UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ANGEL LUIS BARCELO GOMEZ,

Petitioner,

v.

Case No.: 1:26-cv-331

PHILIP L. RHONEY, in his official capacity as Acting Deputy Field Office Director; KRISTI NOEM, in her official capacity as Secretary of Homeland Security, TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, ANGEL LUIS BARCELO-GOMEZ ([redacted]) seeks relief of his immigrant detention under 8 U.S.C. § 1225(b)(2) based on *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

2. Mr. Barcelo-Gomez Barcelo-Gomez is based on *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) and alleges that any attempt to exhaust administrative remedies at the Executive Office for Immigration Review (EOIR) or the Board of Immigration Appeals (BIA) would be futile because he is improperly categorized as an individual subject to mandatory detention under 8 U.S.C. §1225(b)(2).

3. For these reasons, Mr. Barcelo-Gomez respectfully requests that this Court issue an order or finding that he is detained under 8 U.S.C. § 1226(a) and that Respondents must release

Mr. Barcelo-Gomez from detention or provide him an opportunity to seek bond before an immigration judge.

CUSTODY

4. At the time this petition is filed, Mr. Barcelo-Gomez is detained at the Buffalo Federal Detention Facility (BFDF) in Batavia, New York. He is in the physical custody of Respondent Philip L. Rhoney, Acting Deputy Field Office Director, who, along with his agents, exercises direct control over Mr. Barcelo-Gomez. The remaining Respondents maintain legal authority over Mr. Barcelo-Gomez's detention and possess the power to continue to detain or release him now and in the future.

JURISDICTION

5. This action arises under the United States Constitution and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. § 2241, art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Mr. Barcelo-Gomez is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

6. Venue lies in the United States District Court for the Western District of New York, the judicial district where Mr. Barcelo-Gomez is detained and where a substantial part of the events or omissions giving rise to this claim occurred. 28 U.S.C. § 1391(e).

PARTIES

7. Mr. Barcelo-Gomez is a national and citizen of Venezuela and is currently detained at the BFDF in Batavia, New York.

8. Respondent, Philip L. Rhoney is the Acting Deputy Field Office Director and in charge of the BFDF in Batavia, New York, which is located in the Western District of New York. He is Mr. Barcelo-Gomez's immediate custodian. He is named in his official capacity.

9. Respondent Kristi Noem is the Secretary of Homeland Security and is the senior official responsible for supervising all activities within the Department of Homeland Security, including immigration activities. She is a legal custodian of Mr. Barcelo-Gomez and is named in her official capacity.

10. Upon information and belief, Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Mr. Barcelo-Gomez and is named in his official capacity.

11. Respondent Pam 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 Board of Immigration Appeals.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. To the extent required, Mr. Barcelo-Gomez has exhausted his administrative remedies as required by law and his only remedy is by way of this judicial action. *Mathon v. Feeley*, No. 20 CV-07105-FPG, 2021 U.S. Dist. LEXIS 260853, at *6-7 (W.D.N.Y. Oct. 13, 2021). In addition, the administrative agency has already predetermined that Mr. Barcelo-Gomez is not eligible for any relief through the agency. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Therefore, any attempt to seek relief through the agency would be futile.

STATEMENT OF FACTS

13. Mr. Barcelo-Gomez is a 36-year-old citizen and national of Venezuela. He sought refuge in the United States after suffering harm on account of his political opinion in Venezuela. A true and accurate copy of his Notice to Appear (NTA) is attached as **Exhibit C**.

14. On or about August 03, 2023, Mr. Barcelo-Gomez entered the United States without inspection at or near the Rio Grande Valley, Texas with his wife and daughters. He was detained by DHS. **Exhibit B**.

15. On October 30, 2023, DHS issued Mr. Barcelo-Gomez a Notice to Appear. **Exhibit A.**

16. This NTA lists Mr. Barcelo-Gomez's status as "an alien present in the United States who has not been admitted or paroled." **Exhibit A**.

17. Upon information and belief, he was released on or about September 11, 2023, when DHS agents issued him humanitarian parole under 8 U.S.C. §1182(d)(5)(A). **Exhibit B.**

18. Upon information and belief, Mr. Barcelo-Gomez submitted Form I-589, Application for Asylum and Withholding of Removal to USCIS and his application was accepted by USCIS.

19. On November 8, 2025, DHS issued a new NTA to Mr. Barcelo-Gomez again listing him as "an alien present in the United States who has not been admitted or paroled. This NTA is controlling as it is the most recently issued NTA. **Exhibit C.**

20. Upon information and belief, DHS agents arrested him again in Buffalo, NY on or about January 27, 2026, after presenting for a routine ICE check-in where he was due to change his address. Upon information and belief, prior to his detention, Mr. Barcelo-Gomez resided in Buffalo, NY with his wife and two daughters who are also seeking asylum in the United States.

21. Mr. Barcelo-Gomez remains detained at the Buffalo Federal Detention Facility, in Batavia, New York.

22. Upon information and belief, Respondents are holding Mr. Barcelo-Gomez under 8 U.S.C. § 1225(b)(2) based on *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

23. The Department of Homeland Security has previously designated him as detained under 8 U.S.C. § 1226(a) by virtue of the NTA marking him as an individual "present in the United States who has not been admitted or paroled."

24. Mr. Barcelo-Gomez submits that his detention status is still 8 U.S.C. § 1226(a) and, therefore, he is entitled to a custody redetermination hearing before an immigration judge.

LEGAL FRAMEWORK

I. PETITIONER IS DETAINED UNDER 8 U.S.C. § 1226(a) AND ELIGIBLE FOR A BOND HEARING.

A. Legal framework governing detention of non-citizens.

25. The Immigration and Nationality Act (INA) contains two provisions which govern the detention of non-citizens who have not received a final order of removal: 8 U.S.C. § 1225 and 8 U.S.C. § 1226.

26. First, noncitizens detained under 8 U.S.C. §1226 are classified under one of two subsections: 8 U.S.C. § 1226(a) and 8 U.S.C. § 1226(c).

27. "Section 1226(a) governs a separate non-mandatory detention scheme and provides for the 'default rule' for detaining and removing aliens 'already present in the United States.'" *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *14 quoting *Jennings*, 583 U.S. at 303. Non-citizens detained under this subsection are entitled to a bond hearing before an immigration judge. 8 U.S.C. §1226(a).

28. 8 U.S.C §1226(c) provides that non-citizens in removal proceedings who have certain criminal convictions are subject to mandatory detention. 8 U.S.C. §1226(c). While these non-citizens are generally presumed to be ineligible for a bond hearing, they can still petition the Federal Courts for a writ of habeas corpus for prolonged detention in violation of the Due Process Clause of the Fifth Amendment. A federal judge can then order a bond hearing, with the burden on the government to show by clear and convincing evidence that the individual is a danger to persons or property or a flight risk. *See Black v. Decker*, 103 F.4th 133 (2d Cir. 2024); *Cantor v. Freden*, 761 F. Supp. 3d 630, 635-41 (W.D.N.Y. 2025).

29. Second, non-citizens detained under 8 U.S.C. § 1225 are similarly divided into two categories.

30. 8 U.S.C. § 1225(b)(1) provides for mandatory detention of "arriving aliens" and noncitizens subject to expedited removal. 8 U.S.C §1225(b)(2) governs those who are considered "applicants for admission."

31. For decades after these provisions were enacted, individuals who were present in the United States, later arrested, and placed into standard removal proceedings (i.e., removal proceedings pursuant to 8 U.S.C. 1229(a)) were consistently treated as detained under 8 U.S.C. 1226(a). As a result, they were considered eligible for a bond hearing before an immigration judge unless their criminal history triggered mandatory detention under 8 U.S.C. 1226(c). *See*, e.g., *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing Section 1226(a) as the "default rule" governing detention of noncitizens "already present in the United States"); *Miranda v. Garland*, 34 F.4th 338, 346 (4th Cir. 2022) (same); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *9 (D. Md. Aug. 24, 2025) ("Since at least 1996, the INA has mandated the detention of arriving aliens and certain criminal non-citizens detained in the United States. The Board of Immigration Appeals has long held to this interpretation. For everyone else, 8 U.S.C. § 1226(a) provides DHS the discretion to detain noncitizens, subject to review during a custody hearing before an immigration judge."); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255, at *9 (E.D. Va. Sept. 19, 2025) ("Before July 8, 2025, 'DHS's long-standing interpretation has been that § 1226(a) applie[d] to those who have crossed the border between ports of entry and are shortly thereafter apprehended.'") (quoting Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022)).

32. In recent months, however, the Respondents have adopted an entirely new interpretation of the statute and now claim that all noncitizens who entered the United States without admission or parole are considered to be seeking admission and therefore ineligible for a

bond. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); see also *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). See *Quituisaca v. Bondi*, 2025 U.S. Dist. LEXIS 230764, at *7-8.

33. On February 18, 2026 a Federal Court issued an order to vacate *Matter of Yahure-Hurtado* and provide notice to potential class members that may have been deprived a custody hearing. *Maldonado Bautista et al. v. Santacruz Jr et al*, No. 5:25-cv-01873-SSS-BFM (C.D.Cal. Feb. 18, 2026). At the time of this filing, it is unclear whether EOIR and DHS will comply with that order and upon information and belief, Mr. Barcelo-Gomez has not received notice of his right to a custody hearing.

B. Petitioner is detained under 8 U.S.C. 1226(a) and eligible for a bond hearing.

34. Mr. Barcelo-Gomez entered the United States in 2023 without inspection. See **Exhibit A.**

35. DHS issued him an NTA which marked him as "an alien present in the United States who has not been admitted or paroled." See **Exhibit A**.

36. Mr. Barcelo-Gomez has never been subject to expedited removal and has not been designated an arriving alien. See **Exhibit A**; 8 U.S.C. §1232(a)(5)(D). He has no criminal record and is therefore not subject to 8 U.S.C. 1226(c). Therefore, the only possible statute for him to fall under is 8 U.S.C. 1226(a).

37. To the extent that Respondents argue that he is detained under 8 U.S.C. § 1225(b) and seeking admission pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), this argument fails.

38. The Board's reversal of historical practice and newly revised interpretation of the detention statutes are not entitled to any deference. See *Loper Bright Ent. v. Raimondo*, 603 U.S. 369, 412-13 (2024). Numerous courts around the country have rejected the reasoning in *Yajure*

Hurtado and held that those who have been designated as "present" in the United States are classified under 8 U.S.C. § 1226(a) and are, at a minimum, entitled to a bond hearing before an immigration judge. *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *22-24. *Artiga*, 2025 U.S. Dist. LEXIS 196847, at *15-24; *Orellana v. Moniz*, Civil Action No. 25-cv-12664-PBS, 2025 U.S. Dist. LEXIS 196282, at *13-14 (D. Mass. Oct. 3, 2025) (collecting cases). Furthermore, the government's policy in *Yajure Hurtado* renders other statutes, e.g., 8 U.S.C. § 1226(c) generally, and the Laken Riley Act, superfluous. *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *22-24.

39. In addition, a central tenet of this reinterpretation is that the government is equating "applicant for admission" under 8 U.S.C. § 1225(a)(1) with a noncitizen "seeking admission" under 8 U.S.C. § 1225(b)(2)(A). But this argument must fail.

40. First, this new interpretation violates the plain language of the statute itself. "Seeking admission means actively trying to acquire lawful entry after inspection and authorization by an immigration officer." *Quituisaca,* 2025 U.S. Dist. LEXIS 230764, at *9 (internal citations and quotations omitted); *Ortiz v. Freden*, No. 25-CV-960-LJV, 2025 U.S. Dist. LEXIS 217654, at *12-23 (W.D.N.Y. Nov. 4, 2025)

41. Second, this new interpretation violates the canons of statutory construction. To contend that an "alien seeking admission" is the same as an "applicant for admission" would mean that "Congress used two different phrases to mean the same thing in the same provision." *Quituisaca,* 2025 U.S. Dist. LEXIS 230764, at 10 (internal citations and quotations omitted); *Ortiz*, U.S. Dist. LEXIS 217654, at *12-23.

42. Third, in considering 8 U.S.C. § 1225(b)(2)(A) within its statutory context, this provision is clearly intended to apply to individuals who are "presently seeking to enter the United

States, and not those who have [already been living] in the country." *Quituisaca,* 2025 U.S. Dist. LEXIS 230764, at 11; *Ortiz*, U.S. Dist. LEXIS 217654, at *12-23.

43. Accordingly, Mr. Barcelo-Gomez is subject to discretionary detention under 8 U.S.C. §1226(a) based on his NTA and the plain text of the statute.

44. As a person detained under 8 U.S.C. § 1226(a), Mr. Barcelo-Gomez must, upon his request, receive a custody redetermination hearing (colloquially called a "bond hearing") with strong procedural protections. 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

45. Therefore, Mr. Barcelo-Gomez respectfully requests a bond hearing with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger. *Cantor v. Freden*, 761 F. Supp. 3d 630, 635-41 (W.D.N.Y. 2025).

II. PETITIONER'S DETENTION VIOLATES THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE U.S. CONSTITUTION.

A. Petitioner is detained under 8 U.S.C. §1226(a) and is entitled to a bond hearing.

46. The Due Process Clause of the Fifth Amendment of the U.S. Constitution prevents the "Government from depriving any person of 'life liberty or property, without due process of law.'" *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *27. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

47. It is well-established that the Due Process clause "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

48. Respondents' detention of Mr. Barcelo-Gomez without an individualized assessment as to whether he is a flight risk and/or a danger to the community violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

49. The Second Circuit has applied the *Mathews v. Eldridge* three-factor balancing test to determine whether there is adequate due process in civil immigration confinement. *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). The three factors a court looks at to determine whether an individual has been deprived of due process are: (1) "the private interest that will be affected by the official action"; (2) "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 (3) "the [g]overnment's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 333; see also *Velasquez*, 2025 U.S. Dist. LEXIS 135986, at *44. This test is appropriate here as well.

50. Under the first factor, the Court looks at the private interest that will be affected by the official action. Here, the private interest affected is Mr. Barcelo-Gomez's freedom. The Second Circuit has observed that freedom from imprisonment is "the most significant liberty interest there is…" *Black*, 103 F.4th at 151. "As we have previously observed, case after case instructs us that in this country liberty is the norm and detention is the carefully limited exception." *Id.* Mr. Barcelo-Gomez has established his liberty interest, and this factor weighs heavily in favor of Mr. Barcelo-Gomez.

51. Under the second factor, the Court looks at 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. Here, the risk of erroneous deprivation is high. Upon information and

belief, the government previously categorized him under 8 U.S.C. § 1226(a) and later released him with discretionary humanitarian parole. Now, the Government has detained him under 8 U.S.C. § 1225(b) based on a reinterpretation of the law and done so without an individualized determination. This new interpretation also renders Mr. Barcelo-Gomez ineligible for the procedural safeguards afforded in a bond hearing. Requiring an individualized hearing at which DHS bears the burden of demonstrating by clear and convincing evidence that detention is necessary would substantially reduce that risk.

52. Courts have recognized the practical reasons this risk of erroneous deprivation is high. In *Ortiz v. Freden*, the court noted that while noncitizens have a right to obtain an attorney in immigration proceedings, many respondents, especially those who are detained, are never able to obtain one. *Ortiz*, 2025 U.S. Dist. LEXIS 217654, at *31. That court also noted that it can be very difficult for detained individuals to obtain evidence in support of their case. *Id.* Finally, the court noted that it is very difficult to prove a negative, i.e., for a noncitizen to prove that he is not a danger or flight risk. *Id.* These practical concerns favor not only strong procedural protections in the form of a bond hearing in front of an immigration judge, but require that the burden be on the government to prove by clear and convincing evidence that Mr. Barcelo-Gomez is a flight risk and/or a danger to persons or property and that no alternatives to detention can mitigate those risks. It also requires the immigration judge to consider the ability to pay any bond. *Id.*

53. Under the third factor, the Court looks at the government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedural requirements would entail. *Id.* at *44. Courts have recognized that "The government has an interest in ensuring that noncitizens will attend their immigration proceedings and that they will not be a danger to society if released." *Black*, 103 F.4th at 153. The government also has an interest in

ensuring that noncitizens will be available if an order of removal is issued against them and in the efficient administration of the immigration laws at the border. *Velasquez*, 2025 U.S. Dist. LEXIS 135986, at *45.

54. Here, upon information and belief, Mr. Barcelo-Gomez has no criminal convictions. He currently has a case pending before EOIR. While the Government's general interest in ensuring appearances and protecting the public are strong, there are no circumstances in this case that would require the government to invoke those, and it has not done so. Furthermore, the government's interest is not prejudiced by a bond hearing. Therefore, this third factor heavily favors Mr. Barcelo-Gomez as well.

55. As all three factors strongly favor the Mr. Barcelo-Gomez, and consequently DHS's ongoing detention of Mr. Barcelo-Gomez violates his due process rights.

56. The appropriate remedy for this due process violation is either Mr. Barcelo-Gomez's immediate release or the provision of a bond hearing at which the government must demonstrate, by clear and convincing evidence, that he is neither a danger to the public or property nor a flight risk, and must likewise establish by clear and convincing evidence that no alternatives to detention can mitigate any such risks. See *Velasco Lopez*, 978 F.3d at 854–57; *Ortiz*, 2025 U.S. Dist. LEXIS 217654, at *28–29.*

57. The proper remedy to cure the due process violation is Mr. Barcelo-Gomez's immediate release, or a bond hearing, with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk, and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger. *See Velasco Lopez*, 978 F.3d at 854-57; *Ortiz*, 2025 U.S. Dist. LEXIS 217654, at *28-29.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF SECTION 236(a), IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a) (Bond Hearing Under 8 U.S.C. § 1226(a))

58. Mr. Barcelo-Gomez re-alleges and incorporates by reference each allegation contained above.

59. Mr. Barcelo-Gomez is detained under 8 U.S.C. § 1226(a).

60. Mr. Barcelo-Gomez has not been, and will not be, provided with a bond hearing as required by law due to current EOIR/DHS policy.

61. Mr. Barcelo-Gomez's continued detention without the ability to obtain a bond hearing is therefore unlawful.

62. Because Mr. Barcelo-Gomez is detained under 8 U.S.C. § 1226(a), Mr. Barcelo-Gomez is entitled to receive a bond hearing before an immigration judge with strong procedural protections.

63. Therefore, if this Court declines to order Mr. Barcelo-Gomez's release, he respectfully requests an order directing that he receive a bond hearing before an immigration judge, at which the government must prove by clear and convincing evidence that he poses neither a danger to the community nor a flight risk, and that no alternative to detention can adequately mitigate any such concerns. *See Velasco Lopez*, 978 F.3d at 854-57; *Ortiz*, 2025 U.S. Dist. LEXIS 217654, at *28-29.

COUNT TWO

VIOLATION OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION
(Due Process Clause)

64. Mr. Barcelo-Gomez re-alleges and incorporates by reference each allegation contained above.

65. Mr. Barcelo-Gomez is detained under 8 U.S.C. § 1226(a).

66. Mr. Barcelo-Gomez has not been, and will not be, provided with a bond hearing as required by law due to current EOIR/DHS policy.

67. Mr. Barcelo-Gomez's continued detention without the ability to obtain a bond hearing is therefore unlawful and unconstitutional as it violates the Due Process Clause of the U.S. Constitution.

68. Mr. Barcelo-Gomez is entitled to receive a bond hearing before an immigration judge with strong procedural protections under the Due Process Clause of the Fifth Amendment to the United States Constitution, 8 U.S.C. § 1226(a), and 8 C.F.R. 236.1(d) & 1003.19(a)-(f),

69. Therefore, if this Court declines to order Mr. Barcelo-Gomez's release, he respectfully requests an order directing that he receive a bond hearing before an immigration judge, at which the government must prove by clear and convincing evidence that he poses neither a danger to the community nor a flight risk, and that no alternative to detention can adequately mitigate any such concerns. See *Velasco Lopez*, 978 F.3d at 854-57; Ortiz, 2025 U.S. Dist. LEXIS 217654, at *28-2

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;

2. Issue an order barring Respondents from transferring Mr. Barcelo-Gomez from the geographic jurisdiction of the Western District of New York while these proceedings are pending.

3. Issue an order to Respondents, returnable in three days and no later than 20 days, to show cause as to why the Petition should not be granted.

4. Issue an order or orders requiring the following:

   a. Declare Mr. Barcelo-Gomez's detention to be unlawful;

   b. Order Mr. Barcelo-Gomez's immediate release from custody, or, in the alternative, order a bond hearing before an immigration judge in which the burden is on the government to show by clear and convincing evidence that Mr. Barcelo-Gomez is a danger or flight risk and that no alternatives to detention could mitigate the risk of danger or flight together with the Mr. Barcelo-Gomez's ability to pay; and

5. Award Mr. Barcelo-Gomez attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

6. Grant any other relief which this Court deems just and proper.

DATED: February 23, 2026
Batavia, New York

Respectfully submitted,

s/ Aaron Aisen
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I submit this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I verify that the statements made in this Verified Petition for a Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED: February 23, 2026
Batavia, New York

s/ *Aaron Aisen*
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