

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Segundo Roberto Espinoza,

Petitioner,

v.

Craig Lowe, Warden of the Pike County Correctional Facility; Michael Rose, Director of the Philadelphia Field Office of Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; Pamela Bondi, Attorney General;

Respondents.

No. 1:26-CV-00277

**VERIFIED PETITION FOR
WRIT OF HABEAS OF CORPUS**

Agency No.:



INTRODUCTION

1. Segundo Roberto Espinoza (“Petitioner”) entered the United States without inspection in 2009, and has resided here since that time without lawful authorization. On July 19, 2025, Petitioner was detained by Immigration and Customs Enforcement (“ICE”), an arm of the Department of Homeland Security (“DHS”). Although an immigration judge (“IJ”) ordered that he be released on bond, ICE appealed that determination to the Board of Immigration Appeals (“BIA”), advancing a novel legal theory. The BIA vacated the bond grant, agreeing with ICE’s new legal theory that anyone present without admission is categorically ineligible for bond. Petitioner seeks immediate release because that theory has no basis in law.

JURISDICTION

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

3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), and 28 U.S.C. 1331 (federal question).

4. This Court may order relief under the habeas statute, 28 U.S.C. § 2241; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; and the All Writs Act, 28 U.S.C. § 1651.

VENUE

5. Venue is proper because Petitioner is detained, and his immediate custodian resides, in Pike County, PA, within the territorial jurisdiction of this Court.

PARTIES

6. Petitioner is an Ecuadoran national who has resided in the United States since 2009. He is detained at the Pike County Correctional Facility in Lords Valley, PA.

7. Respondent Craig Lowe of the warden of the Pike County Correctional Facility. As such, he is Petitioner's immediate custodian.

8. Respondent Michael Rose is the Director of ICE's Philadelphia Field Office. In his official capacity, he is charged with carrying out the functions of that office, including by making and overseeing decisions regarding immigration detention throughout Pennsylvania. He therefore has constructive custody over Petitioner, in that he can order his release from ICE custody.

9. Respondent Kristi Noem is the Secretary of DHS, which is ICE's parent agency. In her official capacity, she oversees and directs the activities of ICE, including its detention operations in New Jersey and elsewhere. She therefore has constructive custody of Petitioner, in that she can direct ICE to release him from custody.

10. Respondent Pamela Bondi is the Attorney General. In her official capacity, she is charged with making determinations as to removability, asylum eligibility, and immigration

custody, all of which are binding on DHS and its components. She therefore has constructive custody of Petitioner, in that she has the capacity to compel ICE to release him.

11. Respondents are collectively referred to as the “Government.”

STATEMENT OF FACTS

12. An Ecuadoran national, Petitioner crossed the southern land border into the United States in 2009. He has lived here without authorization for the past sixteen years, during which he has fathered two United States citizen children.

13. On July 19, 2025, Petitioner was detained by ICE while vacationing with family members in West Nanticoke, PA. It is unclear why Petitioner was targeted for arrest. As of this writing, Petitioner remains detained by ICE at the Pike County Correctional Facility in Lords Valley, PA.

14. In an order dated August 11, 2025, an IJ determined that Petitioner did not present a danger to the community or risk of flight, and accordingly directed that he be “released from custody under bond of \$ 5,000.00.” Exh. A. But ICE appealed that decision. And on November 17, 2025, the BIA “vacated” the IJ’s decision, noting that “[w]hile the appeal was pending, [it] issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), in which [it] held that aliens, like [Petitioner], who are present in the United States are ‘seeking admission’ for purposes of section 235(b)(2) of the Immigration and Nationality Act (‘INA’), 8 U.S.C. § 1225(b)(2)(A)[,] and are ineligible for bond.” Exh. B.

15. Petitioner now seeks a writ of habeas corpus.

LEGAL BACKDROP

16. “[C]ivil immigration detention is typically justified only when a noncitizen presents a risk of flight or danger to the community.” *J.A.E.M. v. Wofford*, No. 25 Civ. 1380 (KES), 2025

WL 3013377, at *3 (E.D. Cal. Oct. 27, 2025) (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023)). “A protected liberty interest may arise from a conditional release from physical restraint. Even when a statute allows the government to arrest and detain an individual, a protected liberty interest under the Due Process Clause may entitle the individual to procedural protections not found in the statute.” *Id.* (citation omitted) (citing *Young v. Harper*, 520 U.S. 143, 147–49 (1997)). “Due process ‘is a flexible concept that varies with the particular situation.’ The procedural protections required in a given situation are evaluated using the *Mathews v. Eldridge* factors.” *Id.* at *6 (quoting *Zinerman v. Burch*, 494 U.S. 113, 127 (1990), which in turn cites 424 U.S. 319, 335 (1976)).

17. Beginning in May of this year, ICE has pursued an aggressive new enforcement campaign targeting people who are in removal proceedings at their homes, places of business, and even as they attended mandatory immigration court hearings or other immigration appointments. This “coordinated operation” is “aimed at dramatically accelerating deportations.”¹ These aggressive tactics appear to be motivated by the imposition of a daily quota of 3,000 ICE arrests.²

¹ Arelis R. Hernández and Maria Sacchetti, “Immigrant Arrests at Courthouses Signal New Tactic in Trump’s Deportation Push,” *Washington Post* (May 23, 2025), available at www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/; see also Hamed Aleaziz, Luis Ferré-Sadurní, and Miriam Jordan, “How ICE is Seeking to Ramp Up Deportations Through Courthouse Arrests,” *N.Y. Times* (May 30, 2025), available at www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html.

² Ted Hesson and Kristina Cooke, “ICE’s Tactics Draw Criticism as it Triples Daily Arrest Targets,” *Reuters* (Jun. 10, 2025), available at www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/.

In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January.³

18. At the same time, the Board of Immigration Appeals ("BIA") has advanced novel interpretations of the immigration detention statutes. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), it held for the first time that individuals who (like Petitioner) were paroled into the United States without first receiving a CFI, remained subject to mandatory detention under section 235 of the INA, 8 U.S.C. § 1225, as opposed to discretionary detention under INA § 236, 8 U.S.C. § 1226, regardless of how much time had passed since their initial entry. Shortly thereafter, it expanded its mandatory § 1225 detention rule to cover all persons present in the United States without admission, irrespective of their time and manner of entry. *See Yajure Hurtado, supra*.

19. Courts in this district have uniformly rejected *Yajure Hurtado*, as have the overwhelming majority of district courts nationwide. *See, e.g., Gonzales Centeno v. Lowe*, No. 25 Civ. 2518 (JKM), 2026 WL 94642 (M.D. Pa. Jan. 13, 2026); *Vadel v. Lowe*, No. 25 Civ. 2452 (KM), 2025 WL 3772059 (M.D. Pa. Dec. 31, 2025); *Ramirez-Montoya v. Rose*, No. 25 Civ. 2411 (KM), 2025 WL 3709045 (M.D. Pa. Dec. 22, 2025); *Samassa v. Lowe*, No. 25 Civ. 2197 (MWB), 2025 WL 3653751 (M.D. Pa. Dec. 17, 2025); *Quispe v. Rose*, No. 25 Civ. 2276 (CMC), 2025 WL 3537279 (M.D. Pa. Dec. 10, 2025); *Cunin v. McShane*, No. 25 Civ. 1887 (KMN), 2025 WL 3542999 (M.D. Pa. Dec. 10, 2025); *Patel v. O'Neil*, No. 25 Civ. 2185 (CMC), 2025 WL 3516865 (M.D. Pa. Dec. 8, 2025); *Santana-Rivas v. Warden of Clinton Cnty. Corr. Facility*, No. 25 Civ. 1896 (JPW), 2025 WL 3513152 (M.D. Pa. Dec. 8, 2025).

³ José Olivares and Will Craft, "ICE Arrests of Migrants with No Criminal History Surging under Trump," *The Guardian* (Jun. 14, 2025), available at www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures.

FIRST CLAIM FOR RELIEF
Violation of Fifth Amendment Right to Due Process

20. Petitioner hereby repeats and realleges all preceding allegations in the instant Petition as if fully set forth herein.

21. Applying the *Mathews* factors in this case, Petitioner’s detention violates due process, and he is entitled to immediate release. “Each factor favors [Petitioner]. First, his private interest is the interest of not being physically detained by the government, which “is the most elemental of liberty interests.” *Gonzalez Centeno*, 2026 WL 94642, at *4 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). “The restriction of liberty is particularly acute here where, absent a bond hearing, he would be detained for months or even years while his case proceeds.” *Id.* (quoting *Cunin*, 2025 WL 3542999, at *2). “Second, he has been detained erroneously under Section 1225(b) without any apparent procedural safeguards, including the ability to obtain a bond hearing.” *Id.* “Third, the government’s interest in detaining noncitizens to ensure the appearance of aliens at future immigration proceedings and to prevent danger to the community is mitigated” because there is no “information suggesting that [Petitioner] is a flight risk or a danger to his community. He has no criminal record.” *Id.* (quotation marks omitted).

22. Because Petitioner’s “continued detention violates his procedural due process rights,” the Government should be ordered to “immediately release” him. *Id.*

SECOND CLAIM FOR RELIEF
Violation of Section 236(a) of the INA, 8 U.S.C. § 1226(a)

23. Petitioner hereby repeats and realleges all preceding allegations in the instant Petition as if fully set forth herein.

24. Because Petitioner’s detention was carried out pursuant to the flawed reading of the INA expressed in *Yajure Hurtado*, it should be considered unreasonable *ab initio* and the

Government should be ordered to release Petitioner immediately. *See, e.g., Gonzales Centeno*, 2026 WL 94642, at *4 (“Respondents shall immediately release Gonzalez Centeno from their custody because he was unlawfully detained without the opportunity for a bond hearing.”).

25. Moreover, under the circumstances of this case, where an IJ has already tried to grant Petitioner release on bond, an order directing the Government to hold another bond hearing is not the most appropriate disposition. Rather, the Government has already determined that Petitioner is not a danger or flight risk, and concluded that his release on bond would therefore be appropriate. The only obstacle to his release is *Yajure Hurtado*’s binding misstatement of law. All that is left for the Court is to give effect to the prior bond determination by ordering Petitioner’s immediate release—if necessary, on a \$5,000 surety.

26. Because Petitioner’s detention was unlawful from the beginning, and moreover in light of the fact that he has already been adjudged by an IJ to pose neither a flight nor safety risk, this Court should order his immediate release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court:

- (1) Assume jurisdiction over this petition;
- (2) Direct Respondents to show cause within three days (or in no event more than twenty days) why the Petition should not be granted;
- (3) Declare Petitioner's ongoing detention to be violative of 8 U.S.C. § 1226 as well as the Due Process Clause of the Fifth Amendment;
- (4) Issue a preliminary injunction or writ of habeas corpus directing Respondents to immediately release Petitioner; and
- (5) Provide such other relief as the Court deems just and proper.

Respectfully Submitted,

Date: February 4, 2026

s/Christopher M. Casazza
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Table of Exhibits

Exh. A: Order of the Immigration Judge (Aug. 11, 2025)

Exh. B: BIA Decision (Nov. 17, 2025)