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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF [OHIO]
CIVIL DIVISION**

Alberto Arellano Trujillo,

Petitioner,

v.

Pam Bondi, Attorney General of the United States,
Dennis Sullivan Executive Director,
Corrections Center of Northwest Ohio
Robert Lynch, Acting/Director of Detroit Field Office,
U.S. Immigration and Customs Enforcement;
Kristi Noem, Secretary of the U.S. Department of
Homeland Security;
in their official capacities,

Respondents.

Case No. 3:26-cv-549

**PETITION FOR WRIT OF
HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

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INTRODUCTION

Petitioner Alberto Arellano Trujillo is an asylum seeker from Mexico. He was detained by Immigration and Customs Enforcement (ICE) at a traffic stop on December 17, 2026 while leaving a Mexican Grocery store in Columbus, Ohio. Petitioner believes his apprehension was without probable cause or reasonable suspicion, and therefore violated his 4th Amendment Rights. Since his detention, Petitioner requested to be granted Asylum, Withholding of Removal, and Protection under the Convention Against Torture. He also requested a reasonable immigration bond based on his strong community ties to the United States.

Since his detention, Petitioner has been consistently denied due process, and held in Detention contrary to his rights under the Immigration and Nationality Act, and his Constitutional Rights to Due Process.

Accordingly, to vindicate Petitioner's statutory and constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

Absent an order from this Court, Petitioner will likely be deported to a country to which he has no ties, and will not be given consideration for his Immigration Bond Request.

JURISDICTION

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

This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

Venue is proper because Petitioner is detained at Corrections Center of Northwest Ohio in Stryker, Ohio, which is within the jurisdiction of this District.

Additionally, Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to her claims occurred in this District.

PARTIES

Petitioner Alberto Arellano Trujillo has been a resident of Columbus, Ohio since May 2022. Petitioner is currently detained at Northwest Ohio Correctional Center. He filed for Asylum, Withholding of Removal, and Convention Against Torture on January 28, 2026. This application was Denied without a hearing on the merits on February 17, 2026. He is in the custody, and under the direct control, of Respondents and their agents.

Respondent Dennis Sullivan is the Executive Director of the Corrections Center of Northwest Ohio, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

Respondent Robert Lynch is sued in his official capacity as the Acting Director of the Detroit Field Office of U.S. Immigration and Customs Enforcement. Respondent Lynch is a legal custodian of Petitioner and has authority to release him.

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

Respondent Noem is a legal custodian of Petitioner.

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 BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

Petitioner is an asylum seeker from Mexico, who entered the United States on February 28, 2022 without inspection. He has lived in the United States peacefully since his original entry, with his son Emilio Nathaniel Arellano Gonzalez, who was born February 14, 2023 in Columbus, Ohio.

On December 17, 2026 the Petitioner was shopping with his wife and their two-year-old son, Emilio, at the Michoacána Market (a Mexican grocery store) in Columbus, Ohio. After leaving the store, they were followed by Immigration and Customs Enforcement (ICE) agents in four separate vehicles. The agents stopped them near the intersection of Timarack road and Morse Road with their emergency lights. Four agents surrounded the vehicle, and violently knocked on the windows, stating that they would break the windows if they did not comply with opening the windows. Fearing their safety, Petitioner immediately complied with the agents' instructions. Upon opening the door and providing his passport, the ICE agents immediately took Alberto into custody in front of his wife and young child.

Petitioner was brought to the Northwest Ohio Correctional Center, and Respondents issued a Notice to Appear (NTA) to the immigration court on December 18, 2026, initiating his

removal proceedings, but did not present this NTA to the Petitioner as required by 8 U.S.C. § 1299.

At a Master Calendar Hearing held January 6, 2026, Petitioner contested his removability based on the failure to deliver the NTA to the Petitioner and because Petitioner was not an applicant for admission to the United States.

On January 11, 2026, Respondent Department of Homeland Security filed a heavily redacted I-213 with nearly the entire encounter blacked out.

On January 16, 2026, Petitioner requested an immigration bond and submitted exhibits demonstrating that he is neither a flight risk nor a danger to the community.

On January 20, 2026, the Immigration Judge issued an order denying the bond for a lack of jurisdiction due to the the Board of Immigration Appeals (BIA) decision *Matter of Yajure Hurtado* 29 I&N Dec. 216 (BIA 2025), despite an ongoing class action lawsuit declaring the *Matter of Yajure Hurtado* incorrectly decided *See Lazaro Maldonado Bautista, Infra*.

On the same date, the Immigration Judge found Respondent removable pursuant to both 8 USC 212(a)(6)(A)(i) and 212(a)(7)(i)(I) based on the heavily redacted I-213. The government designated Mexico as the Country of Removal.

On January 21, 2026, Petitioner's son, Emilio, was diagnosed with B-Cell Acute Lymphoblastic Leukemia, and began treatment at Nationwide Children's Hospital. Emilio's illness will require two and a half years of treatment, including chemotherapy, immunotherapy, and likely a bone marrow transplant.

On February 3, 2026, Petitioner's Counsel informed Respondents of Petitioner's son's leukemia diagnosis through during a master hearing, and requested prosecutorial discretion of Petitioner so that he could be with his son Emilio. The Department of Homeland Security

Assistant Chief Counsel Jennifer Troutman stated that she would forward the request to her supervisors.

On February 6, Respondent Department of Homeland Security filed a “Motion to Pretermitt” based on an Asylum Cooperative Agreements held with Ecuador, Guatemala, and Honduras. The Department of Homeland Security did not designate any of these countries as alternate Countries of Removal.

On February 11, 2026, the Immigration Judge granted the motion in part, scheduling a February 17, 2026 master hearing, stating that Petitioner had the burden to prove that “he will more likely than not be persecuted or tortured in that country.”

Following the Government’s motion, due to time constraints imposed upon Petitioner with immigration detention, Petitioner was only able to meet with his attorney once to discuss the government’s motion and to gain information about his fear to be removed to Ecuador, Guatemala, or Honduras.

On February 17, 2026, Petitioner replied to the Government’s motion with evidence of possible persecution for Ecuador, but requested more time to reply on Guatemala and Honduras, complaining that, “the Respondent has had insufficient time to consider the consequences of removal to Guatemala, Ecuador, or Honduras. It would be prejudicial to hold a hearing until Respondent has been given more time to fully consider.”

Despite Petitioner’s request for more time, the Immigration Judge ordered Petitioner to be removed to Guatemala, Ecuador, or Honduras. Petitioner was not permitted to speak on the record before the judge made this order.

On February 18, 2026, in a class action lawsuit, *Lozaro Maldonado Bautista et al. v. Ernesto Santacruz Jr et al*, Case 5:25-cv-01873-SSS-BFM (U.S. Dist. Central California 2026), U.S. District Judge ordered the rescission of *The Matter of Yajure Hurtado, Supra*.

On February 19, 2026, pursuant to this rescission, Petitioner requested reconsideration of the January 20, 2026 bond decision. Petitioner also filed concurrently a Case Appeal with the BIA, challenging the Immigration Judge's order of removal to Ecuador, Guatemala, or Honduras.

On February 25, 2026, the Immigration Judge denied the motion to reconsider the bond request, stating that Petitioner has been ordered Removed, despite Petitioner's timely filed appeal.

On March 4, 2026, Petitioner filed one last motion to reconsider and a new bond request pursuant to the *Lozaro Maldonado Bautista* decision, *Infra*, citing *See In re Jose Valles-Prez I&N Dec. 769* (BIA 1997). This bond request was rejected by an administrative officer of the Immigration Court, with the following explanation, "CASE IS CLOSED. RESPONDENT ALREADY HAD HIS BOND HEARING. CHANGE DOESN'T TAKE PLACE UNTIL THE FEDERAL COURT ISSUES A DECISION." (sic).

LEGAL FRAMEWORK

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

Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most

important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the “historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

The “motivation for the enactment of the Refugee Act” was the United Nations Protocol Relating to the Status of Refugees, “to which the United States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory meaning to our national commitment to human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution or fear. 8 U.S.C. § 1101(a)(42)(A).

Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1)

Because of the life-or-death stakes, the statutory right to apply for asylum is robust. The right necessarily includes the right to counsel, at no expense to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant to present evidence to establish eligibility.).

Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative appellate review before the Board of Immigration Appeals of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) et seq.

Despite the statutory requirements of 8 U.S.C. 1229a, Petitioner’s asylum application was dismissed without a hearing on the merits. He was not afforded an opportunity to speak to his fear of removal to third countries, and the Government never properly designated a third country to remove Petitioner to, skipping a vital due process step in his removal proceedings.

Noncitizens seeking release while their immigration hearings are ongoing are afforded an opportunity to seek an immigration bond pursuant to 8 U.S.C. § 1226(a)(2), except as prohibited by 8 U.S.C. § 1226(c), or to inadmissible arriving described under 8 U.S.C. § 1225(b).

Since the sections of 8 U.S.C. § 1225(b) were originally passed, this has allowed noncitizens who entered without inspection and who have been present in the United States for at least two years to be capable of seeking Immigration Bonds pending their removal proceedings. This all changed at the Board of Immigration Appeals in 2025, when, for the first time in its history, the Board of Immigration Appeals held in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) that all aliens who entered without inspection or parole to be ineligible for an Immigration Bond.

This interpretation renders meaningless the text of 8 U.S.C. 1226(b)(1)(A)(iii)(II), which reads, “An alien described in this clause is an alien who is not described in subparagraph (F), who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph.”

Since the *Matter of Yajure Hurtado* decision, a class action lawsuit, *Lozaro Maldonado Bautista et al. v. Ernesto Santacruz Jr et al*, Case 5:25-cv-01873-SSS-BFM (U.S. Dist. Central California 2026) has been filed. Petitioner is a member of this class, and Respondents are parties to this action. Pursuant to this litigation, the *Matter of Yajure Hurtado* decision was rescinded. Despite this rescission, Respondents refuse to reconsider Petitioner’s motion for a bond request.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process Refusal to Consider Petitioner’s Immigration Bond Request on the Merits

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

Petitioner is being held in Immigration Detention. Although he is statutorily eligible for a bond hearing on the merits of his request, Respondents are refusing to entertain his request for a bond hearing on the merits. Respondents have relied upon a rescinded Board of Immigration Appeals Decision to hold that there is no jurisdiction to hear a bond request, and refuse to reconsider the denial of a bond request following its rescission.

For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. §1226(a)(2)

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

The plain language of 8 U.S.C. 1226(a)(2) affords Petitioner a right to have his immigration bond heard on the merits. Despite the plain language, Respondents refuse to consider Petitioner's Immigration Bond.

For these reasons, Respondents' dismissal of Petitioner's bond request without a hearing on the merits violates 8 U.S.C. § 1226(a)(2).

COUNT THREE

Violation of Fourth Amendment Right Against Unreasonable Searches and Seizures

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

Petitioner's vehicle was stopped and searched without reasonable articulable suspicion when he left a Mexican Grocery store. His stop without probable cause and subsequent arrest violated his 4th Amendment Rights against Unreasonable Searches and Seizures.

For this reason, Respondent's arrest of Petition violated the Unreasonable Searches and Seizures Clause of the Fourth Amendment.

COUNT FOUR

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

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

Petitioner's asylum claim, withholding of removal claim, and claim for protection under the convention against torture were all dismissed without a hearing on the merits, and Petitioner was ordered removed without being permitted an opportunity to speak on his own behalf, and was sustained without designating a country of removal.

For this Reason, Respondent's removal order violates Petitioner's rights to Due Process under the Fifth Amendment to the Constitution.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, and 8 U.S.C. § 1226(a)(2).
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (5) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,
/s/ Patrick Sean Barnacle

Patrick Sean Barnacle

Counsel for Petitioner

Dated: March 6, 2026

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

I represent Petitioner, Alberto Arellano Trjillo, and submit this verification on his behalf.

I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 6th day of March, 2026.

/s/ Patrick Sean Barnacle
Patrick Sean Barnacle