. There continues to be no criminal charges brought against Mr. Seijas Aquino in the United States or any other country.

31. Mr. Seijas Aquino's wife, is now left without the financial support of her husband once again while she must care for their three minor children alone.

32. As of 9:00pm EST Mr. Seijas Aquino is detained at FDC-Philadelphia. Exh. F.

CLAIM FOR RELIEF

COUNT ONE

VIOLATION OF DUE PROCESS, U.S. CONST. AMEND. V

33. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

34. The Fifth Amendment's Due Process Clause prevents the Government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. amend. V.

35. The Due Process Clause extends to noncitizens residing in the United States, whether they have lawful status or not. *See Mathews v. Diaz*, 426 U.S. 67, 77 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Specifically, "[i]t is well established that the Fifth Amendment entitles [non-citizens] to due process of law in deportation proceedings. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *see also Abdulai v. Ashcroft*, 239 F.3d 542, 549 (3d Cir. 2001) ("[Non-citizens] facing removal are entitled to due process"); *Calderon-Rosas v. Atty' Gen.*, 957 F.3d 378, 386 (3d Cir. 2020) ("In sum, petitioners seeking discretionary relief are entitled to fundamentally fair removal proceedings, which constitutes a protected interest supporting a due process claim.").

36. Evaluating the adequacy of the process provided to a non-citizen

requires a balancing of factors. “First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

37. First, Mr. Seijas Aquino faces “the most significant liberty interest there is—the interest in being free from imprisonment.” *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). Second, Respondents have erroneously deprived Mr. Seijas Aquino of his liberty without any individualized assessment of his circumstances. Third, Respondents did not make any individualized finding that Mr. Seijas Aquino was a danger or flight risk. Generally, the government’s interest in detaining noncitizens is to ensure the appearance of aliens at future immigration proceedings and to prevent danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also Paredes Quispe v. Rose*, 2025 WL 3537279 (M.D. Pa. Dec. 10, 2025). There does not appear to be a significant government interest in detaining Mr. Seijas Aquino, as he has complied with the conditions of his release, even reporting to the

ICE Field Office in Philadelphia despite the risk of detention.

38. An application of these factors demonstrates that Mr. Seijas Aquino should have been provided with additional process before being detained again. *See Kashranov v. Jamison*, No. 2:25-cv-05555, 2025 U.S. Dist. LEXIS 224644, at *13 (E.D. Pa. Nov. 14, 2025) (“In this case, all three *Mathews* factors weigh in favor of [Petitioner]. He has a strong liberty interest. The lack of any individualized assessment creates a high risk of error. And a bond hearing imposes minimal administrative burden. The *Mathews* factors therefore indicate that due process compels a pre-deprivation bond hearing.”). Accordingly, Mr. Seijas Aquino’s January 21, 2026 detention violated the Fifth Amendment.

COUNT TWO

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

39. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

40. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility. As, relevant here, it does not apply to those who have been residing in the United States at liberty after being detained following their entrance

into the United States. *Kashranov*, 2025 U.S. Dist. LEXIS 224644, at * 20 (rejecting the argument that § 1225(b)(2)(A) applies to individuals “who have already entered and resided in the United States for an extended period.”); *see also Quispe v. Crawford*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799, at *5 (E.D. Va. Sept. 29, 2025) (“Indeed, as Respondents recognize, other federal courts around the country have found that in order to be detained under § 1225(b)(2), applicants for admission must be actively ‘seeking admission’ and not be just “present” in the U.S.”). Such noncitizens, if detained, are done so under § 1226(a), and are generally eligible release on bond.

41. Respondents’ authority to detain Mr. Seijas Aquino is derived from 8 U.S.C. § 1226(a) as Mr. Seijas Aquino is already present in the United States.

42. Respondents’ position that Mr. Seijas Aquino is detained pursuant to 8 U.S.C. § 1225(b)(2)(A) is erroneous. The Notice to Appear initially issued on June 21, 2023 by Customs and Border Patrol, a sub-agency of the DHS, states that Mr. Seijas Aquino is removable from the United States pursuant to INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i) as a noncitizen “in the United States States without being admitted or paroled”. Exh. A. This conflicts with Respondents’ position that Mr. Seijas Aquino is an applicant for admission “seeking admission”. *See Yagure Hurtado*, 29 I&N Dec. 218-19 (citing 8 U.S.C. § 1225(b)(2)(A)).

43. Further, the paperwork previously issued to Mr. Seijas Aquino by Respondents acknowledges that he is detained under 8 U.S.C. § 1226(a). A Notice of Custody Determination issued on June 21, 2023 states that Mr. Seijas Aquino was being detained “[p]usuant to the authority contained in section 236 of the Immigration and Nationality Act”. Exh. E. A Warrant for Arrest of Alien issued that same day, reads that Mr. Seijas Aquino is “being taken into custody as authorized by section 236 of the Immigration and Nationality Act.” Exh. D. The Order of Release Recognizance issued by CBP officials also on June 21, 2023 states that Mr. Seijas Aquino was being released “[i]n accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations”. Exh. B.

44. As Respondents’ own paperwork confirms, Mr. Seijas Aquino was initially detained on June 20, 2023 pursuant to Section 1226(a). Accordingly, he cannot be said to be “seeking admission” under Section 1225(b)(2)(A), as Respondents now argue, after living in the United States for over two years.

45. Respondents have detained Mr. Seijas Aquino again after his ordered release on bond in 2025 without making an individualized determination regarding whether he posed a danger or flight risk as required by 8 U.S.C. § 1226(a) and its regulations.

46. Moreover, Respondents' current policies as set forth in the BIA's decisions in *Matter of Q. Li* and *Matter of Yajure Hurtado* unlawfully prevent Mr. Seijas Aquino from obtaining a custody redetermination in front of an Immigration Judge as is his right by statute.

COUNT THREE

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

47. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

48. Section 1226(b) provides that “[t]he Attorney General at any time may revoke a bond or parole authorized under [Section 1226(a)], rearrest the [noncitizen] under the original warrant and detain the [noncitizen]”; 8 U.S.C. § 1226(b); but there is no record evidence to demonstrate that Respondents acted to revoke the prior grant of bond when they detained Petitioner on January 21, 2026

49. Petitioner has a liberty interest under Section 1226(b) requiring pre-deprivation due process prior to his re-detention. *Salcedo Aceros v. Kaiser*, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025) (finding that the petitioner was previously released on conditional parole and their subsequent re-detention without a pre-deprivation hearing violated due process requiring immediate release). For decades

the Board of Immigration Appeals has that, "where a previous bond determination has been made by an immigration judge, no change should be made by a District Director absent a change of circumstance." *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981); see *Saravia v. Sessions*, 28 F.3d 1168, 1997 (N.D. Cal. 2017) (citing *Sugay* and noting government counsel's representation that "DHS has incorporated [*Sugay's*] holding into its practice, requiring a showing of changed circumstances both where the prior bond determination was made by an immigration judge and where the previous release decision was made by a DHS officer"); *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) (enjoining the government, on due process grounds, from rearresting a noncitizen under § 1226(b) previously released on bond "unless and until a hearing, with adequate notice, is held in Immigration Court" to determine whether there has been a material change in circumstances).

50. And in instances in which immigration officials have recently re-detained an individual without any pre-deprivation process who was previously released on either a bond or conditional parole under Section 1226(a), district courts have concluded that: 1) the non-citizen remains detained under Section 1226(a); 2) they are eligible for a bond hearing; and 3) their immediate release is necessary as the current detention absent pre-deprivation due process is unlawful. See, e.g., *dos*

Santos v. Noem, No. 1:25-cv-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (petitioner previously granted bond in 2018 and redetained in 2025 on an administrative warrant is subject to detention under Section 1226(a), and re-detention without pre-deprivation process was unlawful); *Hasan v. Crawford*, 1:25-cv-01408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025) (noncitizen released on conditional parole through an I-220A: Order of Release on Recognizance in 2024 and re-detained in July, 2025 was presently detained under Section 1226(a); release ordered); *Sanchez Ballestros v. Noem*, 3:25-cv-594, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025) (ordering the release of a noncitizen who was previously released on her own recognizance and “paroled [] into the United States” because she was currently detained under Section 1226(a) and not afforded any pre-deprivation process); *but see Loja Lema v. FCI Berlin, Warden*, 1:25-cv-386 (D.N.H. Nov. 4, 2025) (ordering bond hearing despite petitioner’s prior release on bond).

51. Because Respondents have not demonstrated a change of circumstances that would warrant the revocation of the prior bond, Respondents’ detention of Mr. Seijas Aquino is unlawful under Section 1226(b) of the INA.

COUNT FOUR

VIOLATION OF THE BOND REGULATIONS, 8 C.F.R. § 236.1, 1236.1 and 1003.19

52. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

53. In 1997, after Congress amended the INA through IIRIRA, EOIR the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Non-citizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination.*” 62 Fed. Reg. at 10323 (emphasis added). Thus, the agencies made clear that non-citizens present in the United States would be eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

54. Yet, Respondents have adopted a policy and practice of applying § 1225(b)(2) to non-citizens like Mr. Seijas Aquino who are present in the United States without being admitted or paroled.

55. The application of § 1225(b)(2) to Mr. Seijas Aquino unlawfully mandates his continued detention in violation of 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT FIVE

**VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (“APA”), 5
U.S.C. § 701, et. seq.**

56. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

57. Mr. Mr. Seijas Aquino is aggrieved by agency action under the Administrative Procedure Act, 5 U.S.C. §§ 701 *et. seq.* Specifically, Respondents have acted arbitrarily in detaining Mr. Seijas Aquino without conducting an individualized determination into his circumstances. In other words, Respondents have not presented any indication that Mr. Seijas Aquino’s circumstances have changed such that he is now a danger or flight risk in a way that he was not when he was both released from detention at the border in 2023 and released from custody under bond in 2025.

58. Additionally, Respondents’ recent policies announced through administrative decisions issued by the BIA unlawfully withhold the right to a bond hearing under 8 U.S.C. § 1226(a) from Mr. Seijas Aquino.

59. These policies are arbitrary, capricious, and not in accordance with the text of the INA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody on his own recognizance on the ground that his continued detention by the Department of Homeland Security violates his Due Process rights and the INA;
2. Issue a Writ requiring an immediate, constitutionally adequate hearing before an Immigration Judge, at which DHS bears the burden of establishing that Petitioner's circumstances have changed from the when he was issued bond in 2025 such that he now poses a danger or a flight risk in a manner that cannot be addressed by conditions of release;
3. While this petition is pending, order Petitioner's immediate release pursuant to the Court's inherent authority to release habeas corpus petitioners on bail;
4. Enter a judgment declaring that Respondents' detention of Petitioner is unauthorized by statute and contrary to law and the U.S. Constitution;
5. Award Petitioner reasonable costs and attorneys' fees;
6. Grant any further relief that this Court may deem fit and proper.

Dated: January 21, 2026

Respectfully submitted,

/s/ Christopher P. Setz-Kelly

Christopher P. Setz-Kelly (PA ID No.
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*Attorney for Petitioner Arnaldo Seijas
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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 one of Petitioner's attorneys, and I have discussed the claims with Petitioner's legal team. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: January 21, 2026

Respectfully submitted,

/s/ Christopher Setz-Kelly
Christopher Setz-Kelly, Esq.

LIST OF EXHIBITS

- Exh. A. Notice to Appear dated June 20, 2023
- Exh. B. Order of Release on Recognizance dated June 21, 2023
- Exh. C. Custody Redetermination order granted by the Immigration Judge on
February 5, 2025
- Exh. D. Warrant of Arrest of Alien dated June 21, 2023
- Exh. E. Notice of Custody Determination dated June 21, 2023
- Exh. F. ICE detainee locator showing that Petitioner is detained at FDC-
Philadelphia