UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

RIGOBERTO PORTILLO-MALDONADO, ISAI PEREZ HUANON, and ERIN OMAR LANDAVERDE RODRIGUEZ, Petitioners, v. KRISTI NOEM, *Secretary of Homeland Security*, TODD LYONS, *Acting Director, U.S. Immigrations and Customs Enforcement*, RUSSELL HOTT, *Washington Field Office Director, U.S. Immigration and Customs Enforcement*, PAMELA BONDI, *U.S. Attorney General*, and JEFFREY CRAWFORD, *Warden of Farmville Detention Center*, Respondents.	Case No. **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioners Rigoberto Portillo-Maldonado, Isai Perez Huanon, and Erin Omar Landaverde Rodriguez are currently being unlawfully detained by Respondents, because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have erroneously concluded they are subject to detention without the possibility of release on bond.

2. This erroneous interpretation of the Immigration and Nationality Act (INA) has been repeatedly rejected by this Court and many other district courts across the nation. Further, it

has now been vacated and declared "no longer controlling" by the U.S. District Court for the Central District of California. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, ECF No. 93 at 3 (C.D. Cal. Dec. 18, 2025). Yet Respondents continue to defy *Maldonado Bautista* and similar orders of this Court, systemically misapplying mandatory detention to people like Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez and restraining their most fundamental liberty interest without justification.

3. Mr. Portillo-Maldonado arrived in the United States as an unaccompanied minor in 2012. He is now the father of three U.S. citizen children, including a nearly three-year-old daughter who suffers from lung problems and frequent respiratory failure.

4. Mr. Perez Huanon arrived in the United States shortly after turning 18 years old, fleeing [redacted]

5. Mr. Landaverde Rodriguez arrived in the United States in around 2021, fleeing persecution as [redacted] He has been diagnosed with HIV and developed a strong community in the United States.

6. All three men have now been separated from their families and communities for over a month because Respondents refuse to abandon their unlawful mandatory detention policy, instead forcing petitioners like them to inundate this Court with habeas petitions in order to get any process at all.

7. At first glance, this case raises the same statutory claim that this Court has already ruled on many times over and thus could be resolved in the same way, by holding that Respondents' blanket application of mandatory detention to Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez is unlawful and ordering that they each be given a bond

hearing. *See, e.g., Hernandez v. Crawford, et al.*, No. 1:25-CV-01565-AJT-WBP, 2025 WL 2940702, at * 2 (E.D. Va. Oct. 16, 2025). But although those statutory claims remain, circumstances have changed such that the remedy of a bond hearing before the Annandale Immigration Court—the Court in which Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's proceedings are sited—is no longer sufficient.

8. In recent weeks, in dozens of habeas-ordered bond hearings in the Annandale Immigration Court, attorneys have witnessed blanket denials of bond for spurious reasons inconsistent with the permissible justifications for civil detention. One such advocate, who himself worked for ICE for years, has concluded that this pattern reflects a "deliberate campaign to render meaningless the bond hearings that this Court and others have ordered." Exh. A, Sworn Declaration of Jorge Artieda. Even former long-time Immigration Judges (IJs) have noted "concern among members of the bench about institutional intimidation and the perception that decisions unfavorable to the government could negatively affect judicial tenure." Exh. B, Sworn Declaration of Judge Lawrence Burman.

9. In light of this change, even if this Court were to order that Respondents provide Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez with bond hearings to make the individualized determination they are due, that order would be futile. The few bond hearings now taking place at EOIR for the lucky few who can secure habeas counsel have ceased to provide a meaningful opportunity for noncitizens like Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez to be heard.

10. For these reasons, Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez respectfully request that this Court grant them immediate release, or, in the alternative, immediate release pending a bond hearing before this Court.

JURISDICTION AND VENUE

11. This action arises under the Constitution of the United States and the INA, 8 U.S.C. Sec. 1101 *et seq.*

12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

13. This Court may grant relief pursuant to 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.

14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Eastern District of Virginia, the judicial district in which Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez are currently detained.

15. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Eastern District of Virginia.

16. Venue is proper within the Alexandria Division because Respondent Russell Hott has a principal place of business in Chantilly, Virginia, and ICE's ultimate decision to continue to detain Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez, giving rise to the claims in this action, took place there. Further, any bond hearing ordered by this court will be held before an adjudicator in Annandale, Virginia where Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's removal proceedings are sited.

REQUIREMENTS OF 28 U.S.C. § 2243

17. Under 28 U.S.C. § 2243, the Court must grant the petition for writ of habeas corpus or order

Respondents to show cause, unless Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez are not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

19. Petitioner Rigoberto Portillo-Maldonado is alleged to be a citizen of Honduras and has been in immigration detention since January 13, 2026.

20. Petitioner Isai Bladimir Perez-Huanon is alleged to be a citizen of Guatemala and has been in immigration detention since December 1, 2025.

21. Petitioner Erin Omar Landaverde-Rodriguez is alleged to be a citizen of Honduras and has been in immigration detention since January 10, 2026.

22. Respondent Kristi Noem is the Secretary of DHS. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's detention. Secretary Noem has ultimate custodial authority over Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez.

23. Respondent Todd Lyons is the Acting Director of ICE. He is the head of the federal agency responsible for all immigration enforcement in the United States. Acting Director Lyons is a

legal custodian of Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez.

24. Respondent Russell Hott is the Director of the Washington ICE Field Office. As such, he is the immediate legal custodian of Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez and is responsible for the ICE office that unlawfully arrested them, and such arrest took place under his direction and supervision.

25. Respondent Pamela Bondi is 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.

26. Respondent Jeffrey Crawford is the warden of the Farmville Detention Center ("Farmville"), where Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez are detained. He has immediate physical custody of Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez.

27. All Respondents are sued in their official capacities.

FACTS

A. Mr. Portillo-Maldonado

28. Mr. Portillo-Maldonado was born in Honduras on [redacted]. He first entered the United States when he was sixteen years old and was placed into the custody of the Office of Refugee Resettlement (ORR). After three months in ORR custody and unable to find a sponsor to whom he could be released, he requested and was granted voluntary departure to Honduras. He entered the United States again a year later and was neither apprehended nor inspected by an immigration officer.

29. Mr. Portillo-Maldonado made his way first to Yonkers, New York, where he built community through church, developed a trustworthy reputation as a hard-worker, and welcomed a daughter. After parting with the mother of his eldest daughter, he moved to Virginia with his current partner and welcomed two children. Mr. Portillo-Maldonado is now the father of three U.S. citizen children. His daughters are seven and nearly three years old, and his son is just over two months old.

30. Mr. Portillo-Maldonado's three-year-old daughter suffers from reactive airway disease, which leads her to experience significant respiratory distress any time she gets sick with a cold or the flu. As recently as the summer of 2025, Mr. Portillo-Maldonado's daughter became so sick that Mr. Portillo-Maldonado's partner brought her to the emergency room, where she was treated and given a machine to help with her breathing at home. Because of his daughter's sickness, Mr. Portillo-Maldonado's partner is unable to maintain steady work and must frequently stay home to care for their child. Mr. Portillo-Maldonado's work in the air conditioning business supports his family by allowing his partner to stay home with their daughter and help her get the medical care she needs.

31. In Virginia, Mr. Portillo-Maldonado is a cherished member of the community. He belongs to Saint John Catholic Church in Highland Springs, Virginia, and he has spent over four years working in the HVAC business in and around Henrico. Mr. Portillo-Maldonado cares deeply for his children and his community.

32. On January 13, 2026, around 6:40am, Mr. Portillo-Maldonado was on his way to work. As he left his house, he noticed two large vans following him. Terrified that an unknown vehicle seemed to be tailing him, he turned off of the main road onto a side street, got out of his vehicle, and started moving toward a house to ask for help. The vans following him also

stopped, and federal immigration agents ran out of the vans, tackled Mr. Portillo-Maldonado to the ground, and began yelling insults at him as they pressed their knees into his back.

33. The officers asked Mr. Portillo-Maldonado if he was a man named "Mynor Flores" and asked him if he had papers. When he told them that he was not Mynor and that he did not have papers, they arrested him anyway.

34. Mr. Portillo-Maldonado was first processed at the Richmond ICE Processing Center and later spent approximately three days at Riverside Regional Jail (Riverside). In Riverside, he slept on the floor without a blanket the first night.

35. DHS placed Mr. Portillo-Maldonado in removal proceedings before the Annandale Immigration Court pursuant to 8 U.S.C. § 1229a. ICE charged Mr. Portillo-Maldonado with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as a person who is present in the United States without having been admitted or paroled in by U.S. immigration officials, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as being not in possession of valid entry document and travel document. Exh. C, Mr. Portillo Maldonado's Notice to Appear.

36. After spending three days at Riverside, Mr. Portillo-Maldonado was transferred to Farmville Detention Center ("Farmville"), where he remains detained.

37. Mr. Portillo-Maldonado has now been detained for 46 days. He misses his partner and children deeply and fears that he will never see them again.

B. Mr. Perez Huanon

38. Mr. Perez Huanon was allegedly born in Guatemala on [redacted].[1] He first entered the United States when he was 18 years old and he was neither apprehended nor inspected by an immigration officer upon entry. He came to live in Virginia because he already had two

[1] Petitioner's date of birth is incorrect in his Notice to Appear. Exh. D, Mr. Perez Huanon's Notice to Appear. His date of birth is not [redacted]

brothers here, Guillermo and Florentin.

39. Mr. Perez Huanon's eldest brother, [redacted]

40. [redacted]

41. In Virginia, Mr. Perez Huanon is a beloved member of the community, where he has been working for the past couple of years in construction with Osvin Roofing Construction, LLC. Mr. Perez Huanon does not have a criminal history, neither in the U.S. nor in any other country.

42. On December 1, 2025, around 6:00 AM, Mr. Perez Huanon was on his way to work when a civilian white car behind him turned on what seemed to be police emergency lights and signaled to Mr. Perez Huanon to pull over. A man dressed in civilian clothing approached the window, and after a short conversation instructed Mr. Perez Huanon to get out of the vehicle and handcuffed him.

43. Mr. Perez Huanon was first processed at the Harrisonburg ICE Processing Center. DHS placed Mr. Perez Huanon in removal proceedings before the Annandale Immigration Court pursuant to 8 U.S.C. § 1229a. ICE charged Mr. Portillo-Maldonado with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as a person who is present in the United States without having been admitted or paroled in by U.S. immigration officials, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as being not in possession of valid entry document and travel document.

Exh. D, Mr. Perez Huanon's Notice to Appear.

44. After being processed, Mr. Perez Huanon was transferred to another detention facility that was about 15 minutes away from the processing center. He was then transferred to Riverside, where he spent three nights. After spending three nights in Riverside, he was transferred to Farmville Detention Center ("Farmville"), where he remains detained.

45. Mr. Perez Huanon has now been detained for 79 days. He misses his brothers and community in Virginia, and fears that he will never see them again.

C. Mr. Landaverde Rodriguez

46. Mr. Landaverde Rodriguez was allegedly born in Honduras on [redacted]. He knew that

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[redacted] She told Mr. Landaverde Rodriguez that he should leave Honduras for his own safety and because he was no longer welcome.

50. Mr. Landaverde Rodriguez fled first to Mexico, where he was trafficked by men. Unable to find safety in Mexico, Mr. Landaverde Rodriguez found his way to the United States. He was neither apprehended nor inspected by an immigration officer upon entry.

51. Mr. Landaverde Rodriguez eventually met Carlos. After dating for a couple of months, the two decided to be just friends. Carlos helped Mr. Landaverde Rodriguez adjust to his new life in the U.S. and his newfound freedom to finally be himself.

52. Last year, while living in Charlotte, North Carolina, Mr. Landaverde Rodriguez was diagnosed with HIV. The diagnosis was devastating for him. He started taking medications for HIV and meeting with a psychologist. Things took a turn when people at work found out about his HIV status and started bullying him. He no longer felt safe, so he decided to move to South Boston, VA around the end of December to start over.

53. On January 8, 2026, Mr. Landaverde Rodriguez went to a bar in Halifax after work. He was sitting at the bar having a drink, when a man seated near him yelled at him, claiming that he had been staring at this man's girlfriend. Before Mr. Landaverde Rodriguez could do anything else, this man attacked him. Someone called the police, and Mr. Landaverde Rodriguez was ultimately arrested, despite trying to explain to the police officers that he had been a victim in the altercation. ICE officers came to get him from jail and took him to what he believes was the Richmond ICE Processing Center.

54. At Richmond, Mr. Landaverde Rodriguez was not given edible food, a bed to sleep on, or enough layers to keep him warm from the cold. After spending roughly three nights at Richmond, Mr. Landaverde Rodriguez believes that he was transferred to Riverside. From there, he was transferred to Farmville, where he remains detained.

55. DHS placed Mr. Landaverde Rodriguez in removal proceedings before the Annandale

Immigration Court pursuant to 8 U.S.C. § 1229a. ICE charged Mr. Landaverde Rodriguez with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as a person who is present in the United States without having been admitted or paroled in by U.S. immigration officials, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as being not in possession of valid entry document and travel document. Exh. E, Mr. Landaverde Rodriguez's Notice to Appear.

56. Since being in Farmville, Mr. Landaverde Rodriguez has had to overcome harassment and abuse from other detainees because of [redacted] Most recently, Mr. Landaverde Rodriguez had to report two men who were harassing him while he was trying to sleep. As a result, facility staff transferred Mr. Landaverde Rodriguez to another cell that has less detainees, no television, and no tablet. While Mr. Landaverde Rodriguez feels safer in this new cell, he also feels singled out and stigmatized as [redacted]

57. Mr. Landaverde Rodriguez has now been detained for 42 days and has spent every night scared for his safety and well-being, both physical and mental. He is committed to fighting his case in order to stay in the United States, the first place where he has been able to truly [redacted] and where he is receiving critical care for HIV. Over a month into his detention, he is struggling with tremendous fear about the future, which has exacerbated his anxiety and PTSD. He misses his friends and community and fears that he will never see them again.

D. Federal Courts Have Overwhelmingly Ruled Against the Government on Its Erroneous Interpretation of the INA.

58. Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez are currently unable to request individualized bond hearings with the Immigration Court to challenge their detention because of Respondents' erroneous reinterpretation of the INA as part of a nationwide strategy designed to overturn decades of agency policy and practice.

59. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy claiming that all persons who entered the United States without inspection shall now be subject to mandatory detention under § 1225(b)(2)(A).[2] This policy applies regardless of when or where a person is apprehended by DHS and affects those, like Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez, who have resided in the United States for years, or even decades.

60. Not two months later, on September 5, 2025, the Board of Immigration Appeals (BIA), which is housed within DOJ, adopted the same legal interpretation as ICE in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board held that all noncitizens who entered the United States without admission or parole are subject to mandatory detention under 1225(b)(2)(A), and thus immigration judges do not have jurisdiction to consider their custody redetermination requests. This is despite decades of agency policy and practice finding that those same individuals are in fact detained under § 1226 and are therefore entitled to request bond and have such a request meaningfully considered by the immigration judge.

61. As of January 20, 2026, over 300 federal judges have rejected Respondents' mandatory detention policy in more than 1,600 cases.[3] Yet Respondents have not acknowledged error and corrected course, and there is no end in sight, with around 300 active cases in this same posture currently pending before this Court alone as of the date of this filing[4] and over 3,000

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[2] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

[3] Kyle Cheney, "Hundreds of judges reject Trump's mandatory detention policy, with no end in sight," Politico (Jan. 5, 2026), *available at* https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494.

[4] "Eastern District of Virginia – Tracked Cases," Habeas Dockets (last accessed Feb. 6, 2026), *available at* https://habeasdockets.org/dockets/court/vaed/.

new petitions filed across the country in December of 2025.[5]

62. Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez are just a few of thousands of individuals currently languishing in immigration detention who would be eligible to request bond before an immigration court but for Respondents' unlawful policy. They, like thousands of others, has now been forced to come before this Court to plead for the process that she is already owed, burdening this Court's limited resources to decide the same issue again and again. As Judge Beetlestone, of the Eastern District of Pennsylvania aptly described, "The Government's hope, presumably, is that if it keeps pushing the boulder of its argument up the hill at least one judge may rule against the weight of the authority . . . But the tale before the courts is the traditional one of Greek mythology: the Government returns again and again to push the same theory uphill, only for courts to send it rolling back down again." *Rios Porras v. O'Neill*, No. 25-cv-6801-WB, at *4 (E.D. Pa. Dec. 22, 2025).

E. Very Recent Changes to Bond Procedures and IJ Reassignments Have Begun to Thwart Habeas Relief.

63. Faced with uniform defeat on their statutory claims in the vast majority of federal court habeas decisions, Respondents are now engaged in what amounts to a systematic attempt to strip federal court-ordered bond hearings of meaningful process for those few detainees who can secure counsel to file habeas.

64. On December 18, 2025, the District Court for the Central District of California issued an opinion clarifying its prior order granting partial summary judgment and class wide relief in *Maldonado Bautista v. Santacruz*, 5:25-cv-1873, ECF No. 92 (C.D. Cal. Dec. 18, 2025). In that opinion, the District Court held that Respondents' interpretation of the INA in *Yajure-*

[5] Stephen Dinan, "Migrants facing detention find new reprieve from federal courts," The Washington Times (Jan. 6, 2026), *available at* https://www.washingtontimes.com/news/2026/jan/6/migrants-facing-detention-find-new-reprieve-federal-courts/.

Hurtado "is no longer controlling" and extended that same declaratory relief and vacatur of DHS's policy to the Bond Eligible Class as a whole.[6] *Id.* at *2, 6.

65. On January 13, 2026, EOIR Chief Immigration Judge Theresa Riley issued guidance by email to IJs around the nation, stating that "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." See Exh. F, Email from Chief Immigration Judge Theresa Riley. Chief IJ Riley further erroneously instructed IJs that "*Yajure Hurtado* remains binding precedent on agency adjudicators." *Id.* In other words, immigration judges were instructed to disregard a binding nationwide class action judgment and not extend its ruling to class members.

66. Following CIJ Riley's guidance, two IJs at the Annandale Immigration Court—IJ Karen Donoso-Stevens and IJ Raphael Choi—who had previously granted bond requests pursuant to *Maldonado Bautista* before CIJ Riley's email, were abruptly pulled from the hearings over which they were presiding and re-assigned to the non-detained docket. Exh. A, at 2–3.

67. As Jorge Artieda—a former ICE attorney and legal counsel to ICE National Headquarters—explained in a January 28, 2026, declaration, IJs, including those in the Annandale Immigration Court, have, since mid-January, demonstrated a predisposition to deny bond based on erroneous, unsupported legal standards. Exh. A.

68. Mr. Artieda personally observed numerous post-habeas bond hearings in the Annandale Immigration Court over the past three weeks in which IJs denied bond for spurious reasons,

[6] The bond eligible class in *Maldonado Bautista* includes "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Maldonado Bautista*, 5:25-cv-1873, ECF No. 92 at *2 (C.D. Cal. Dec. 18, 2025).

such as finding individuals to be a "flight risk" for not having sought affirmative immigration relief before being detained, irrespective of their long-term residence, deep family ties, and lack of a criminal record. *Id.* at 2–5.

69. As Mr. Artieda explained, what he "ha[s] witnessed over the past three weeks appears to be a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus," evidencing "a deliberate campaign to render meaningless the bond hearings that this Court and others have ordered." *Id.* at 6. Further, "the abrupt reassignment of [IJs] who were granting bond and questioning government positions, the immediate and uniform shift to systematic denial of bond, and the reliance on a narrow set of rationales across multiple [IJs] and cases—suggests what appears to be a coordinated effort by the Executive Office for Immigration Review (EOIR) and the Department of Justice to undermine federal habeas relief." *Id.*

70. In addition to Mr. Artieda, recently retired IJ Lawrence O. Burman has expressed his concerns about the recent changes on the detained docket, including abrupt IJ reassignments and radical change in outcomes. Exh. B.

71. Judge Burman served as an IJ for 27 years before retirement, in Memphis and Northern Virginia, on both detained and non-detained dockets. *Id.*

72. Commenting on recent and abrupt reassignments of IJs on the detained docket. Judge Burman noted that "[f]rom conversations within the immigration bench and professional organizations, including the National Association of Immigration Judges (of which I was an officer), it is clear that judges were removed for their strong commitment to due process for those appearing before them." *Id.*

73. Noting the increased reliance of newly appointed or reassigned IJs on the detained docket on

flight risk as a factor for denying bond, Judge Burman observed:

a. "Over my time on the bench, I found that concerns about flight risk were usually addressed by setting an appropriate bond amount. It was rare for a bond to be denied solely based on flight risk; more often, a higher bond amount was imposed to ensure the individual's appearance at future hearings." *Id.*

b. "In my experience, bond was not denied solely due to a person's manner of entry into the United States or because they had not yet applied for relief before being encountered by immigration officials. Such factors were never the main reason for denial, and generally not considered at all." *Id.*

c. "It was also extremely rare to see a bond denial based on flight risk where the alien had a fixed address, a job, a proposed application for relief, or family ties to the United States." *Id.*

74. Judge Burman also expressed his "concern[] that the notable rise in bond denials and adverse case outcomes undermines due process and erodes confidence in the Immigration Court system." *Id.*

75. Given that these recent changes have rendered the EOIR bond determination process futile, Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez respectfully request their immediate outright release as – at this time – this the only measure that will ensure their meaningful access to due process.

ARGUMENT

A. Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez are Not Subject to Mandatory Detention.

76. This Court has repeatedly found that individuals apprehended in the interior of the United States are, as a default, not subject to mandatory detention under the INA. *See, e.g.,*

Hernandez v. Crawford, et al., No. 1:25-CV-01565-AJT-WBP, 2025 WL 2940702, at * 2 (E.D. Va. Oct. 16, 2025). This case is no different.

77. The INA includes two primary provisions that govern the detention of noncitizens prior to an order of removal. *See* 8 U.S.C. § 1226; 8 U.S.C. § 1225.

78. Section 1226 authorizes the discretionary detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Discretionary detention under 8 U.S.C. § 1226(a) is the "default." *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Individuals detained pursuant to § 1226(a) are entitled to challenge their detention by requesting a bond hearing. 8 C.F.R. §§ 1003.19(a), 1236.1(d).

79. Section 1225 subjects noncitizens apprehended at or near the border to mandatory detention. *See* 8 U.S.C. § 1225(b)(1) (mandatory detention for those in expedited removal); § 1225(b)(2) (mandatory detention of applicants seeking for admission); *Jennings*, 583 U.S. at 287 (noting that the mandatory detention scheme described in § 1225 applies "at the Nation's borders and ports of entry").

80. "This statutory scheme reflects a longstanding distinction between noncitizens who reside in the United States and those who have not yet entered." *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *3 (D. Idaho Jan. 27, 2026) (citing *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)).

81. Since these statutes were enacted around thirty years ago, it has been Respondents' practice to afford § 1226(a) discretionary bond hearings to individuals who entered without inspection and were encountered in the interior of the United States, with the exception of individuals subject to mandatory detention based on criminal history under 8 U.S.C. § 1226(c). *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that §

1226(a) simply "restates" the detention authority previously found at § 1252(a)); *Martinez v. Hyde*, 792 F. Supp. 3d 211, 218 n.9 (D. Mass. 2025) (citing the United States Solicitor General's recent representation to the Supreme Court at oral argument that "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended").

82. However, since ICE's issuance of its "Interim Guidance Regarding Detention Authority for Applicants for Admission" and the Board's decision in *Yajure Hurtado*, Respondents have been systematically misclassifying individuals apprehended in the interior of the United States as subject to § 1225(b)(2)(A)'s mandatory detention provision. As a result of this guidance and *Matter of Yajure-Hurtado*, immigration judges are stripped of the authority to consider custody redetermination requests by noncitizens like Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez pursuant to 8 U.S.C. § 1226(a).

83. This Court has repeatedly rejected Respondents' unlawful interpretation. *See, e.g.*, *Hasan v. Crawford*, No. 1:25-CV-1408, 2025 WL 2682255, at *8 (E.D. Va. Sept. 19, 2025) (Brinkema, J.); *Hernandez v. Crawford, et al.*, No. 1:25-CV-01565-AJT-WBP, 2025 WL 2940702 (E.D. Va. Oct. 16, 2025) (Trenga, J.); *Teyim v. Perry, et al.*, No. 1:25-CV-01615-MSN-WEF, 2025 WL 2950183 (Oct. 15, 2025) (Nachmanoff, J.); *Singh v. Lyons, et al.*, No. 1:25-CV-01606-AJT-WBP, 2025 WL 2932635, at *1 (E.D. Va. Oct. 14, 2025) (Trenga, J.); *Quispe v. Crawford, et al.*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025) (Trenga, J.); *Ortiz Martinez v. Noem, et al.*, No. 1:25-cv-1816-LMB-WEF, (E.D. Va. Oct. 29, 2025) (Brinkema, J.); *Quintero Flores v. Noem, et al.*, No. 1:25-cv-1614-RDA-LRV, (E.D. Va. Oct. 29, 2025) (Alston, J.); *Barrios Ramirez v. Simon, et al.*, No. 1:25-cv-1920-PTG-WEF (E.D. Va. Nov. 25, 2025) (Giles, J.); *Majano Fuentes v. Bondi, et al.*, No. 1:25-cv-1909-

PTG-LRV (E.D. Va. Dec. 5, 2025) (Giles, J.); *Temaj-Lopez v. Bondi, et al.*, No. 1:25-cv-2016-RDA-IDD (E.D. Va. Dec. 10, 2025) (Alston, J.);

84. Dozens of other federal courts have also rejected *Matter of Yajure Hurtado*, refusing to apply the mandatory detention described in § 1225(b)(2) more broadly. *See, e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, 792 F. Supp. 3d 211, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (C.D. Cal Aug. 5th, 2025), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025);

Sampiao v. Hyde, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same); *Alvarez Ortiz v. Freden*, No. 25-CV-960-LJV, 2025 WL 3085032, at *10 (W.D.N.Y. Nov. 4, 2025).

85. Courts have uniformly rejected Respondents' new interpretation because it defies the INA. As these courts have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez, who were already in the United States when they were placed into removal proceedings.

B. Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's Detention Violate Due Process.

86. Both the arbitrary nature of Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's detention and their inability to seek bond as a result of Respondents' unlawful policies violate due process.

87. "The touchstone of due process is protection of the individual against arbitrary action of government." *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974). The Fifth Amdendment's due process protections extend to noncitizens subject to immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

88. Substantive due process requires that all forms of civil detention, including immigration detention, bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) ("At the least, due process requires that the nature and duration of

commitment bear some reasonable relation to the purpose for which the individual is committed."). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and ensuring the safety of the community. *Zadvydas*, 533 U.S. at 690-92; *see also Demore v. Kim*, 538 U.S. 510 at 519-20, 527-28, 31 (2003).

89. Procedural due process prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards. "That noncitizens *may* be detained prior to deportation has no bearing on whether the Constitution imposes procedural contours around such detention." *Bermeo Sicha v. Bernal*, No. 25-CV-2746-LL-BJW, 2025 WL 3158675, at *6 (S.D. Cal. Nov. 12, 2025).

90. Courts apply the *Mathews* three-factor balancing test to determine what due process requires in the given circumstance. *Mathews v. Eldridge*, 424 U.S. 319 (1976). These factors are: (1) "the private interest that will be affected by the official action;" (2) "the risk of erroneous deprivation of such interest through the procedures used, and the probably value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

91. For the first *Mathews* factor, freedom from imprisonment, physical restraint, or other forms of government custody is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *Lopez Benitez v. Francis*, 795 F.Supp.3d 475, 492 (S.D.N.Y. Aug. 13, 2025) ("[Petitioner invokes the most significant liberty interest there is – the interest in being free from imprisonment") (citations omitted); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. Nov. 22, 2019) (noncitizens in immigration custody had an arguably even greater

liberty interest in remaining out of detention than criminal parolees who required due process protection). Here, Ms. Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez invoke this "most elemental" liberty.

92. As to the second *Mathews* factor, risk of erroneous deprivation and value of additional safeguards, the Supreme Court has held that "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). In the context of immigration detention, the Fifth Amendment's guarantee of due process requires at least some notice and an opportunity to be heard before a person can be placed in immigration detention. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Here, Respondents have not given Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez any process, let alone notice and an opportunity to be heard. The risk of erroneous deprivation in the absence of process is high, and the value of an impartial bond determination process—if available—would greatly reduce that risk.

93. Finally, as to the third *Mathews* factor, "the Attorney General's discretion to detain individuals under 8 U.S.C. § 1226(a) is valid where it advances a legitimate government purpose." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). Again, the recognized government interests in immigration detention are "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." *Zadvydas*, 533 U.S. at 690. Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez are neither dangers to the community nor flight risks, yet Respondents still have not made that individualized determination. Further, the government's interest in placing Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez in removal proceedings can still be advanced here—a Notice to Appear has now been filed in their immigration cases,

and their detention is not required for those proceedings to continue.

94. If a noncitizen does not receive the individualized consideration and required procedural safeguards *pre*-deprivation, courts have found that no amount of procedure provided post-detention can remedy that violation. *See, e.g., Lopez Benitez*, 795 F.Supp.3d at 497 ("Given the nature of the constitutional violation Mr. Lopez Benitez sustained here—i.e. Respondents' failure to conduct any kind of individualized assessment before detaining him—any post-deprivation review by an immigration judge would be inadequate"); *Chipantiza-Sisalema v. Francis*, No. 25-CV-5528, 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025) (finding that a bond "hearing is no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause") (citation modified); *Luna Sanchez v. Bondi*, 2025 WL 3191922, at *5 (E.D. Va. Nov. 14, 2025) ("Because Petitioner's continued detention violates his right to due process, he is entitled to immediate release"); *Briceno Solano v. Mason*, No. 26-cv-45, ECF No. 25 at 42 (S.D.W.V. Feb 4, 2026) (ordering immediate release and finding that a post-release bond hearing "would be futile" in light of *Yajure Hurtado* and Respondents' systematic due process violations).

95. Balancing the *Matthews* factors and taking into account Respondents' ongoing constitutional violations, Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's detention violates her due process rights and immediate release is warranted.

C. Immediate Release is an Appropriate Remedy.

96. Fundamental to a federal court's habeas authority is the ability to order release from detention. *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("[T]he traditional function of the writ is to secure release from illegal custody.").

97. Pursuant to that authority, this Court has the power to either set bond or bail itself or order

Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's immediate release under appropriate conditions. *See e.g. Mapp v. Reno*, 241 F.3d 221 (2d. Cir 2001); *Leslie v. Holder*, 865 F.Supp.2d 627, 633 (M.D. Pa. 2012) (Recognizing "there is nothing extraordinary or novel about this practice of conducting bail hearings in connection with federal immigration habeas corpus proceedings[,]" and ordering release on conditions but declining to impose cash bond).

98. In addition to rejecting Respondents' novel and unlawful interpretation of the law subjecting petitioners like Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez to mandatory detention, federal courts across the country have already, on multiple occasions, ordered immediate release as a remedy to Respondent's constitutional and statutory violations. *See, e.g.*, *Alfaro Herrera v. Baltazar*, No. 1:25-CV-04014, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner had been previously released to the community and holding a bond hearing would prolong his unlawful detention, "[r]espondents' violations of Petitioner's rights are best remedied by ordering Petitioner's immediate release from immigration detention."); *Qasemi v. Francis*, No. 1:25-CV-10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an adequate remedy for the due process violations in petitioner's sudden arrest and detention); *Crespo Tacuri v. Genalo*, No. 1:25-CV-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (ordering release, finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment); *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (ordering immediate release instead of causing additional delay with a bond hearing given that Government's repeated use of unlawful detention policies across the country already

caused petitioners to "sit in jail waiting for a judicial decision.").

99. Because Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez were detained without notice or individualized determinations and cannot obtain meaningful review before the immigration court, their constitutional and statutory rights cannot be vindicated by a post-deprivation hearing. Rather, immediate release is necessary, and this Court is empowered at habeas to order accordingly.

D. This Court has Authority to Conduct Bond Proceedings Itself.

100. To address Respondents' ongoing constitutional and statutory violations, this Court has previously exercised its habeas authority to order that individuals like Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez be given individualized bond hearings before an Immigration Judge. But this Court has the authority to conduct its own bond hearings if it finds them necessary and must do so to make the habeas remedy effective.

101. "[F]ederal courts have inherent authority to admit to bail individuals properly within their jurisdiction." *Mapp*, 241 F.3d at 226. And although this inherent authority is limited, it may be exercised "when extraordinary or exceptional circumstances exist which make the grant of bail necessary to make the habeas remedy effective." *Ostrer v. U.S.*, 584 F.2d 594, 596 n.1 (2d. Cir. 1978) (internal quotation marks and citation omitted). Where an individual habeas petitioner "raise[s] substantial claims" and demonstrates that such "extraordinary circumstances exist[]," a federal court may grant bail. *Grune v. Coughlin*, 913 F.2d 41, 44 (2d. Cir. 1990); *Leslie*, 865 F.Supp.2d at 633.

102. Here, Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez have raised a substantial claim—that is, that their detention under § 1225(b)(2) is unlawful. And indeed, this Court has already held on numerous occasions that this claim is meritorious.

103. Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez have also met

their burden to demonstrate that extraordinary circumstances exist in this case. Respondents' most recent efforts to undermine the judicial integrity of bond hearings in immigration court have made a habeas-ordered bond hearing a futile endeavor. These bond hearings no longer comport with the requirements of the INA or constitutional due process.

104. "Due process is flexible, . . . and . . . calls for such procedural protections as the particular situation demands." *Jennings*, 583 U.S. at 314 (2018) (cleaned up). Respondents' intransigence has repeatedly forced petitioners like Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez to come before this Court seeking relief that they are already owed under the INA and the Constitution. And when they are granted that relief, they are increasingly denied due process in what appears to be a systemic attempt "to undermine judicial authority." Exh. A, Sworn Declaration of Jorge Artieda at 6. Given Respondents' conduct, a bond hearing before an Immigration Judge at the Annandale Immigration Court will not vindicate Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's rights. Immediate release and, if necessary, a bond hearing *before this Court*, is the only adequate remedy.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA and APA

105. The preceding paragraphs are incorporated by reference.

106. The mandatory detention provision of 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and later placed in removal proceedings. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), §

1226(c), or § 1231.

107. Since Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez are not in expedited removal proceedings, are not seeking admission, are not "arriving [noncitizens]," and have no disqualifying criminal arrests or convictions described at § 1226(c), they is entitled to a bond hearing before an immigration judge pursuant to § 1226(a).

108. The application of § 1225 to Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez unlawfully mandates their continued detention and violates the INA.

109. To the extent that Respondents assert that *Matter of Yajure Hurtado* nevertheless requires Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's mandatory detention, the BIA's interpretation in that case is ultra vires and in conflict with the careful balance of factors clearly established in the INA with regard to bond eligibility, and is not subject to deference by this Court. See *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). Moreover, the policy underlying *Yajure Hurtado* has been vacated, with the decision itself declared "no longer controlling" by a final judgement to which Respondents are bound. *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2025 WL 3288404 (C.D. Cal. Dec. 18, 2025).

110. Under the APA, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C). Respondents' detention of Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez pursuant to § 1225 is arbitrary and capricious, and in violation of the Fifth Amendment of the U.S. Constitution. Respondents do not have statutory authority under § 1225 to detain

Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez.

COUNT II
Violation of Substantive Due Process

111. The preceding paragraphs are incorporated by reference.

112. The Due Process Clause prohibits the government from infringing upon certain "fundamental" liberty interests "unless the infringement is narrowly tailored to support a compelling government interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993). It applies to "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

113. Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez have a fundamental liberty interest in being free from official restraint.

114. The Government's interest in detaining a noncitizen during removal proceedings is limited to ensuring appearance and protecting the community. *See Demore v. Kim*, 538 U.S. 510, 531 (2003). Detention without an individualized determination that either of these two limited purposes are served is punitive and arbitrary, violating substantive due process. *Zadvydas*, 533 U.S. at 690.

115. Here, Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's detention is not based on any individualized finding of flight risk or dangerousness. Respondents are only continuing to detain Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez on their erroneous legal classification of them as "applicant[s] for admission." This blanket detention is not "narrowly tailored to support a compelling government interest," *Flores*, 507 U.S. at 302, and is therefore substantively unreasonable and unconstitutional.

116. Immediate release is therefore an appropriate remedy for Respondents' constitutional

violations in this case, which cannot be remedied by a post-deprivation hearing. *See, e.g.*, *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (ordering immediate release instead of causing additional delay with a bond hearing given that Government's repeated use of unlawful detention policies across the country already caused petitioners to "sit in jail waiting for a judicial decision.").

COUNT III
Violation of Procedural Due Process

117. The preceding paragraphs are incorporated by reference.

118. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V.

119. In this petition, Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez invoke "the most elemental of liberty interests—the interest in being free from physical detention by one's own government." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

120. Under the framework of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), categorically denying Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez the opportunity to seek bond based on *Matter of Yajure Hurtado* violates procedural due process by depriving Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez of the most basic procedural safeguards, including notice and a meaningful opportunity to be heard. *See, e.g., Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 232 (3d Cir. 2011).

121. Given the significant liberty interest at stake, the high risk of erroneous deprivation, and the minimal burden to the government of additional procedural safeguards, the detention of Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez without a bond hearing violates their right to procedural due process. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

122. Immediate release, or, in the alternative, immediate release pending a bond hearing before this Court, is required to ensure that Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez receive the requisite level of due process. As Mr. Artieda explained in his declaration, "the abrupt reassignment of [IJs] who were granting bond and questioning government positions, the immediate and uniform shift to systematic denial of bond, and the reliance on a narrow set of rationales across multiple [IJs] and case—suggests what appears to be a coordinated effort by the Executive Office for Immigration Review (EOIR) and the Department of Justice to undermine federal habeas relief." Exh. A, at 6. Further, any IJ is ostensibly bound by the January 13, 2026, EOIR directive to treat the *Maldonado Bautista* final judgment as non-binding, ensuring that the agency's continued defiance of a federal court order will taint any bond proceeding. *See also Briceno Solano*, No. 26-cv-45, ECF No. 25 at 42 ("[T]here is little chance the Government would actually hold a bond hearing, and there is no chance any hearing that occurred would comport with due process.").

123. Due process requires a meaningful opportunity to be heard before a neutral decision-maker. Accordingly, Mr. Portillo-Maldonado, Mr. Perez Huanon, and Mr. Landaverde Rodriguez ask this Court to impose procedural safeguards consistent with due process: (1) that they be released immediately, with all personal property, and (2) that if this Court orders a bond hearing, that bond hearing be conducted in this Court. Without these procedural protections, Respondents' erroneous deprivation of Mr. Portillo-Maldonado's, Mr. Perez Huanon's, and Mr. Landaverde Rodriguez's fundamental liberty interests is likely to continue.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Petitioners shall not be

transferred outside of this Court's jurisdiction while this habeas petition is pending;

c. Issue an Order requiring Respondents to show cause within at most three days why this Petition should not be granted;

d. Declare that Petitioners' detention is unlawful, and they are not subject to mandatory detention per 8 U.S.C. § 1225;

e. Declare that Respondents' actions, as set forth herein, violate Petitioners' procedural and substantive due process rights;

f. Issue a Writ of Habeas Corpus requiring that Respondents immediately release Petitioners with all of their personal property outright, or, in the alternative, release Petitioners pending a bond hearing pursuant to 8 U.S.C. § 1226(a) before this Court;

g. Issue appropriate injunctive relief, including but not limited to an Order that Petitioners not be re-detained without notice and a pre-deprivation hearing and that Respondents be enjoined from invoking the automatic stay pursuant to 8 C.F.R. § 1003.19(i)(2); and

h. Grant any other and further relief that this Court deems just and proper.

DATED this 18th day of February, 2025.

Respectfully submitted

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VERIFICATION BY SOMEONE ACTING ON PETITIONERS' BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioners because I am Petitioners' attorney. I have discussed with the Petitioners the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 18, 2025

Respectfully submitted,

/s/ Daniela Czemerinski
Daniela Czemerinski (pro hac vice pending)
Counsel for Petitioners