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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

	)	
JO DIAZ	)	
A#: 	)	
	)	
Petitioner,	)	Civil Action No. 2:26-cv-01818
	)	
v.	)	EMERGENCY
	)	PETITION FOR WRIT OF
JAMISON, J.L.,	)	HABEAS CORPUS
Warden,	)	
Federal Detention Center	)	
Philadelphia	)	
	)	
MICHAEL T. ROSE	)	
Acting Field Office Director	)	
Immigration and Customs Enforcement	)	
Philadelphia Field Office	)	
	)	
TODD LYONS,	)	
Acting Director,	)	
United States Immigration and	)	
Customs Enforcement (ICE),	)	
	)	
KRISTI NOEM,	)	
Secretary of the Department of	)	
Homeland Security, (DHS) and,	)	
	)	
PAMELA JO BONDI,	)	
Attorney General of the	)	
United States of America	)	
	)	
Respondents	)	
	)	

INTRODUCTION

1. Petitioner Jose Cisneros Diaz, a citizen of Mexico born on  who has been present in the United States for more than twenty years, is married with a Lawful Permanent Resident and has multiple avenues for immigration relief, petitions this Court for a writ of *habeas corpus* and release him from unlawful detention.

2. Respondents have unlawfully detained Mr. Cisneros Diaz under 8 U.S.C. § 1225(b)(2)(A), a statutory provision that allows Respondents to subject a large swath of noncitizens currently present in the United States to mandatory detention. The Board of Immigration Appeals decided, in *Matter of Yajure Hurtado* that noncitizens who have entered the United States without inspection are mandatorily detained without a bond hearing under Section 1225(b)(2)(A). *See* 29 I. & N. Dec. 216, 228 (BIA 2025). The BIA's interpretation conflicts with the plain language and structure of the statute, as well as decades of uncontroverted agency practice, and it was also rejected by district courts throughout the country, this Court included. The Eastern District of Pennsylvania judges have consistently rejected the government's interpretation that noncitizens arrested within the United States are subject to mandatory detention under § 1225(b)(2), holding instead that such individuals may only be detained under the discretionary framework of § 1226(a).

3. Moreover, on February 18, 2026, in a nationwide class action, a federal judge from the Central District of California vacated *Yajure Hurtado* and decided that noncitizens such as Petitioner are entitled to bond. *Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, 5:25-cv-01873 (C.D. Cal., 2025) Even though the district court's order in *Maldonado Bautista* has been now stayed pending appeal, its reasoning remains highly persuasive. The

stay does not reflect any determination on the merits but merely preserves the *status quo* during appellate review. See *Nken v. Holder*, 556 U.S. 418, 434 (2009) (a stay “does not make time stand still but does hold a ruling in abeyance” without resolving the underlying legal issues). The court’s thorough statutory analysis of the INA’s detention framework—grounded in the text, structure, and historical application of §§ 1225 and 1226—provides compelling authority that this Court should consider notwithstanding the procedural posture of the case.¹

4. In the alternative, if the statute does subject Petitioner to mandatory detention, it violates his rights to substantive and procedural due process. Detention of all noncitizens who are subject to inadmissibility grounds, like Petitioner, without any individualized hearing does not “bear a reasonable relation to the purpose for which the individual was committed.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Moreover, application of the *Mathews v. Eldridge* balancing demonstrates that detaining Mr. Cisneros-Diaz is not necessary and results in an unjustified deprivation of liberty. 424 U.S. 319, 335 (1976). Numerous United States District Courts have agreed. See, e.g., *Ndiaye v. Jamison*, No. 25-cv-6007, 2025 WL 3229307, at *2 (E.D. Pa. Nov. 19, 2025) (“[D]ue process and proper statutory interpretation of the INA preclude Ndiaye from being mandatorily detained without bond under § 1225(b)(2)[.]”); *Nogueira-Mendes v. McShane*, No. 25-cv-5810, 2025 WL 3473364, at *4 (E.D. Pa. Dec. 3, 2025) (“Because Section 1226(a) provides for a bond hearing and Petitioner

¹ The Fifth Circuit is the only court that adopted the Government’s interpretation of § 1225(b)(2)(A), holding that noncitizens present in the United States without admission are subject to mandatory detention without bond. *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 6, 2026). That decision is neither binding on this Court nor persuasive in light of contrary authority.

has not received one, Petitioner has demonstrated that his continued detention violates his rights under that provision.”)

5. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order Petitioner’s release from custody, with appropriate conditions of supervision if necessary. In the alternative, Petitioner requests that this Court conduct or order an immigration Judge to conduct a bond hearing at which (1) the government bears the burden of proving flight risk and/or dangerousness by clear and convincing evidence and (2) the reviewing court considers alternatives to detention that could mitigate risk of flight. See *German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213-214 (3d Cir. 2020).

JURISDICTION

6. Petitioner is in the physical custody of the Respondents at the Federal Detention Center in Philadelphia, Pennsylvania.

7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the U.S. Constitution (the Suspension Clause).

8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and 28 U.S.C. § 1261, the All-Writs Act.

9. 8 U.S.C. § 1252(b)(9) does not strip the Court of jurisdiction over Petitioner’s challenge to his continued detention because the challenge is collateral to “the removal process,” and is not “inextricably linked” to any removal action. See *Khalil v. President, United States*, No. 25-2162, 2026 WL 111933, at *9 (3d Cir. Jan. 15, 2026); *Kourouma v.*

Jamison, No. 26-0182, 2026 WL 120208, at *3 (E.D. Pa. Jan. 15, 2026) (“[W]hether a bond hearing is required prior to detention . . . is collateral to the removal process.”) (*Cantu-Cortes v. O'Neill*, No. 25-6338, 2025 WL 3171639, at *1 (E.D. Pa. Nov. 13, 2025) (same); *see also Jennings v. Rodriguez*, 583 U.S. 281, 292–95. (2018).

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

11. 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).

VENUE

12. Venue lies in the U.S. District Court for the Eastern District of Pennsylvania, the judicial district in which Petitioner is currently detained. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973) (finding proper venue lies in the judicial district in which Petitioner is currently detained).

13. 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 New Jersey.

PARTIES

14. Petitioner is Jose Cisneros Diaz, a forty-two-year-old native of Mexico who has been detained at the Federal Detention Center in Philadelphia since March 13, 2026. He seeks issuance of a writ of *habeas corpus*.

15. Respondent J.L. Jamison, the warden of the Philadelphia Federal Detention Center, is sued in his official capacity, as he is the Petitioner's actual physical custodian and person who has direct control over Petitioner.

16. Respondent Michael T. Rose is sued in his official capacity as the Acting Field Office Director of U.S. Department of Homeland Security, Immigration and Customs Enforcement's Philadelphia Field Office. He is responsible for the administration and management of ICE Enforcement Removal Operations in Pennsylvania and exercises administrative control over Petitioner's custody.

17. Respondent Todd Lyons is sued in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement (ICE), the department within the Department of Homeland Security. In this capacity, he is responsible for administering and enforcing the immigration laws in Pennsylvania and is Petitioner's legal custodian.

18. Respondent Pamela Jo Bondi is sued in her official capacity as the Attorney General of the United States. In this capacity she is responsible for administering and enforcing the immigration laws pursuant to 8 U.S.C. § 1103 and is the Petitioner's legal custodian.

19. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security, the agency in charge of administering and enforcing the immigration laws in New Jersey and is the Petitioner's legal custodian.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. Immigr. & Naturalization Serv.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. *See Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *2 (M.D. Pa. Aug. 6, 2020) (“[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.”).

21. In making that decision, the Court should consider the urgency of the need for immediate review. “Where a person is detained by executive order . . . the need for collateral review is most pressing . . . In this context the need for habeas corpus is more urgent.” *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

22. Moreover, the exhaustion “doctrine is not without exception.” *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666 (D.N.J. 2003). “Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no

opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question.” *Id.* at 666-67.

23. Exhaustion before the EOIR would be futile because requiring exhaustion “would almost certainly result in the BIA persisting in its earlier rulings and applying those rulings to [Petitioner], all while he remains in detention[.]” *Del Cid v. Bondi*, No. 3:25-cv-00304, 2025 WL 2985150, at *13 (W.D. Pa. Oct. 23, 2025).

24. Further, the BIA does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att’y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (internal citations omitted). Therefore, any administrative proceedings would be futile because petitioner raises a constitutional due process claim. *Id.*

FACTS

25. Mr. Cisneros Diaz is a forty-two-year-old national of Mexico who entered the United States without inspection on or about 2005. He was employed for nearly two decades on mushroom farms in Kennett Square, Pennsylvania. During this period, Mr. Cisneros Diaz was a victim of labor trafficking and, on two occasions, a victim of serious crimes.

26. Mr. Cisneros Diaz is married to a Lawful Permanent Resident and is the stepfather of three United States citizen children.

27. On March 13, 2026, Mr. Cisneros Diaz was taken into custody by U.S. Immigration and Customs Enforcement (“ICE”) while departing West Chester Criminal Court, following his guilty plea to two summary offenses: disorderly conduct, in violation of 18 Pa. C.S. § 5503(a)(4), and simple trespass, in violation of 18 Pa. C.S. § 3503(b)(1).

The charges arose from his act of riding a bicycle on train tracks. This incident constitutes Mr. Cisneros Diaz's sole contact with law enforcement.

28. Following his arrest, Respondents did not provide Mr. Cisneros Diaz with an arrest warrant or a Notice to Appear ("NTA") but instead provided only his alien registration number. According to the Executive Office for Immigration Review ("EOIR") online portal, Mr. Cisneros Diaz is scheduled to appear before the Newark Immigration Court on March 26, 2026, for a Master Calendar Hearing.

LEGAL FRAMEWORK

I. Section 1226(a) Governs the Detention of People Like Petitioner

29. The Immigration and Nationality Act contains several provisions authorizing detention of noncitizens. Section 1226(a) entitles most noncitizens with pending removal proceedings to a hearing before an Immigration Judge to determine whether they should be released on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d). Section 1226(c) creates an exception to section 1226(a) and provides that noncitizens who are removable by virtue of certain criminal convictions must be detained without a bond hearing. Section 1225(b) provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" under (b)(2).

Finally, section 1231 governs the detention of noncitizens with a final order of removal.

30. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L.

No.119-1, 139 Stat. 3 (2025). “Upon passing IIRIRA, Congress declared that the new Section 1226(a) ‘restates the current provisions in the predecessor statute,’” which allowed noncitizens who entered without inspection to be released on bond. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1258, 1260 (W.D. Wash. 2025) (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

31. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.”).

32. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were eligible for and received bond hearings before an IJ, unless they have committed certain crimes. *Diaz Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *4 (D. Mass. July 24, 2025).

33. In recent months, Respondents have abruptly changed course. On July 8, 2025, Respondent Todd M. Lyons issued an internal memorandum stating that, “in coordination with the Department of Justice (DOJ),” DHS had “revisited” its legal position and believed that § 1225, not § 1226, governs the detention of noncitizens who are present in the United States without having been admitted. *Diaz Martinez*, 2025 WL 2084238, at *4.

34. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In that decision, the BIA held that noncitizens “who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.” 29 I&N Dec. at 220.

35. The BIA’s recent decisions contravene the INA. The plain text of the statute demonstrates that § 1226(a)—not § 1225(b)—governs individuals such as Petitioner.

36. Section 1226(a) applies to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” See *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (describing 1226(a) as the “default rule” for detention of noncitizens pending removal).

37. Section 1226 covers all individuals charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Last year, Congress enacted the Laken Riley Act to add a subparagraph (E) to the section with the purpose of excluding certain noncitizens who entered without inspection and committed certain crimes from § 1226(a)’s default bond provision. As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates “specific exceptions” to a statute’s applicability, it “proves” that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

38. Under the BIA’s novel interpretation, almost all noncitizens subject to inadmissibility grounds are detained without the opportunity for a bond hearing under 8 U.S.C. § 1225(b), irrespective of their manner of entry or the time spent in the United

States. *Matter of Yajure Hurtado*, 29 I&N Dec. at 220; see 8 U.S.C. § 1182(a)(6); 8 U.S.C. § 1101(a)(14). This interpretation would render the mandatory detention provisions in § 1226(c), including the recently enacted Laken Riley Act amendments, superfluous. See *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013).

39. This statutory structure demonstrates that Congress did not intend to make § 1226(a) inapplicable to all inadmissible noncitizens but rather viewed it as the default bond provision for people arrested within the United States.

40. Section 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A); see also *Diaz Martinez*, 2025 WL 2084238, at *8 (“[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.” (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a [] [noncitizen] seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 287.

41. Applying § 1226(a), rather than § 1225(b), to people detained in the interior who had previously entered without inspection is consistent with the government’s longstanding practice, which “can inform a court’s determination of what the law is.” *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024). This longstanding practice

further counsels against the BIA's abrupt change in policy. *Maldonado*, 2025 WL 2374411, at *11.

42. As discussed below, the BIA's interpretation of § 1225(b) to mandate detention without a bond hearing for all noncitizens present in the United States without having been admitted presents serious constitutional concerns. Therefore, to the degree that the statute remains ambiguous, the Court should presume that Congress "did not intend the alternative which raises serious constitutional doubts" and reject that construction. *Clark v. Martinez*, 543 U.S. 371, 381-82 (2005). Therefore, § 1226(a), which permits bond hearings, not 8 U.S.C. § 1225(b)(2)(A), which does not, governs the detention of people like Petitioner.

FIRST CLAIM FOR RELIEF

Violation of the Administrative Procedure Act

Contrary to Law and Arbitrary and Capricious Agency Policy

43. Petitioner re-alleges and incorporates by reference the above paragraphs.

44. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

45. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility. It does not apply to Petitioner, who entered the United States twenty years ago without being encountered or seeking admission.

46. In taking a contrary position, the BIA has reversed decades of prior practice, and “would expand § 1225(b) far beyond how it has been enforced historically, potentially subjecting millions more undocumented immigrants to mandatory detention, while simultaneously narrowing § 1226(a) such that it would have extremely limited (if any) application.” *Lopez Benitez*, 2025 WL 2371588, at *8. Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies’ policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

47. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause

Substantive Due Process

48. Petitioner re-alleges and incorporates by reference the above paragraphs.

49. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. Substantive due process requires that immigration detention without a bond hearing be reasonably related to the goals of ensuring the appearance of noncitizens at future proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

50. The Board of Immigration Appeals’ (“BIA”) application of mandatory detention under 8 U.S.C. § 1225(b)(2) is not reasonably related to the Government’s legitimate

objectives and therefore violates substantive due process. Petitioner does not pose a danger to the community. As set forth above, the conduct underlying his criminal case involved riding a bicycle near train tracks. Even if characterized as reckless, such conduct does not justify his continued, unlawful, and effectively indefinite detention.

THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause

Procedural Due Process

51. Petitioner re-alleges and incorporates by reference the above paragraphs.

52. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. Courts apply the *Mathews v. Eldridge* balancing test to determine what procedures the due process clause requires. *Gayle v. Warden Monmouth Cnty. Corr. Inst.*, 12 F.4th 321, 331 (3d Cir. 2021).

53. The first factor is the private interest affected by the official action. *Id.* Here, the deprivation of Petitioner’s physical liberty implicates the most fundamental of all constitutional rights. Petitioner is currently confined in an immigration detention facility and faces effectively indefinite detention. This profound restraint on liberty is particularly unjustified where, as here, Petitioner was released from criminal custody after conviction for a *de minimis* offense, only to be re-detained and subjected to prolonged civil immigration detention. Such detention bears no reasonable relationship to any legitimate governmental purpose and is punitive in effect. Absent meaningful procedural safeguards, Petitioner’s continued confinement is arbitrary, constitutionally intolerable, and in violation of the Due Process Clause.

54. The second factor considers the risk of erroneous deprivation of such interest through the procedures used, and the probable value of additional safeguards. *Id.* Here, the risk of erroneous and unjustified deprivation of liberty is extraordinarily high. Under the BIA's interpretation of the statute, Petitioner is subjected to mandatory detention without any individualized assessment of whether his continued confinement serves a legitimate governmental purpose. See *Ashley v. Ridge*, 288 F. Supp. 2d 662, 670 (D.N.J. 2003). As a result, Petitioner is categorically deprived of his liberty despite posing no danger to the community and no risk of flight. The absence of meaningful procedural protections renders his detention arbitrary and untethered from any constitutionally permissible objective. In these circumstances, the risk of erroneous deprivation is not merely theoretical—it is realized in Petitioner's ongoing confinement. Where detention operates in this manner—without justification, without meaningful process, and without a reasonable relationship to any legitimate purpose—it is unconstitutional. Petitioner's continued detention is therefore unlawful, and immediate release is the only adequate remedy to cure this ongoing violation of due process.

55. The final factor considers the Government's interest. *Gayle*, 12 F.4th at 331. The Government has no legitimate interest in detaining Petitioner where such detention is not necessary to ensure his appearance at future proceedings or to protect the community. *Hernandez-Lara v. Lyons*, 10 F.4th 19, 32–33 (1st Cir. 2021); see also *Ousman D. v. Decker*, No. 20-9646, 2020 WL 5587441, at *4 (S.D.N.Y. Sept. 18, 2020) (holding that due process requires consideration of less restrictive means sufficient to serve the Government's purposes); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241–42 (W.D.N.Y. 2019) (same). Petitioner presently has viable avenues for relief that may result

in lawful status in the United States, providing him with every incentive to appear and pursue his claims in immigration court. There is no evidence that he poses a flight risk, nor any indication that he presents a danger to the community. Under these circumstances, his continued detention serves no legitimate governmental purpose and is excessive, punitive in effect, and unconstitutional. Immediate release is therefore warranted.

56. Therefore, Respondents' detention of Petitioner without demonstrating that detention is necessary violates procedural due process.

REMEDY

A. Because Petitioner is Detained Under the Wrong INA Provision, his Custody is Ultra Vires and Must End

57. Where DHS detains a noncitizen under an inapplicable statutory provision, the detention is not merely procedurally defective—it is unauthorized by law. In such instances, the role of a habeas court is not to adjust the manner of detention, but to terminate it. A habeas court has “the power to order the conditional release of an individual unlawfully detained—though release need not be the exclusive remedy and is not the appropriate one in every case in which the writ is granted.” *Boumediene v. Bush*, 553 U.S. 723, 779 (2008). A federal district court is authorized to grant a writ of habeas corpus where the petitioner is “in custody under or by color of the authority of the United States ... in violation of the Constitution or laws or treaties of the United States.” *Patel v. McShane*, No. CV 25-5975, 2025 WL 3241212 (E.D. Pa. Nov. 20, 2025) (citing 28 U.S.C. §§ 2241(c)(1), (3)); *see also Kashranov v. Jamison*, No. 2:25-CV-05555-JDW, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025).

58. The Third Circuit has made clear that immigration detention authority is implicitly limited, and once those limits are exceeded—or where detention lacks statutory footing altogether—continued custody is unlawful. *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 232–33 (3d Cir. 2011). Detention that is not authorized by statute cannot be cured by further administrative process because “the statute no longer permits it.” *Id.*

59. Petitioner is detained under the wrong provision of the INA, which makes his detention unlawful. As a matter of law, DHS therefore lacks authority to continue holding him. The only remedy that restores Petitioner to the position he would have occupied absent the statutory violation is release from custody. See *Leslie v. Att’y Gen.*, 678 F.3d 265, 271–72 (3d Cir. 2012). See also *Patel v. McShane*, No. CV 25-5975, 2025 WL 3241212 (E.D. Pa. Nov. 20, 2025); *Kashranov v. Jamison*, No. 2:25-CV-05555-JDW, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025).

B. An Immigration Judge Bond Hearing is not a Legally Adequate Habeas Remedy

60. The Government may argue that any defect can be remedied by ordering an Immigration Judge to conduct a bond hearing. That argument fails for three independent reasons.

61. First, Immigration Judges lack authority to cure statutory misclassification. Bond proceedings presuppose lawful detention under a bond-eligible statute. Immigration Judges have no authority to reclassify DHS’s custody determination or to declare detention *ultra vires*. They accept DHS’s asserted detention authority as a given and merely assess discretionary release within that framework. Accordingly, where detention itself is unauthorized, a bond hearing cannot cure the violation. Habeas relief cannot

consist of referring a petitioner back to an adjudicator who lacks jurisdiction to address the legal defect. See *Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 224–25 (3d Cir. 2018) (habeas courts retain authority to define the remedy necessary to cure unlawful detention).

62. Second, Article III courts may not delegate their habeas function to EOIR. The writ of habeas corpus requires a court to order relief that ends unlawful custody, not one that merely initiates another administrative proceeding. The Third Circuit has repeatedly emphasized that habeas relief must be meaningful and effective, not theoretical. *Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 475–78 (3d Cir. 2015).

63. Ordering an Immigration Judge to hold a bond hearing improperly delegates the Court’s core Article III function to an Executive Branch tribunal that is institutionally subordinate to the Attorney General; lacks authority to correct DHS’s statutory error; and cannot guarantee release even where detention is unlawful. Such delegation is incompatible with the habeas court’s duty to independently remedy unlawful executive detention. *Guerrero-Sanchez*, 905 F.3d at 224.

64. Last, bond hearings in Immigration Court are non-curative in practice. Immigration Judge bond hearings—particularly in post-habeas cases—have become systematically predetermined exercises designed to maintain detention regardless of individual circumstances.

65. Immigration practitioners have witnessed a corresponding and unprecedented surge in fundamentally unfair bond denials that seems to follow the same pattern.

66. The Immigration Judges who meaningfully questioned DHS detention positions were abruptly reassigned from detained dockets. See **Petitioner’s Exhibit A**, Statement

of (retired) Immigration Judge Lawrence O. Borman. Bond has been categorically denied in cases that previously warranted release. *Id.* Judges rely on pretextual rationales that would make bond impossible for virtually any detained noncitizen. *Id.* *See also* **Petitioner’s Exhibit B**, Affidavit of; **Petitioner’s Exhibit C**, Affidavit of Attorney; **Petitioner’s Exhibit D**, Affidavit of Attorney. The pattern is uniform, coordinated, and temporally linked to federal habeas grants. This evidence establishes that remand to EOIR would be futile and would render this Court’s habeas jurisdiction meaningless. Habeas relief cannot consist of an “illusory remedy” that predictably fails to secure liberty. *See Chavez-Alvarez*, 783 F.3d at 475.

67. Where detention is unauthorized and administrative remedies are ineffective, the habeas court must order immediate release, subject only to reasonable conditions of supervision if necessary. *See Leslie*, 678 F.3d at 271–72.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this habeas corpus action pursuant to 28 U.S.C. §§ 2241 and 1331;
2. Issue a Writ of *Habeas Corpus* and order Petitioner’s immediate release from custody;
3. In the alternative, hold a bond hearing at which the Respondents bear the burden to establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner’s release would present;

4. Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
5. Grant such further relief as the Court deems just and proper.

Dated: March 19, 2026



Adriana Mitchell, Esq.
PA Bar # 323243
Law Office of Adriana Mitchell
1528 Walnut Street, Suite 1402
Philadelphia, PA 19102
(877) 728-1496
adriana@mitchellimmigration.com
Attorney for Petitioner

EXHIBITS

Exhibit A: Statement of (Ret.) Immigration Judge Lawrence O. Borman

Exhibit B: Affidavit of Attorney Matthew Archambeault

Exhibit C: Affidavit of Attorney Noemi Simbron

Exhibit D: Affidavit of Attorney Eric Mark

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

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

DATED: March 19, 2026


Adriana Mitchell
Attorney for Petitioner

EXHIBIT A

AFFIDAVIT OF LAWRENCE O. BURMAN

I, Lawrence O. Burman, swear under penalty of perjury, that the following information is true and correct to the best of my knowledge, information, and belief:

Experience

1. I am over 18 years of age, and a citizen of the United States.
2. I was admitted to the Maryland Bar in November 1978 and have maintained active status since that time.
3. I was employed by the United States Department of Justice from September 1988 until my retirement on December 31, 2025.
4. I served as an Immigration Judge from my appointment in April 1998 until my retirement.
5. Before that, I worked as an assistant district counsel for the former Immigration and Naturalization Service (INS) in Baltimore, Maryland, from 1991 to 1998 – a role now absorbed by the Department of Homeland Security.
6. Prior to that, from 1990 to 1991, I served as assistant general counsel at INS Headquarters in Washington, D.C.
7. From 1988 to 1990, I worked as a general attorney for INS in Baltimore.

Experience as an Immigration Judge

8. During my 27 years as an Immigration Judge, I presided over both detained and non-detained dockets in Memphis TN and Northern Virginia. I also heard detained cases on detail to detention facilities in Texas, California, New Mexico, Louisiana and Pennsylvania. I was assigned to the Annandale VA detained docket most recently in December 2025 for a short period to cover judges who were on leave.
9. While presiding over the detained docket, I adjudicated requests for custody redetermination (also known as bond hearings). In making these adjudications, I considered whether the alien was a flight risk or a danger to the community.
10. I have been asked to prepare this affidavit to explain my decades of experience as an Immigration Judge regarding the application of “flight risk” when denying a bond, as well as my professional observations regarding recent adjudicatory patterns and their potential implications.
11. 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.
12. 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.

13. 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.
14. In my experience, bonds in excess of \$15,000 were relatively uncommon on the dockets on which I served. This is largely because a person's ability to pay a bond should be considered when adjudicating a bond request, and because immigration delivery bonds generally require payment of the full amount to post.
15. Earlier in my tenure, judges typically maintained a regular detained docket. In the last decade, the Immigration Court in Annandale, Virginia, assigned certain judges to detained matters on a full-time basis, while others would substitute when needed.
16. Since around 2017, Immigration Judges Raphael Choi and Karen Donoso-Stevens had been assigned to the detained dockets. IJ Choi was previously the Chief Counsel of the Office of Principal Legal Advisor for Arlington, Virginia, and IJ Donoso-Stevens was a senior attorney for the detained docket for the Office of Principal Legal Advisor for Arlington, Virginia
17. I recently learned that both IJ Choi and IJ Donoso-Stevens were abruptly removed from the detained docket in January 2026, in the middle of their morning dockets, and were replaced by newly-appointed judges.

Concerns about the Immigration Court System

18. Since January 2025, I have observed a troubling trend of Immigration Judges being terminated without explanation or notice. In all my years on the bench, I have never witnessed such a high level of turnover.
19. From 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.
20. Although immigration judges are expected to act as neutral adjudicators, I have noticed increasing concern among members of the bench about institutional intimidation and the perception that decisions unfavorable to the government could negatively affect judicial tenure.
21. I am concerned that the notable rise in bond denials and adverse case outcomes undermines due process and erodes confidence in the Immigration Court system.

Signed this 14th day of February 2026 in the County of Arlington, Commonwealth of Virginia.

February 14, 2026



Lawrence O. Burman

EXHIBIT B



Matthew J. Archambeault, Esq.

Direct: 215-599-2189

Fax: 215-790-6242

mja@archambeaultlaw.com

December 12, 2025

AFFIDAVIT OF MATTHEW J. ARCHAMBEAULT

I swear, under the penalty of perjury, the following is true and correct. I have been a practicing immigration attorney for over 23 years. I practice primarily in removal defense, including the representation of detained individuals. I have appeared in immigration courts in Pennsylvania, New Jersey, New York, Maryland, Florida, Georgia, North Carolina, Texas, Louisiana, Colorado, California, Washington, Puerto Rico, St. Thomas, and St. Lucia over my career. I have also represented immigrants in federal court at both the District and Circuit levels.

I write this affidavit for general use for my colleagues for submission in any court proceedings they feel appropriate.

I have represented hundreds of clients over the years and done scores of bond redetermination hearings. Under the current administration, bond redeterminations have undergone a noticeable shift, most notably in the issuance of the BIA precedent decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This decision illegally concluded that a vast swath of immigrants, who entered without inspection, were subjected to mandatory detention pursuant to INA 235(b)(2), and not eligible for bond. Decades of practice and legal precedent found the same individuals eligible for bond and detained under INA 236(a). Hundreds of federal district courts have ruled against the administration following a flood of habeas corpus petitions nationwide. The result of this litigation has been that immigrants are either released or afforded an opportunity to have a bond hearing before an immigration judge.

I represent Jorge Perez Florez in both immigration court and the New Jersey District Court (case no. 2-25-cv-17865-SDW). Mr. Perez Florez was detained by ICE on November 24, 2025, and transported to the Elizabeth Detention Center in Elizabeth, New Jersey. I filed a habeas corpus petition on his behalf on the same day, and the Honorable Susan D. Wigenton of the New Jersey District Court issued a text order directing that a bond hearing be held by December 1, 2025. Immigration Judge Ramin Rastegar conducted a bond hearing on December 1, 2025, at the Elizabeth Immigration Court in Elizabeth, New Jersey.

Mr. Jorge Perez Florez is a Mexican immigrant who has been in the United States for more than 18 years, lives with his long-term partner and their 15-year-old U.S. citizen daughter in Maple Shade, New Jersey. Mr. Perez Florez has resided at the Maple Shade, New Jersey, address for more than 8 years and in the immediate area for the entirety of his time in the United States. Mr. Perez Florez has never been arrested in the United States or anywhere else in the world. Mr. Perez Florez is eligible to apply for Cancellation of Removal for Certain Non-

Permanent Residents, as he has been in the United States for more than ten years, has a US citizen child who would suffer extreme and unusual hardship if he were removed, and has been a person of good moral character and worthy of discretion. Mr. Perez Florez's US citizen daughter had been recently hospitalized for anxiety disorder and was beginning treatment. Mr. Perez Florez had numerous persons write on his behalf, and a US citizen sponsor was prepared to post any bond issued by the immigration judge.

The Department of Homeland Security raised the following negative factor: Mr. Perez Florez had previously attempted to enter the United States more than 18 years ago, was voluntarily returned, and then re-entered undetected. DHS also concluded that Mr. Perez had received a traffic ticket in 2009, when it appears he did not have a license, as an indicator of dangerousness. DHS further questioned a "learner's permit" from Maryland obtained by Mr. Perez Florez, despite his never appearing to live in Maryland.

These sets of facts would traditionally have earned Mr. Perez Florez a bond, as his lack of criminal history indicates he is not a danger to the community, and his long-term, stable residency in the United States with a family, relief from removal available, and support from the community would indicate he is not a flight risk. In my professional experience, one would expect a bond ranging from \$2,500 to \$10,000. This was not the case this time.

Immigration Judge Rastegar ruled that he posed a danger to the community and a flight risk so significant that no amount of bond would ensure his appearance for deportation if he lost his case. Immigration Judge Rastegar refused to explain why Mr. Perez Florez was a flight risk, indicating we could read it in his bond memorandum if we appealed. He did explain that Mr. Perez Florez's long-term residency here was a negative factor, as he never attempted to "fix" his immigration status, despite the fact that no options for doing so existed. After extensive questioning, Judge Rastegar concluded that Mr. Perez Florez was not credible based on his receiving a "driver's license" from Maryland, even though it was apparent he never lived there, and questions regarding an educational program Mr. Perez Florez completed in Camden, NJ. Judge Rastegar also held the fact that no application for relief had not been submitted to the immigration court, despite the fact that he had yet to appear for his first initial master calendar hearing (bond proceedings are separate and distinct from removal proceedings), which was scheduled for December 8, 2025 and pleadings on the allegations alleged by the Department of Homeland Security had not been completed. Judge Rastegar refused to recognize Mr. Perez Florez's long-term, committed relationship with the mother of their child because they were not married. Lastly, Judge Rastegar concluded that, because there was scant documentation of the medical condition affecting his 15-year-old USC daughter, he could not meet his burden to approve any Cancellation of Removal Application submitted, and that no amount of bond would be sufficient to ensure Mr. Perez Florez would appear for his ordered removal. Judge Rastegar did not even consider other restrictions on Mr. Perez Florez's liberty that could have ensured his compliance, such as electronic monitoring and/or reporting to ICE.

In my 23-year professional career, I have never had a bond flatly denied under similar facts. It is clear that I am not alone. The New Jersey AILA listserve is replete with similar, and even more egregious examples of bond denials from the judges at the Elizabeth Immigration Court and other courts across the country. I observed a bond hearing for an immigrant who has been in the United States for over 20 years, several US citizen children, one with a serious heart

condition, and no criminal record, denied a bond by Immigration Judge Wilson, finding he was a flight risk because he resided so long in the United States without being detected and that no amount of bond would be sufficient to ensure he complied with a deportation order. Now immigration judges are using immigrants' long-term residency and deep ties to the community as evidence of their flight risk. This is not normal.

Despite the losses of over 200 federal district court cases on the issue of detention pursuant to INA 235(b)(2), DHS persists in illegally denying immigrants their statutory right to a bond hearing, causing the current flood of litigation that is taking the time of US Attorneys who could be working on essential cases affecting our security as a nation, and time away from District Court judges and their staff. DHS has no incentive to change its practice if the result is immigrants spending thousands of dollars for legal representation and a rigged bond hearing, designed only to deny deserving immigrants the ability to receive a bond and return to their families and community as Congress intended.

We implore District Court judges to address this issue by either ordering the straight release from detention when it is shown that the detention is illegal, or conducting their own bond analysis and making their own determination regarding the issuance of bond, the amount, and any other restrictions the Court deems necessary.

We sincerely appreciate the Court's attention to this matter.

Respectfully,

/s/Matthew J. Archambeault

Matthew J. Archambeault

Law Office of Matthew J. Archambeault

216 Haddon Avenue, Suite 402

Haddon Township, NJ 08108

215-599-2189

mja@archambeaultlaw.com

EXHIBIT C

LAW OFFICES OF NOEMI C. SIMBRON
 56 HAMILTON STREET, STE. 2
 PATERSON, NEW JERSEY 07505

TEL: (973) 684-4214
 FAX: (201) 625-6365
 NOEMI.SIMBRON@GMAIL.COM



AFFIDAVIT OF NOEMI C. SIMBRON IN HER CAPACITY AS AN IMMIGRATION ATTORNEY

I have been a member of the New Jersey Bar of Attorneys and of the New Jersey Federal District Court since 2016. I have been a solo practitioner concentrating mainly in representing immigrants before the USCIS and in Removal Proceedings in immigration Court. Before I was admitted to the Bar, I worked as a legal assistant for respected counsels also from our district for 8 years. Accordingly, I have personally handled and participated in documenting hundreds of cases before immigration courts all over the country.

I am writing this statement in good faith to provide the Federal Court with my testimony of the obvious change in impossible standards that immigration judges are currently applying to individuals who are seeking release under bond. Over the course of my career, I have witnessed individuals being provided with a fair opportunity to be released under bond when they are able to show that there is neither a danger to the community nor a flight risk. Whenever an adjudicator immigration judge found that an individual had less than ideal ties to the community, he or she would even grant a larger amount so as to secure their continued appearances at future hearings. This practice seems to have been eradicated since July of 2025.

There seems to be internal instructions to judges to find ways to deny release under bond which were never there before. For instance, I recently represented a 42-year-old Mexican lady, Ms. Eva Alvarez Coeto, before the immigration court (██████████) and this honorable tribunal (2:25-cv-17789-B). Ms. Alvarez entered the United States without inspection in the year 2002. Over the course of her 22-year life span in the U.S., she bore four U.S.C. children (ages 21, 18, 13 and 12)– all of whom resided with her up until the time she was detained. The two youngest children have learning and speech disabilities. Also, she heavily cooperated with the Passaic Police Department in prosecuting the father of her younger children when he showed pornographic videos to her oldest daughter. This participation led to the criminal conviction of this individual, thereby making Ms. Alvarez Coeto also eligible to apply for U visa status. In August of 2025, Ms. Alvarez moved into the father of her older children's father's home following a reduction of her hours at work. The father of her children attempted to kiss Ms. Alvarez against her will and she slapped him once due to unwanted advances before leaving his house. This incident was reported to the police by the father of Ms. Alvarez's children and she was charged with simple assault in the city of Clifton, NJ on or about August 27, 2025. Ms. Alvarez was arrested pursuant to that incident for the first and only time after being present in

the United States for 22 years. She was then referred to immigration detention and is currently being held at the Delaney Hall Detention Center.

On November 20, 2025, this counsel was retained to represent Ms. Alvarez Coeto for a Petition for Habeas Corpus. In preparation for the petition for Habeas Corpus, this counsel requested a bond hearing before the Immigration Court. The immigration Court scheduled a bond redetermination hearing on December 9, 2025. This counsel provided the Court with the children's birth certificates, their medical records showing that the youngest 2 suffer from learning disabilities, evidence of Ms. Alvarez Coeto's work history in the 22 years she has lived here, and a statement from Ms. Alvarez Coeto describing the underlying circumstances leading to the arrest as well as the consequences of her detention, including the fact that custody of the youngest children is being handled by the State's Children's Services because their father is prohibited from approaching them due to the existence of his record as a sexual predator. After hearing legal arguments, Immigration Judge Shana Chen found that she lacked jurisdiction pursuant to Yajure-Hurtado, 29 I&N 216 (BIA 2025) and Maldonado Bautista "not controlling on [that] Court." In the alternative, Judge Chen found that the Respondent "only acknowledged what she could not hide [from the arrest]," and that she was a danger to the community based upon this sole isolated incident in 22 years of history of hard work and raising American children. She also found that Ms. Alvarez Coeto was a flight risk despite her undeniable ties to the community due to the existence of minor children, and her eligibility to obtain status through the U visa statute for indirect victims of crimes as well as through Cancellation of Removal for Nonimmigrants.

In the past, such mild criminal offense would have never been the basis to find an individual such as Ms. Alvarez to be a danger to the community— especially in light of the obvious isolated nature of this offense. Most importantly, the extent of ties that Ms. Alvarez has to this community in her children and the heightened responsibilities of addressing their disabilities *on her own* because the father is under a permanent restraining order and is required to be registered as a sexual predator pursuant to Meghan's Laws is undeniable. In the past, a reasonable finder of fact would have considered that this woman would have a great incentive to pursue relief because her circumstances squarely fit eligibility for U visa status and Cancellations of Removal. Even the most conservative of judges in the country would have at least considered release under higher bond to assure the Respondent's future appearances and to discourage any further potential criminal actions. But this is not the case now. As I waited for my case to be called, I have heard other hearings handled by colleagues who are also being denied release due to absurd reasons which would have never led to denials in the past. This sort of stories about denials are also being shared by numerous of my colleagues within our listserve in the American Immigration Attorneys Association (AILA).

This internal change in the standards for release under bond has to be merely a plot to have immigrants be denied their due process rights because they know individuals who are hard-working and that do not engage in criminal conduct will not be able to withstand being in detention for extended periods of time. They also know that cutting those individuals' access to earn a living will cripple their ability to be represented by counsel causing a flood of them to give up their rights and just ask to voluntarily depart or be deported. And what happens with our

judicial system? Our constitutional rights? Our communities? As this Court is aware, access to bond has been cut by recently published case law to several categories of immigrants who would've been able to be released and to have a real opportunity to exercise their due process rights. For instance, under Qu Li, 29 I&N Dec. 66 (BIA 2025), there are no more bonds for individuals who are deemed "applicants for admissions," that if they had a stop and/or were processed near the border or a port of entry. Under Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019), there is no more access to bond for individuals who were placed in expedited removal, or subjected to administrative deportation, even after they obtain a favorable result of a filter mechanism to be able to see a judge called a credible fear interview. Now, under Yajure-Hurtado, the government sought to subject every immigrant who may have entered without status at any time to mandatory detention. It is solely because of the intervention of the Federal Courts that this smaller group of individuals— those who are present unlawfully but are not deemed applicants for admission because they were arrested within the territory and are here for a lengthy period of time after their initial entry— have now access to bond when a Petition for Habeas is granted. But, what good does it do if the cases fall back into the same pattern through (presumably) unpublished instructions being received by the immigration judges who are still being mandated to find alternate ways to deny our clients of their due process rights?

Through this letter, I unite my plea to my colleagues to please order our clients released after conducting a fair analysis through this tribunal as we had in the immigration court before the current impossible standards for release were internally mandated. Thank you in advance for your attention.

Respectfully,

/s/ Noemi C. Simbron

Noemi C. Simbron, Esq

EXHIBIT D

AFFIDAVIT OF ERIC M. MARK, ESQ.

I have been practicing criminal defense and immigration for more than 15 years and have represented dozens, or hundreds, of clients during bond proceedings before the Immigration Court.

Presently, I am the attorney representing Pablo Martinez Ron before the Immigration Court and before the U.S. District Court for the District of New Jersey before the Hon. Michael E. Farbiarz on a Petition for Habeas Corpus.

Judge Farbiarz ordered a bond hearing for Mr. Martinez Ron that was conducted by Immigration Judge Counihan of the Batavia Immigration Court. Mr. Martinez Ron has been present in the United States for approximately two years. He has no criminal history. He was initially on the docket in Maryland and appeared there once for a hearing.

Subsequently, he changed his address with the court and venue was transferred to New Jersey. He was awaiting a hearing in New Jersey. Substantial documentary evidence was submitted demonstrating that he was engaged to be married and lived with his fiancé and his fiancé's mother in a house owned by his fiancé's mother. The couple had begun IVF treatments, including blood draws and payments and this was also documented to the court. His fiancé was present at the bond hearing.

Despite this evidence, the immigration judge found Mr. Martinez Ron did not have a meaningful family tie in the United States, and that he might have such a tie if he got married. The immigration judge found he did not have a fixed address in the U.S. because he had previously lived at other addresses, was not on the deed and there was no lease. The judge also held against him, without articulating why, that he made \$500 - \$700 per week.

In the past, such facts would have resulted in a low bond based on decades of caselaw. Her the immigration judge created an impossible standard. Evidence of stable employment was somehow held against the non-citizen. Living with a fiancé and going through IVF was somehow not sufficient to establish a meaningful tie to the U.S. Merely having prior addresses, something that virtually every person on the face of the Earth has, was held against him even though he updated the court when he moved and appeared in court when scheduled.

It is evident that immigration judges have been instructed not to issue bonds and what rationales to rely on to do so. Judges who have been issuing bonds for years, if they have not been terminated, have suddenly stopped issuing bonds. Facts and evidence that were sufficient evidence in 2024 are completely discarded or held against the non-citizens in

2025. The burden of proof has been elevated to such a level that it is impossible to meet and is far beyond what is constitutionally permissible or statutorily authorized.

I affirm that the foregoing statements are true and correct and that any willfully false statement is punishable under the penalty of perjury.

Dated: Decemeber 11, 2025

/s/ Eric M. Mark

Eric M. Mark, Esq.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

Place of Accident, Incident, or Transaction: _____

Philadelphia

RELATED CASE IF ANY: Case Number: _____ Judge: _____

- | | |
|---|------------------------------|
| 1. Does this case involve property included in an earlier numbered suit? | Yes ☐ |
| 2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? | Yes ☐ |
| 3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? | Yes ☐ |
| 4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? | Yes ☐ |
| 5. Is this case related to an earlier numbered suit even though none of the above categories apply?
If yes, attach an explanation. | Yes ☐ |

I certify that, to the best of my knowledge and belief, the within case ☐ is / ☒ is not related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts)
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Wage and Hour Class Action/Collective Action
- ☐ 6. Patent
- ☐ 7. Copyright/Trademark
- ☐ 8. Employment
- ☐ 9. Labor-Management Relations
- ☐ 10. Civil Rights
- ☒ 11. Habeas Corpus
- ☐ 12. Securities Cases
- ☐ 13. Social Security Review Cases
- ☐ 14. Qui Tam Cases
- ☐ 15. Cases Seeking Systemic Relief ***see certification below***
- ☐ 16. All Other Federal Question Cases. (Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. All Other Diversity Cases: (Please specify): _____

I certify that, to the best of my knowledge and belief, that the remedy sought in this case ☐ does / ☒ does not have implications beyond the parties before the court and ☐ does / ☒ does not seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:



Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of \$150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.



None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

NOTE: A trial de novo will be by jury only if there has been compliance with F.R.C.P. 38.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Cisneros Diaz, Jose

(b) County of Residence of First Listed Plaintiff Philadlephia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Law Office of Adriana Mitchell, 1528 Walnut Street, Ste
1402, Philadelphia, PA 19102; 877-728-1496

DEFENDANTS

Jamison, J.L. et al

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|---|---|
| ☐ 1 U.S. Government Plaintiff | ☐ 3 Federal Question
(U.S. Government Not a Party) |
| ☒ 2 U.S. Government Defendant | ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☒ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| ☒ 1 Original Proceeding | ☐ 2 Removed from State Court | ☐ 3 Remanded from Appellate Court | ☐ 4 Reinstated or Reopened | ☐ 5 Transferred from Another District (specify) | ☐ 6 Multidistrict Litigation - Transfer | ☐ 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 2241(c)(3)

VI. CAUSE OF ACTION

Brief description of cause:
Alien unlawfully detained

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 03/02/2026 SIGNATURE OF ATTORNEY OF RECORD

/s/ Adriana Mitchell

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Adriana Mitchell, Esq.
Law Office of Adriana Mitchell
1528 Walnut Street, Suite 1402
Philadelphia, PA 19102
Phone: 877-728-1496
adriana@mitchellimmigration.com
Pennsylvania Bar ID: 323243

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JO	)	
A#	)	
	)	
S DIAZ	)	
Petitioner,	)	Civil Action No. 2:26-cv-01818
v.	)	[Proposed]
	)	ORDER TO SHOW CAUSE
JAMISON, J.L.,	)	
Warden,	)	
Federal Detention Center	)	
Philadelphia	)	
	)	
MICHAEL T. ROSE	)	
Acting Field Office Director	)	
Immigration and Customs Enforcement	)	
Philadelphia Field Office	)	
	)	
TODD LYONS,	)	
Acting Director,	)	
United States Immigration and	)	
Customs Enforcement (ICE),	)	
	)	
KRISTI NOEM,	)	
Secretary of the Department of	)	
Homeland Security, (DHS) and,	)	
	)	
PAMELA JO BONDI,	)	
Attorney General of the	)	
United States of America	)	
	)	
Respondents	)	

Upon consideration of Petitioner's Application for Issuance of Order to Show Cause pursuant to 28 U.S.C. § 2243 and Petitioner's Petition for Writ of Habeas Corpus, IT IS HEREBY ORDERED that:

1. Respondent(s) shall file a return on the Order to Show Cause why the Petition for Writ of Habeas Corpus should not be granted by MARCH 21, 2026;
2. Petitioner shall have an opportunity to file a reply by MARCH 21, 2026;
3. This matter shall be heard by this Court on ... at
4. Service of this Order shall be made by Petitioner on the United States Attorney for the Eastern District of Pennsylvania via email by 9:00 a.m. on MARCH 20, 2026, and shall constitute good and sufficient service.

IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE