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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF PENNSYLVANIA
12 CIVIL DIVISION

13 Abraham Ignacio PEREIRA VIDAL
14 Petitioner,

Case No. 2:26-cv-1903

15 v.

16 **PETITION FOR WRIT OF
17 HABEAS CORPUS**

18 Brian MCSHANE, Field Office Director of
19 Enforcement and Removal Operations,
20 Philadelphia Field Office, Immigration and
21 Customs Enforcement; Kristi NOEM,
22 Secretary, U.S. Department of Homeland
23 Security; U.S. DEPARTMENT OF
24 HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; Warden of Moshannon
Valley Processing Center

Respondents.

PETITIONER'S RESPONSE IN SUPPORT

- 1 1. Petitioner was detained by Immigration and Customs Enforcement (“ICE”) officers after
2 being pulled over while driving to work. Following this encounter, Petitioner was taken
3 into custody without incident and has remained detained at the Philadelphia Federal
4 Detention Center since that time.
- 5 2. On March 23, 2026, Petitioner filed the instant Petition for Writ of Habeas Corpus before
6 this Court. Respondents subsequently sought an extension of time to file their opposition,
7 which Petitioner agreed to in the interest of judicial economy and fairness. Respondents
8 thereafter filed their Opposition, arguing that Petitioner’s detention is lawful.
- 9 3. Respondents contend that Petitioner’s detention is authorized under 8 U.S.C. § 1226(a),
10 discretionary detention authority, based upon Petitioner’s prior lawful admission to the
11 United States on a B visa. Petitioner does not dispute that § 1226(a) provides discretionary
12 detention authority. However, the mere applicability of § 1226(a) does not automatically
13 render detention lawful. Rather, discretionary detention must comport with constitutional
14 due process requirements, including a meaningful individualized determination of flight
15 risk and danger to the community.
- 16 4. Respondents rely primarily on the issuance of the Form I-200, Warrant for Arrest of Alien,
17 and Form I-286, Notice of Custody Determination, as evidence that Petitioner’s detention
18 was lawful. However, these documents do not demonstrate that Petitioner received a
19 meaningful individualized assessment consistent with due process.
- 20 5. Respondents rely heavily on the Form I-286, Notice of Custody Determination. However,
21 the mere presence of the I-286 does not establish that Petitioner received a meaningful
22 individualized determination of flight risk or danger to the community as due process
23 requires.
24

- 1 6. While Respondents submit the Form I-200, Warrant for Arrest of Alien in addition to the
2 I-286, the documents themselves seem to conflict with each other. The Form I-200 is dated
3 February 4, 2026, yet the Form I-213 adjoining narrative reflects that Petitioner first came
4 to the attention of ICE enforcement officers on March 4, 2026, a full months later. The
5 discrepancy raises questions regarding the timing of the production, and basis for the arrest
6 warrant.
- 7 7. Further, the Form I-286, Notice of Custody Determination is dated March 23, 2026 at 11:10
8 a.m., several hours after Petitioner's arrest. The form indicates that, "pending a final
9 administrative determination in your case, you will be detained by the Department of
10 Homeland Security." This determination according to Respondents own documentation
11 took place several hours after Petitioner was detained.
- 12 8. Respondents argue that that the existence of the I-286 constitutes an individualized
13 assessment which comports with due process and Petitioner is detained as a result of such
14 determination. The reasoning follows a logical fallacy, *post hoc ergo propter hoc*. As
15 Respondents produced the I-286 following the detention, the detention is therefore due to
16 the determination.
- 17 9. However this determination is meant to be made at the outset prior to being taken into
18 custody. *See Hyppolite v. Noem*, 808 F. Supp. 3d 474 (E.D.N.Y. 2025) ("Thus the
19 discretionary authority in § 1226(a) requires an individualized bond determination before
20 a noncitizen may be taken into custody.").
- 21 10. Respondents further argue that Petitioner's detention is lawful and that relief here is
22 unnecessary as he may seek bond before an Immigration Judge under § 1226(a). However,
23
24

1 Respondents acknowledge that Petitioner's removal proceedings remain administratively
2 closed.

3 11. Petitioner's proceedings were administratively closed in 2023. Although Respondents
4 present an Emergency Motion to Recalendar, Petitioner's proceedings remain
5 administratively closed. As a result, Petitioner is presently unable to seek a bond hearing
6 before the Immigration Court.

7 12. Respondents nonetheless argue that Petitioner has failed to exhaust administrative
8 remedies available to him. At present, the proposed remedies remain out of reach to
9 Petitioner and would require him to continue to be detained awaiting Respondents motion
10 to recalendar his proceedings and be docketed with an immigration judge.

11 13. Moreover, in habeas proceedings, exhaustion is not an absolute bar to relief, rather,
12 "exhaustion exists as a judicially created doctrine applied at the Court's discretion."
13 *Kashranov v. Jamison*, No. 2:25-cv-055550JDW, 2025 WL 3188399 (E.D. Pa. Nov. 14,
14 2025).

15 14. Moreover, Respondents did not file their motion to recalendar until March 30, 2026, further
16 delaying Petitioner's access to a bond hearing. The government cannot simultaneously
17 delay access to a bond hearing while arguing that such access satisfies due process.

18 15. Where administrative remedies are unavailable, futile, or incapable of providing timely
19 relief, courts routinely excuse exhaustion. Here, because Petitioner's proceedings remain
20 administratively closed, administrative relief is effectively unavailable. Constitutional
21 adequacy requires prompt access to review—not merely the theoretical availability of
22 review at some undefined future date.

1 16. Respondents further argue that Petitioner's detention is constitutionally permissible, citing
2 *Demore v. Kim*, 538 U.S. 510 (2003) and this Circuit's decision in *Borbot v. Warden*, 906
3 F.3d 274 (3d Cir. 2018), however these cases are distinguishable from the instant
4 proceedings.

5 17. *Demore v. Kim* addressed mandatory detention under INA § 1226(c) for noncitizens
6 charged or convicted of certain criminal offenses. Petitioner here is not detained subject to
7 this provision.

8 18. Similarly, in *Borbot*, the Third Circuit addressed circumstances where the Petitioner had
9 already received a bond hearing. Here, Petitioner has not received a bond hearing, and no
10 hearing appears imminent.

11 19. Moreover, Respondents offer no evidence that a bond hearing before the Immigration
12 Court would provide meaningful relief. In the initial Petition, Petitioner submitted an
13 affidavit from former Immigration Judge Lawrence O. Burman, who described concerns
14 regarding adjudicatory patterns and institutional pressures within immigration courts.

15 20. Judge Burman noted "[a]lthough immigration judges are expected to act as neutral
16 adjudicators, I have notice increasing concern among members of the bench about
17 institutional intimidation and the perception that decisions unfavorable to the government
18 could negatively affect judicial tenure." *See* Petitioner's Evidence, Exhibit 3.

19 21. Judge Burman further concluded "I am concerned that the notable rise in bond denials and
20 adverse case outcomes undermines due process and erodes confidence in the Immigration
21 Court system." *Id.*

22 22. These concerns underscore why mere theoretical access to a bond hearing does not
23 automatically satisfy due process.
24

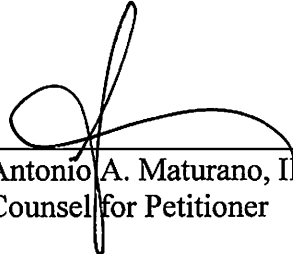
1 23. Respondents argue that Petitioner's due process claim is speculative and not ripe because
2 he has not yet requested a custody redetermination hearing and because his detention has
3 been relatively brief.

4 24. This argument fails. Ripeness does not require waiting for a constitutional violation to fully
5 mature. The absence of a prompt automatic bond hearing itself presents a live constitutional
6 question.

7 25. While Petitioner's detention has thus far been limited in duration, its indeterminate nature
8 creates an ongoing due process concern. Courts have recognized that even brief periods of
9 unlawful detention constitute irreparable harm sufficient to warrant habeas relief.

10 26. For the foregoing reasons, Petitioner respectfully requests that this Honorable Court order
11 his release from custody.

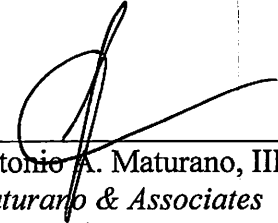
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13 DATED this 31st of March, 2026.

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16 Antonio A. Maturano, III
17 Counsel for Petitioner
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Antonio A. Maturano, III, submit this verification on behalf of the Petitioner as an attorney for Petitioner. I, or immigration counsel, have discussed with Petitioner the events described here-in. Based on those discussions, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: March 31, 2026



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