



the country are compelled to deny bond hearings to non-citizens such as Petitioner who the government alleges entered the United States without inspection and are subject to mandatory detention. This decision has made seeking a bond hearing (or a subsequent appeal to the BIA) futile; therefore, Petitioner's has exhausted all administrative remedies. Petitioner is not a flight risk, nor a danger to the community. Prior to his detention, he was actively pursuing his asylum claim with the immigration court and had committed no crimes. His detention without a bond hearing is not justified under the Constitution or the Immigration and Nationality Act ("INA").

2. Accordingly, to vindicate Petitioner's statutory, constitutional, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus. Absent an order from this Court, Petitioner will be deprived of his due process rights and rights under the INA.

3. Petitioner asks this Court to find that Petitioner's detention without a bond hearing is unlawful and arbitrary and capricious, and to order Respondents to immediately release Petitioner or, alternatively, order Respondents to afford Petitioner a bond hearing under 8 U.S.C. 1226(a) within seven (7) days.

#### **JURISDICTION**

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), as Petitioner is "in custody" for the purpose of § 2241 because he is arrested and detained by Respondents.

6. The federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas corpus claims by individuals challenging the lawfulness of their detention. *See, e.g., Zadvydas v.*

*Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 292-96 (2018). The jurisdictional limitations of 8 U.S.C. § 1252 do not bar this action. Petitioner does not seek review of a final order of removal or discretionary immigration relief but instead challenges the legality of his ongoing civil detention and the denial of a bond hearing. No adequate or effective alternative remedy exists through the administrative immigration system to address this unlawful detention, rendering habeas corpus relief under 28 U.S.C. § 2241 appropriate and necessary

7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

#### VENUE

8. Venue is proper because Petitioner is detained at Prairieland Detention Facility in Alvarado, Texas, which is within the jurisdiction of this District.

9. Petitioner has exhausted all available administrative remedies, or such remedies are futile. In light of the Board of Immigration Appeals' precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), immigration judges lack jurisdiction to provide bond hearings to individuals like Petitioner whom DHS classifies as subject to mandatory detention. Because immigration judges are bound by this precedent and the Board has adopted the same legal position, no administrative mechanism exists through which Petitioner can obtain meaningful review or relief. Exhaustion is therefore excused as futile.

10. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' custody. 28

U.S.C. § 1391(e).

**REQUIREMENTS OF 28 U.S.C. § 2243**

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days*, or within such time as the Court deems appropriate, unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

**PARTIES**

13. Joseph Ulises Calderon-Prudencio (“Petitioner”) is a 19-year-old citizen of Honduras. Since 2020, Petitioner has been an active applicant for asylum. He is a resident of Dallas, Texas, and is present within the state of Texas as of the time of the filing of this petition. Petitioner is currently detained at Prairieland Detention Facility and is in the custody – and under the direct control – of Respondents and their agents.

14. Respondent is the Warden of Prairieland Detention Facility, and he has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent is a legal custodian of Petitioner.

15. Respondent Robert Cerna is sued in his official capacity as the Acting Director of

the Dallas Field Office of U.S. Immigration and Customs Enforcement. Respondent Cerna is a legal custodian of Petitioner and has authority to release him.

16. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

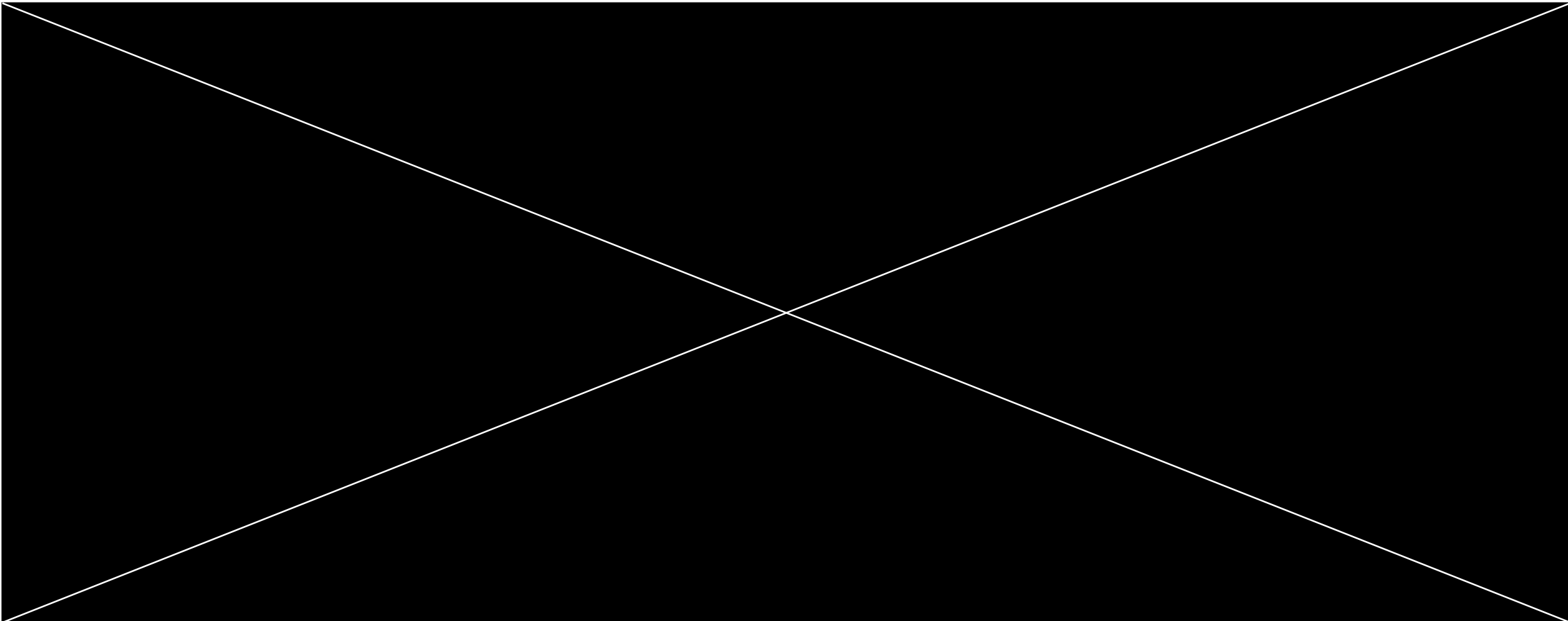
17. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

18. Respondents beyond the immediate physical custodian are named because Petitioner's detention is mandated by a binding, nationwide DHS and BIA policy that removes discretion from the Warden of Prairieland Detention Facility to release Petitioner or to provide a bond hearing. These Respondents possess the legal authority to direct, modify, or rescind the detention policy at issue and are therefore proper respondents for purposes of effecting complete habeas relief.

#### **STATEMENT OF FACTS**

19. Petitioner is a 19-year-old citizen of Honduras. He was born in 2007 in Choluteca, Honduras.

20. Petitioner [REDACTED]  
[REDACTED]



21. On or about March 29, 2019, Petitioner and his family entered the United States at or near Hidalgo, Texas seeking asylum. Petitioner was placed in government custody under section 236 of the Immigration and Nationality Act but ordered released on his own recognizance the same day under the same code section. Petitioner then timely applied for asylum and withholding of removal and has been actively pursuing his asylum claim. He and his family's asylum cases were consolidated in 2025 and set for a Master Calendar Hearing on March 18, 2027.

22. Since that time, Petitioner has obtained a Social Security Number, an Employment Authorization Document, and a Texas Driver's License. He has regularly attended church, consistently maintained lawful employment, and was – until recently – working for his uncle performing remodeling and painting services.

23. On September 5, 2025, Petitioner was getting a ride home from work when, after a late-night traffic stop, he was arrested on suspicion of violating Texas Health and Safety Code § 481.116(d) due to the discovery of used and unused THC pens underneath the passenger seat.

24. Petitioner was detained in Lew Sterrett Jail in Dallas County until January of 2026, pending a grand jury indictment. As part of his defense, Petitioner voluntarily submitted hair samples for a 14-panel drug test. The results conclusively showed that Petitioner had not used any

of the drugs going back to a month preceding his arrest. Furthermore, text message and social media posts obtained by his defense counsel showed that the driver of the vehicle was a known seller of disposal THC “vape pens” identical to those found in the vehicle.

25. Ultimately, the case was rejected by the Grand Jury Intake Division of the Dallas County District Attorney’s Office. A rejection letter was issued by the Grand Jury Division and obtained by Petitioner’s defense counsel on January 22, 2026.

26. In early January of 2026, Petitioner was transferred to Prairieland Detention Center in Alvarado, Texas, where he is currently detained. Due to the Board of Immigration Appeals’ adoption of the Department of Homeland Security’s overbroad policy of misclassifying all non-citizens who entered the United States without inspection as subject to mandatory detention under 8 U.S.C. § 1225(b) in *Matter of Hurtado*, Petitioner would in all likelihood be denied a bond hearing by the immigration judge on the basis of “lack of jurisdiction.”

27. A further consequence of his unjust detention was the immigration court’s premature setting of a Master Calendar Hearing solely for Petitioner on January 22, 2026, despite the consolidation of his and his family’s cases. This has caused an extra burden and expense, as Petitioner is forced to prepare his defense from inside a detention center and separate from his family’s cases.

28. Petitioner is not a danger to the community or a flight risk. He has no criminal history or pending criminal cases and has actively pursued his asylum claim with the immigration court.

29. Petitioner has deep roots in this community. He has been present in the United States for almost 7 years. Prior to being detained, Petitioner was a regular churchgoer and

maintained gainful employment. His continued detention deprives his family of his companionship and income.

30. Respondents' decision to detain Petitioner without affording him a bond hearing is legally unjustifiable and capricious and arbitrary.

### **LEGAL FRAMEWORK**

31. On July 8, 2025, contrary to law and decades of practice providing bond hearings for alleged non-citizens arrested inside the United States, the Department of Homeland Security adopted a new policy of misclassifying all non-citizens inside the United States as bond-ineligible if they originally entered the country without permission.

32. Later that year, the Board of Immigration Appeals formally adopted that misclassification as a uniform policy for all Immigration Courts in *Matter of Hurtado*. There, the BIA held that any non-citizen who is present in the United States without having been inspected and admitted is subject to detention under § 1225(b)(2).

33. Consequently, all immigration judges are legally bound to deny bond hearings to non-citizens arrested inside the United States solely because the government alleges they entered the United States without inspection. Petitioner is one such individual.

34. This systemic misclassification of detainees and denial of bond hearings has deprived Petitioner, and others like him, of their statutory and constitutional rights.

35. Since then, federal district judges nationwide have since rejected the application of DHS's unlawful policy to individual detainees and ordered immigration judges to conduct bond hearings. *See Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668 (W.D. Tex. Sept. 22, 2025) (collecting recent decisions tackling the "new, expansive interpretation of mandatory detention under the INA" announced by *Matter of Hurtado*).

**CLAIMS FOR RELIEF**

**COUNT ONE**

**Violation of Fifth Amendment Right to Due Process**

36. The allegations in the above paragraphs are realleged and incorporated herein.

37. Petitioner is in custody “under or by color of the authority of the United States” and in custody “in violation of the Constitution or laws ... of the United States.” 28 U.S. § 2241.

38. The Due Process Clause of the Fifth Amendment to the U.S. Constitution forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690.

39. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693.

40. Because Petitioner has been detained without a bond hearing, Petitioner’s detention violates the Due Process Clause of the Fifth Amendment.

**COUNT TWO**

**Violation of 8 U.S.C. § 1226, INA § 236, and Implementing Regulations**

41. The allegations in the above paragraphs are realleged and incorporated herein.

42. Petitioner’s continued detention without a bond hearing violates the Immigration and Nationality Act and the U.S. Constitution.

**COUNT THREE**

**Violation of the Administrative Procedure Act (“APA”), 5 U.S.C. § 706**

43. The allegations in the above paragraphs are realleged and incorporated herein.

44. Petitioner’s continued detention without a bond hearing violates the Administrative Procedure Act.

**COUNT FOUR**  
**Violation of Habeas Corpus**

45. The allegations in the above paragraphs are realleged and incorporated herein.

46. Individuals in immigration detention have the right to challenge the legality of their detention.

47. Due to the Board of Immigration Appeals' decision in *Matter of Hurtado*, all immigration judges are now compelled on a jurisdictional basis to deny bond hearings to non-citizens arrested inside the United States solely because the government alleges, they originally entered the United States without inspection.

48. Because immigration judges have disclaimed any jurisdiction over bond hearings for individuals such as Petitioner, all of Petitioner's administrative remedies have been exhausted.

49. Consequently, this proceeding is the only available means for Petitioner to obtain relief from his unlawful detention.

**PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (5) Alternatively, issue a Writ of Habeas Corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. 1226(a) within seven days;

- (6) In the alternative, Petitioner respectfully requests release under appropriate conditions of supervision, including parole or noncustodial alternatives, pending further proceedings;
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- (8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Mario Herrera  
Mario Herrera

HH Law Firm, P.C.  
4236 W. Lovers Lane  
Dallas, Texas 75209  
Tel: (214) 357-7529  
Fax: (214) 357-7530  
[info@hhlawdfw.com](mailto:info@hhlawdfw.com)

*Counsel for Petitioner*

Dated: February 4, 2026

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Joseph Ulises Calderon-Prudencio, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 4<sup>th</sup> day of February, 2026.

/s/Mario Herrera  
Mario Herrera