

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**JOSUE I. REYES HERNANDEZ**

A 

Petitioner,

v.

**TODD BLANCHE**, Acting U.S. Attorney  
General;

**MARKWAYNE MULLIN**, Secretary of the U.S.  
Department of Homeland Security;

**TODD M. LYONS**, in his official capacity as  
Acting Director of U.S. Immigration and Customs  
Enforcement; and

**VERNON LIGGINS**, in his official capacity  
As Acting Field Office Director of Baltimore  
Field Office, U.S. Immigration and Customs  
Enforcement.

Respondents.

Case No. 1:26-cv-01464

**PETITION FOR WRIT  
OF HABEAS CORPUS**

**INTRODUCTION**

1. Josue I. Reyes Hernandez (“Petitioner”), a citizen and national of El Salvador, petitions this Court for a Writ of Habeas Corpus, see 28 U.S.C. § 2241, to challenge his custodial detention by the United States Department of Homeland Security, through its component arm, U.S. Immigration and Customs Enforcement (“ICE”).
2. Under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), immigration judges across the United States, including those assigned to the immigration courts in Hyattsville and Baltimore, have uniformly stated that they lack jurisdiction to hold bond hearings for

foreign nationals whom the Department of Homeland Security charges under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I). There is no reason to expect that the immigration judge assigned to Petitioner's case will arrive at any different conclusion.

3. There is a growing body of case law from the federal district courts holding that Respondents' reinterpretation of 8 U.S.C. § 1225(b) is contrary to law. *See, e.g., Villanueva v. Bondi*, No. 25-cv-4152-ABA, 2026 U.S. Dist. LEXIS 6852 (D. Md. Jan. 14, 2026); *Afghan v. Noem*, No. 25-cv-4105-SAG, 2025 U.S. Dist. LEXIS 264653, (D. Md. Dec. 23, 2025). This is another such case.
4. Petitioner's detention is unconstitutional and violates the Immigration and Nationality Act ("INA"). As a result of this unlawful restraint, Petitioner seeks an order from this Court requiring his immediate release or, alternatively, that the Respondents provide him with a bond hearing before a neutral and impartial adjudicator in either the Baltimore or Hyattsville Immigration Courts.

#### **JURISDICTION AND VENUE**

5. On information and belief, Petitioner is detained in the Baltimore Holding Room, at 31 Hopkins Plaza, Baltimore, MD 21201, which is within the jurisdiction of the United States District Court for the District of Maryland.
6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 ("habeas corpus"), 28 U.S.C. § 1651 ("All Writs Act"), 28 U.S.C. § 1331 ("federal question"), the INA, and U.S. CONST. amend. V (the "Due Process Clause").
7. This Court has jurisdiction to adjudicate habeas corpus claims brought by foreign nationals who challenge the legality of their detention by U.S. immigration officials. *See Reno v. Flores*, 507 U.S. 292, 307 (1993). ("It is well established that the Fifth

Amendment entitles aliens to due process of law in deportation proceedings.”). Title 8 U.S.C. § 1252(g) does not operate as a jurisdictional bar because that statute does not apply to actions taken to detain foreign nationals. *See Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (“Section 1252(g) ‘applies only to three discrete actions,’ i.e. commencement of removal proceedings, adjudication of removal cases, and execution of removal orders”). Additionally, 8 U.S.C. § 1252(b)(9), does not preclude jurisdiction because that statute applies to review of removal orders and not to detention decisions made prior to the issuance of a removal order. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (“‘where Congress intends to preclude judicial review of constitutional claims its intent to do so must be clear.’”) (quoting *Webster v. Doe*, 486 U.S. 592, 603 (1988)).

#### **EXHAUSTION**

8. A petitioner seeking habeas corpus under 28 U.S.C. § 2241 need not exhaust administrative remedies because the statute does not require it. *Compare* 28 U.S.C. § 2241 *with* 28 U.S.C. § 2254(b)(1)(A); *see McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) (“where Congress has not clearly required exhaustion, sound judicial discretion governs.”) (citation omitted); *see Velasquez v. Noem*, No. 25-3215-GLR, 2025 U.S. Dist. LEXIS 210601, at \*4-5 (D. Md. Oct. 27, 2025).
9. “To determine whether requiring exhaustion is appropriate, federal courts must balance the interest of the individual in retaining prompt access to a federal judicial forum against countervailing institutional interests favoring exhaustion.” *Velasquez*, 2025 U.S. Dist. LEXIS 210601, at \*5 (cleaned up).

10. “Here, there is no reason to require prudential exhaustion or exhaustion of administrative remedies in this Court’s discretion. Though Petitioner may request a bond hearing in front of an IJ, such a request would be futile because the result of such administrative proceedings has already been ‘predetermined.’” *Velasquez*, 2025 U.S. Dist. LEXIS 210601, at \*5 (quoting *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992)). This is so because of the Board of Immigration Appeals’ recent decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), that prohibits IJs from considering bond for noncitizens who were not lawfully admitted. *See Velasquez*, 2025 U.S. Dist. LEXIS 210601, at \*6.

**REQUIREMENTS OF 28 U.S.C. § 2243**

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents forthwith, unless Petitioner is not entitled to relief. *See* 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.*

**PARTIES**

12. Petitioner is a native and citizen of El Salvador and is now detained by Respondents in the Baltimore Holding Room, 31 Hopkins Plaza, Baltimore, Maryland. He is in the custody, and under the direct control, of Respondents and their agents.
13. Respondent Vernon Liggins is sued in his official capacity as the Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. Field Office Director Liggins has immediate physical custody of Petitioner and has the authority to release him.

14. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement and supervises and oversees Respondent Liggins.
15. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, Respondent Markwayne Mullin is responsible for the implementation and enforcement of INA, and oversees ICE, the component agency directly responsible for Petitioner's detention. *See* 8 U.S.C. § 1103(a). Respondent Markwayne Mullin is a legal custodian of Petitioner.
16. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States. The Attorney General oversees the Executive Office for Immigration Review and, within the Executive Branch, is the arbiter of all questions of law pertaining to the INA. *See* 8 U.S.C. § 1103(a)(1), 1103(g).

#### **STATEMENT OF FACTS**

17. Petitioner entered the United States on April 1, 2019, and an immigration officer issued a Warrant for Arrest for Petitioner. *See* Exhibit A (Form I-200, Warrant for Arrest of Alien). The warrant states that an immigration officer is authorized to arrest Petitioner "pursuant to sections 236 and 287 of the Immigration and Nationality Act. . ." *Id.*
18. In conjunction with his service of the warrant, an immigration officer also served Petitioner with a Notice and Order of Expedited Removal. Petitioner expressed fear of returning to El Salvador and participated in a credible fear interview on May 31, 2019. Following the interview, the Asylum Officer found that Petitioner had established credible fear of persecution.
19. On June 12, 2019, an immigration officer served Petitioner with a Notice to Appear ("NTA") in the immigration court to defend against the charges that he was present in the

United States without having been admitted or paroled (8 U.S.C. § 1182(a)(6)(A)(i)), and (ii) an applicant for admission without a valid entry document (8 U.S.C. § 1182(a)(7)(A)(i)(I)).

20. On June 19, 2019, an immigration officer served Petitioner with a Notice of Custody Determination which ordered Petitioner to be released from immigration custody under a bond in the amount of \$7,000.00. *See* Exhibit B (Notice of Custody Determination). That Notice informed Petitioner that immigration authorities were acting in accordance with INA § 236, 8 U.S.C. § 1226.
21. On April 14, 2026, Petitioner was arrested by immigration officers at his home.
22. Last year, the Board of Immigration Appeals issued a precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). That decision asserts that immigration judges lack jurisdiction to hold bond hearings for foreign nationals who are present in the United States without admission. *See id.* at 220. It bears noting that the Board issued *Yajure Hurtado* just two months after the Department of Homeland Security, through its Acting Director of U.S. Immigration and Customs Enforcement, “revisited” the Executive Branch’s decades-old position that 8 U.S.C. § 1226(a) applies to foreign nationals who have crossed the border and are apprehended in the interior of the United States. *See Martinez v. Hyde*, 792 F. Supp. 3d 211, 217-218 (D. Mass. 2025).

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **Violation of the Immigration and Nationality Act, 8 U.S.C. §§ 1225(b) and 1226(a)**

23. Petitioner incorporates and realleges all paragraphs 1-22 as if fully set forth here.

24. Respondents' theory that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b) rests on their mistaken recent reinterpretation of the INA's detention provisions at 8 U.S.C. §§ 1225(b)(2)(A) and 1226(a).
25. Several reasons demonstrate the incorrectness of the Respondents' position that they are lawfully detaining him under 8 U.S.C. § 1225(b)(2).
26. First, the Respondents' past actions toward Petitioner demonstrate that his detention is in accordance with 8 U.S.C. § 1226.
27. In 2019, the Respondents served Petitioner with a Notice of Custody Determination stating that they were detaining him "[p]ursuant to the authority contained in section 236 of the Immigration and Nationality Act" and 8 C.F.R. § 236. *See* Exhibit E.
28. "'Where section 236 of the INA is codified at 8 U.S.C. § 1226, and that authority is explicitly referenced in [the Notice of Custody Determination]' it becomes clear that § 1226 is the applicable statute governing such detention." *Velasquez*, 2025 U.S. Dist. LEXIS 210601, at \*12 (quoting *Maldonado de Leon v. Baker*, 2025 U.S. Dist. LEXIS 207581, at \* 15-16 (D. Md. Oct. 21, 2025)).
29. Second, the Respondents' theory that they are lawfully detaining Petitioner under authority set forth in 8 U.S.C. § 1252(b)(2) conflicts with the Supreme Court's opinion in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).
30. In *Jennings*, the Supreme Court instructed that 8 U.S.C. § 1225(b) "applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." *Id.* at 297. Section 1226, on the other hand, applies to aliens already present in the United States." *Id.* at 303. "Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest

and detention pending removal proceedings.” *Id.* “Section 1226(a) also permits the Attorney General to release those aliens on bond . . .” *Id.*

31. Petitioner has been in the United States since April of 2019. There can be no question that he is “already present in the United States.” *Jennings*, 583 U.S. at 303. Under these circumstances, *Jennings* instructs that he is entitled to a bond hearing under 8 U.S.C. § 1226(a). The Respondents’ reinterpretation of §§ 1225(b)(2)(A) and 1226(a) conflicts with *Jennings*.
32. Third, the Respondents’ reinterpretation of §§ 1225(b)(2)(A) and 1226(a) is contrary to the recent legislative history of the INA. It is settled that a “statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant . . .” *Hibbs v. Winn*, 542 U.S. 88, 101 (2004) (internal quotations omitted)). Last year, “the Legislature amended § 1226 via the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), in a manner that renders the Government’s interpretation of § 1225(b)(2) superfluous.” *Velasquez*, 2025 U.S. Dist. LEXIS 210601, at \*13. Congress added § 1226(c)(1)(E)—which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny. “If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.” *Quispe-Ardiles v. Noem*, 2025 U.S. Dist. LEXIS 194069, at \*16 (E.D. Va. Sept. 30, 2025).
33. Fourth, the Respondents’ reinterpretation of the detention provisions “would [also] upend decades of practice. Indeed, mandatory detention for all applicants has only been the official policy of the Department of Homeland Security (“DHS”) . . . since July 8, 2025, when Acting Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons,

issued an internal memorandum explaining that the agency had revisited its legal position” *Martinez v. Hyde*, 792 F. Supp. 3d 211, 217-218 (D. Mass. 2025) (internal quotation omitted).

34. The novelty of the Respondents’ new theory of immigration detention is underscored by the conflicting pronouncements of it by the Respondents themselves. In an August 4, 2025, order, the Attorney General determined that foreign nationals arrested in the interior of the United States (other than at a port of entry) are entitled to bond hearings and are detained under 8 U.S.C. § 1226. She did this by designating as precedent “in all proceedings involving the same or similar issues” the Board’s decision in *Matter of Akhmedov*, 29 I. & N. Dec. 166 n.1 (BIA 2025).
35. In *Akhmedov*, the Board considered the Department of Homeland Security’s appeal of an Immigration Judge’s grant of bond to a foreign national arrested in the interior of the United States. *See* 29 I. & N. Dec. at 166, 168. The Board’s decision - as adopted by the Attorney General – could hardly be clearer: “The respondent’s custody determination is governed by the provisions of section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a) (2018).” *Id.* at 166.
36. Just like the foreign national in *Matter of Akhmedov*, Petitioner was arrested by immigration officers in the interior of the United States. Just like the foreign national in *Matter of Akhmedov*, Petitioner is, at a minimum, entitled to a bond hearing.
37. pursuant to section 103 of the Act).” 8 C.F.R. § 1003.1(d)(1)(i).
38. By statute, the Attorney General’s determinations and rulings on all questions of law pertaining to the Immigration and Nationality Act bind the Executive Branch. *See* 8 U.S.C. § 1103(a)(1). “The Board shall be governed by the provisions and limitations

prescribed by applicable law, regulations, and procedures, and by decisions of the Attorney General (through review of a decision of the Board, by written order, or by determination and ruling.” By statute and regulation then, it follows that the BIA’s decision in Yajure Hurtado cannot stand the weight Respondents ascribe to it.

39. For all these reasons, the Respondents’ assertion that they are detaining Petitioner under authority set forth in 8 U.S.C. § 1225(b) is incorrect. The Court should therefore grant Petitioner’s Petition for Writ of Habeas Corpus.

## **COUNT TWO**

### **Violation of Fifth Amendment Right to Due Process**

40. Petitioner incorporates and realleges paragraphs 1-22, as if fully set forth here.
41. It is settled that the Fifth Amendment’s Due Process Clause applies to all “persons” within the United States. *See Matthews v. Diaz*, 426 U.S. 67, 77 (1976). The term “persons” includes foreign nationals such as Petitioner’s. *See id.*
42. It is equally well settled that freedom from confinement is a core liberty interest and violation of that liberty interest raises a colorable substantive due process claim. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *Reno v. Flores*, 507 U.S. 292, 301 (1993) (collecting cases); *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (bodily freedom is the “most elemental of liberty interests”). The Respondents’ detention of Petitioner under these circumstances violates his substantive right to due process. *See Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 U.S. Dist. LEXIS 165015, at \*32 (D. Md. Aug. 2, 2025).
43. Petitioner also has a right to procedural due process. Immigration proceedings are civil, and they are intended to be “nonpunitive in purpose and effect.” *Zadvydas v. Davis*, 533

U.S. 678, 690 (2001). Over a century of Supreme Court precedent instructs that the Fifth Amendment entitles foreign nationals to procedural due process. *See Reno*, 507 U.S. at 306 (citing *The Japanese Immigrant Case*, 189 U.S. 86, (1903)). The Respondents' refusal to provide any process whatsoever contravenes over a century of Supreme Court precedent interpreting the Due Process Clause as applying to foreign nationals such as Petitioner. *See, e.g., Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

44. To determine whether civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the three-part test articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *Leal-Hernandez*, 2025 U.S. Dist. LEXIS 165015, at \* 33-34. Under that test, courts must weigh (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id.* (quoting *Mathews*, 424 U.S. at 335).
45. Petitioner invokes “the most elemental of liberty interests”; “[t]he interest in being free from physical detention.” *Quispe-Ardiles*, 2025 LEXIS 194069, at \*17 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)) (alterations in original). To be sure, the Respondents' refusal to provide any process whatsoever creates significant risk that Petitioner will be deprived of that interest.
46. The Government's interest in implementing its novel reinterpretation of 8 U.S.C. § 1225(b)(2)(A) is minimal. This new “approach attempts to upend decades of immigration practice.” *Hasan v. Crawford*, 2025 U.S. Dist. LEXIS 184734, at \*24 (E.D. Va. Sept. 19,

2025). “Indeed, mandatory detention for all applicants has only been the official policy of the Department of Homeland Security (“DHS”) . . . since July 8, 2025, when Acting Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an internal memorandum explaining that the agency had “revisited its legal position. . . .” *Martinez*, 792 F. Supp. 3d at 217-218. In contrast, the resumed application of decades of agency practice will satisfy the Government’s interest in enforcement of the immigration laws.

47. In Petitioner’s case, all three *Mathews* factors weigh heavily in favor of holding that the Respondents’ refusal to provide him with any process whatsoever violates his right to procedural due process. The Court should grant the petition for a Writ of Habeas Corpus for this reason as well.

#### **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. § 1236.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, alternatively, order that a neutral and impartial adjudicator conduct a bond hearing pursuant to 8 U.S.C. § 1236(a);
- (5) Issue an order restraining immigration officials from transferring Petitioner outside of Maryland, Virginia, or Pennsylvania

(6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Raymond Griffith

Raymond Griffith  
D. Md Bar No. 14332  
Griffith Immigration Law  
300 E. Lombard St., Suite 1030  
Baltimore, MD 21202  
(410) 244-50005  
ray@raygriffithlaw.com  
Attorney for Petitioner

Dated: April 15, 2026

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

I represent Mr. Reyes Hernandez, 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 15<sup>th</sup> day of April 2026.

/s/ Raymond Griffith

Raymond Griffith

Attorney for Petitioner

**CERTIFICATE OF SERVICE**

I certify that on April 15, 2026, I electronically served the foregoing document on the Respondents through their counsel, the United States Attorney's Office for the District of Maryland.

/s/ Raymond Griffith

Raymond Griffith