UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

OLVIN ANTONIO, RUIZ PALACIOS **Petitioner** **v.** **TODD M. LYONS, Director of U.S. ICE; GEORGE STERLING, Field Office Director of Enforcement and Removal Operations, Atlanta Field Office, Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; U.S. Department of Homeland and Security; TODD BLANCHE, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Warden of Irwin County Detention Center Detention Center,** **Respondents**	**Case No.** **PETITTION FOR WRIT OF HABEAS CORPUS** **Under 28 U.S.C. § 2241**

I. INTRODUCTION

1. Petitioner Olvin Antonio Ruiz Palacios (A# [redacted] is an asylum seeker from Nicaragua who was paroled into the United States on or about May 3, 2022, pursuant to 8 U.S.C. § 1182(d)(5)(A),[1] for a period of 60 days, subject to reporting requirements. ***(See TAB A).***

2. After being granted parole and residing in the community in full compliance with all ICE reporting requirements, Petitioner was later re arrested within the interior of the United

[1] INA § 212(d)(5)(A)

States, placing him squarely within the scope of 8 U.S.C. § 1226(a) [2] rather than 8 U.S.C. § 1225(b) [3]

3. Petitioner, has been detained by Respondents since March 12, 2026. His arrest and continued confinement were executed without a warrant and without the procedural protections required by law. His detention violates the Immigration and Nationality Act, including 8 U.S.C. § 1226(a), and the Due Process Clause of the Fifth Amendment. Without intervention from this Court, Petitioner faces continued detention for an extended and potentially indefinite period of time. Respondents have deemed him categorically ineligible for bond under recent Board of Immigration Appeals precedent, leaving him without any meaningful administrative avenue for release. (***See TAB B***)

4. Petitioner is charged, inter alia, as an individual present in the United States without admission or inspection pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C. § 1182(a)(7)(A)(i)(I). (See TAB A.) He has been placed in full removal proceedings under INA § 240, which means his detention is governed by 8 U.S.C. § 1226(a). His removal proceedings remain pending before the Executive Office for Immigration Review (EOIR).

5. Petitioner now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded that Petitioner is subject to mandatory detention, pursuant to Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)[4]. As a result of this jurisdictional ruling, the Immigration Judge did not—and could

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[2] INA § 236(a)
[3] INA § 235(b)
[4] The Government's reliance on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), is misplaced. The decision was issued in a bond appeal that (as argued in Respondent's motion to reconsider) was moot before publication because the respondent was already subject to a final removal order—making the Board's choice to issue a published merits ruling procedurally defective and, at minimum, of diminished persuasive value. See also *Matter of Valles*, 21 I&N Dec. 769, 773 (BIA 1997) (bond appeal rendered moot by subsequent custody redetermination); *Matter of Luis*, 22 I&N Dec. 747, 753 (BIA 1999) (Board may dismiss as moot, "as a matter of prudence," when a controversy is deprived of practical significance). In any event, *Yajure Hurtado* is ultra vires of the Board's delegated authority because it

not—consider any individualized custody factors, including danger to the community, risk of flight, community ties, or alternatives to detention

6. DHS has taken the position that, based on *Matter of Yajure Hurtado* and subsequent agency guidance, Petitioner is categorically ineligible for any custody redetermination before an immigration judge and may be detained for the duration of his removal proceedings absent discretionary parole.

7. As a result of this categorical denial of custody review, Petitioner now faces prolonged and potentially indefinite civil detention without any meaningful opportunity for an individualized determination of whether his continued confinement is necessary or lawful. DHS has not conducted any neutral, individualized assessment of Petitioner's danger to the community, risk of flight, or suitability for less restrictive alternatives to detention.

8. Petitioner has no criminal convictions, no history of violence, no pending criminal charges, and has consistently complied with all immigration requirements. His continued detention is not based on any individualized finding that confinement is necessary to serve a legitimate governmental purpose.

9. Petitioner's continued detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act, the

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effectively rewrites binding Attorney General custody regulations—without rulemaking—by converting a narrow, regulation-based "arriving alien" bond bar into a sweeping prohibition for virtually all noncitizens charged as present without admission. Compare 8 C.F.R. §§ 1236.1(d)(1), 1003.19(h)(2)(i)(B) (IJ bond jurisdiction before a final order; categorical bar limited to "arriving aliens" and other enumerated classes) with 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (final interim rule explaining that "inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge"). The Board has repeatedly stated that it lacks the authority to invalidate or disregard Attorney General regulations. See, e.g., *Matter of Akram*, 25 I&N Dec. 874, 875 (BIA 2012). Basic administrative law likewise forbids an agency from accomplishing a de facto amendment of a binding legislative rule through adjudication rather than notice-and-comment rulemaking. See, e.g., *Marseilles Land & Water Co.* v. FERC, 345 F.3d 916, 920 (D.C. Cir. 2003). Nor does *Yajure Hurtado* warrant deference in federal habeas proceedings. Under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394, 413 (2024), courts must exercise independent judgment and may not defer to an agency interpretation simply because a statute is ambiguous. Federal courts evaluating the same detention theory have thus declined to treat Yajure Hurtado as controlling or persuasive and have ordered bond hearings under INA § 236(a), 8 U.S.C. § 1226(a).

Suspension Clause of the United States Constitution, and binding agency regulations. DHS's reliance on a categorical jurisdictional bar has resulted in prolonged civil confinement without adequate procedural safeguards or meaningful judicial review.

10. Petitioner seeks habeas relief ordering his immediate release from ICE custody or, in the alternative, an order directing Respondents to provide him with a prompt, constitutionally adequate, and individualized custody determination before a neutral decisionmaker with authority to order release. For the foregoing reasons, the Court should grant the writ and restore Petitioner's liberty.

II. JURISDICTION

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

2. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

3. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All-Writs Act, 28 U.S.C. § 1651.

III. VENUE

1. Venue is proper in this District because the Petitioner is detained at the Irwin County Detention Center, located in 132 Cotton Drive, Ocilla, Georgia 31774, which is within the jurisdiction of this District.

2. 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 Middle District of Georgia.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

1. 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, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

2. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of int or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

V. PARTIES

1. Petitioner is an applicant for asylum from Nicaragua who is being detained at Irwing Detention Center. He was assigned alien number [redacted] and is under the direct control and in the custody of Respondents and their agents since March 12, 2026.

2. Respondent Todd M. Lyons is the Acting Director of US ICE until May 2026. Respondent is the legal custodian of Petitioner and has the direct authority to release Petitioner. He is named in his official capacity.

3. Respondent George Sterling is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division. As such, George Sterling is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

4. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and

Nationality Act (INA) and oversees ICE, which is responsible for the Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

5. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

6. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

7. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

8. Respondent Warden of the Irwin County Detention Center is named in his official capacity as the Warden of the facility where Petitioner is currently detained. As Warden, he is responsible for the operation of the detention facility, including the custody and supervision of individuals detained therein, and therefore is the immediate custodian of the Petitioner for purposes of this habeas action. Respondent Warden's address is 132 Cotton Drive, Ocilla, Georgia 31774. He is sued in his official capacity.

VI. STATEMENT OF FACTS

1. Petitioner entered the United States seeking asylum on May 03, 2022 and was assigned alien number [redacted]

2. Upon entry, the Petitioner was apprehended by U.S. Customs and Border Protection (CBP) officers after entering without inspection or admission. After a brief period of detention, he **was paroled into the United States pursuant to INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A),**

and released into the community subject to reporting requirements, with which he fully complied. (*See TAB A*).

3. The Petitioner was not placed in expedited removal proceedings, nor was he served with a Notice to Appear initiating proceedings under Section 240 of the Immigration and Nationality Act, 8 U.S.C. § 1229(a). Instead, the Petitioner was placed on reporting requirements and instructed to appear for periodic check-ins pursuant to call-in letters issued by immigration authorities.

4. The Petitioner fully complied with each such instruction, appearing as directed at every scheduled check-in. In addition, the Petitioner affirmatively sought protection by filing an application for asylum with U.S. Citizenship and Immigration Services (USCIS).

5. Despite his pending application for relief and prior release on parole, the Petitioner was taken into custody by ICE officers on or about March 12, 2026, during a routine check-in appointment.

6. The Petitioner had fully complied with all conditions imposed upon him, had no criminal history, and posed no danger to the community nor risk of flight. **His detention, occurring in the course of his good-faith compliance with ICE reporting requirements, undermines the integrity of the reporting system and raises serious due process concerns**, as it discourages compliance by individuals who would otherwise adhere to the Government's directives.

7. Petitioner was arrested without a warrant pursuant to 8 U.S.C. § 1226(a). Respondents did not revoke or formally modify the prior release determination, nor did they provide any meaningful process before re-detaining him.

8. The specific basis for the arrest remains unclear, as the Department of Homeland Security has not produced a Form I-213 or otherwise identified the charges underlying the arrest or any further criminal charges. Petitioner has no criminal history whatsoever, not even a ticket for a traffic violation.

9. Petitioner affirmatively sought an individualized custody redetermination before the Immigration Court. The Immigration Court in *Matter of Q LI* expressly denied the bond request solely on jurisdictional grounds, concluding that the court lacked authority to consider bond or conduct any custody review based on DHS's classification of Petitioner as subject to mandatory detention under INA § 235(b).

10. As the Immigration Court expressly determined in *Yahure Hurtado*, that it lacked jurisdiction to conduct any custody redetermination, Petitioner has no administrative mechanism through which to challenge the legality, duration, or necessity of his detention.

11. On or about January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." Immigration judges are instructed to treat the BIA's decision in *Matter of Yajure Hurtado* as binding precedent. EOIR guidance further states that a "declaratory judgment" is not binding and lacks authority to compel specific action. Under these circumstances, no administrative body within EOIR has authority to provide the relief sought.

12. As a result, Petitioner remains detained. Without intervention from this Court, he **faces prolonged detention in immigration custody while his asylum proceedings remain pending**.

13. The Petitioner **remains separated from his one-year-old United States citizen child, his partner, and his family**, and, as a result of his continued detention, is **unable to provide essential financial, emotional, and parental support**, causing significant hardship to his household. His detention is unlawful under the Immigration and Nationality Act and violative of the Fifth Amendment. Because Respondents have applied an inapplicable mandatory detention provision and denied him the procedural safeguards guaranteed by statute, immediate release is the appropriate remedy. In the alternative, and at a minimum, Petitioner is entitled under 8 U.S.C. § 1226(a) to an individualized bond hearing with full procedural protections. **Continued detention without release—or without the bond hearing mandated by statute— is arbitrary, unreasonable, and contrary to both the INA and the Constitution.**

VII. LEGAL FRAMEWORK

A. Legal Framework for Immigration-Related Detention

1. Although Petitioner requests, in the alternative, an individualized bond hearing under 8 U.S.C. § 1226(a), he respectfully submits that such relief would not provide a meaningful remedy under the current circumstances.

2. The immigration courts, operating under recent precedential directives and institutional constraints, have declined to exercise bond jurisdiction in cases materially identical to Petitioner's. As explained in the following section, the structural limitations imposed by recent agency interpretations prevent the provision of a genuinely neutral and effective custody determination.

3. Nevertheless, to preserve alternative relief, Petitioner sets forth below the legal foundations supporting his entitlement to a bond hearing under § 1226(a) and its implementing regulations. **Accordingly, while Petitioner seeks a bond hearing in the alternative, he**

respectfully maintains that immediate release is the only remedy capable of fully addressing the statutory and constitutional violations at issue

- **The INA Establishes Two Distinct Detention Frameworks**

1. The Immigration and Nationality Act ("INA") provides two separate detention schemes for noncitizens in removal proceedings: mandatory detention under 8 U.S.C. § 1225(b), and discretionary detention under 8 U.S.C. § 1226(a)

2. Section 1225(b) governs certain individuals who are "seeking admission" to the United States—typically those encountered at or near the border. Noncitizens detained under § 1225(b) are subject to mandatory detention and may be released only through the Secretary's limited parole authority. See *Jennings v. Rodriguez*, 583 U.S. 281, 297–300 (2018).

3. By contrast, § 1226(a) **applies to noncitizens already present in the United States who are detained "pending a decision on whether the alien is to be removed**." *Id.* at 303. Individuals detained under § 1226(a) **are entitled to an individualized custody redetermination before an Immigration Judge**. See 8 C.F.R. §§ 1003.19(a), 1236.1(d).

4. For nearly three decades, the Government consistently applied § 1226(a) to noncitizens present in the United States without admission or parole who were placed in full removal proceedings under § 1229a.

- **Respondents' Novel Expansion of § 1225(b) Is Contrary to the Statute**

5. In 2025, Respondents adopted a new interpretation asserting that all noncitizens who entered without inspection are subject to mandatory detention under § 1225(b)(2), even if apprehended years after entry and placed in full removal proceedings. The BIA adopted this position in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

6. Courts across the country have rejected this expansive interpretation because it conflicts with the statutory text, structure, and longstanding practice.

- **Section 1225(b)(1) Does Not Apply**

7. Section 1225(b)(1) applies only to noncitizens subject to expedited removal for fraud under § 1182(a)(6)(C) or lack of proper documentation under § 1182(a)(7), and only when encountered at a port of entry or within the expedited-removal designation period. See 8 U.S.C. § 1225(b)(1)(A)(i).

8. In this case, the Respondents themselves validated the propriety of placing Petitioner in full removal proceedings under INA § 240, as reflected in the Notice to Appear issued in this case and by their decision to release him shortly after his apprehension at the border nearly four years ago. By issuing an NTA and initiating regular removal proceedings—rather than placing him in expedited removal—Respondents confirmed that his case falls outside the scope of § 1225(b).

- **Section 1226(a) Governs by Default**

9. Because neither subsection of § 1225(b) applies to Petitioner, his detention must be analyzed under 8 U.S.C. § 1226(a). Section 1226(a) governs individuals detained "pending a decision on whether the alien is to be removed from the United States." Removal proceedings under § 1229a determine inadmissibility or deportability, and the text of § 1226 expressly contemplates custody determinations for individuals charged as inadmissible—including those present without admission.

10. The structure of the statute confirms this conclusion. Congress created specific mandatory detention categories in § 1226(c), including for certain inadmissible individuals. See 8 U.S.C. § 1226(c)(1)(E). By carving out those limited mandatory categories within § 1226 itself,

Congress demonstrated that § 1226(a) is the default detention authority for individuals in removal proceedings. As courts have explained, when Congress creates specific exceptions within a statutory framework, it confirms that the general rule otherwise applies. See *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257.

11. If individuals like Petitioner—who were arrested in the interior after years of residence—were already subject to mandatory detention under § 1225(b)(2), Congress would not have needed to enact additional mandatory-detention provisions in § 1226(c). **Respondents' interpretation collapses the statutory distinction between border detention and interior detention and renders § 1226's structure superfluous.**

12. District courts within Georgia and the Eleventh Circuit have adopted this reasoning, holding that § 1226(a)—not § 1225(b)—governs detention of noncitizens arrested in the interior after residing in the United States. See *Aguirre Villa*, 2025 WL 3095969; *Patel v. Parra*, No. 2:25-cv-00870 (M.D. Fla. Dec. 1, 2025). These courts have recognized that § 1225(b) is a border-focused statute and does not extend to individuals long present within the country.

13. Courts confronting materially identical facts, including *Granados* and *Pineda*, have likewise concluded that detention under § 1225(b) in such circumstances is unlawful. Accordingly, because § 1225(b) does not apply, Petitioner is being detained under an inapplicable mandatory detention provision. His detention lacks statutory authority. Habeas relief is therefore proper. Absent intervention by this Court, Petitioner will remain confined without lawful authorization and without the individualized custody review Congress expressly provided under § 1226(a).

14. For these reasons, Petitioner's detention is not only contrary to the statutory scheme—it is unconstitutional. Respondents have invoked an inapplicable mandatory detention provision and, in doing so, have deprived Petitioner of the individualized custody determination

Congress required and the Constitution demands. When detention lacks lawful statutory authority and is imposed without the procedural safeguards guaranteed by the Fifth Amendment, continued confinement cannot be justified. Under these circumstances, release is not merely appropriate—it is constitutionally compelled. This Court should therefore grant the writ and order Petitioner's immediate release from custody.

B. Bond not an Adequate Remedy; Due process requires that an Impartial; Adjudicator Decide if Petitioner's Continued Detention Bears Reasonable Relation of flight risk and danger to Community

14. As relevant here, due process requires that immigration detention "bear a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)).

15. Specifically, immigration detention must be reasonably related to the government's goals of preventing flight and protecting the community from harm and be accompanied by adequate procedural protections to ensure that those goals are being served. See *Zadvydas*, 533 U.S. at 690-91.

16. Chief among these procedural protections is "the guarantee of an impartial and disinterested tribunal," which the Due Process Clause requires "in both civil and criminal cases." *Marshall v. Jerrico*, Inc., 446 U.S. 238, 242 (1980).

17. The immigration court system has been transformed into a body that is structurally incapable of upholding Petitioner's statutory and constitutional rights. The immigration court system is not an independent adjudicative body. It operates under the Department of Justice ("DOJ"). In the last year the DOJ and its sub-agencies, the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), in apparent coordination with the Department of Homeland Security ("DHS") **have systematically dismantled the integrity of**

the immigration court system to turn it into an extension of DHS' deportation and detention operations

18. The evidence of EOIR's institutional capture falls into five categories, each independently sufficient to establish bias, but together demonstrating systematic destruction of judicial independence: (1) the ongoing **mass scale purge of immigration judges** perceived as obstacles to DHS' enforcement agenda; (2) **the parallel purge and reconstitution of the BIA**, resulting in a 97% pro-government decision rate; (3) the recruitment and installation of two **explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications**; (4) EOIR policy directives establishing **expectations that adjudications favor the government over noncitizens**; and (5) explicit instructions to **defy district court rulings that impede DHS's enforcement goals.**

19. As of September 26, 2025, the administration has terminated 128 immigration judges ("IJs"). Former New York IJ David K.S. Kim explained the targeting criteria: "I do not know the exact reason for my termination, but most of those dismissed, including myself, were **judges with high asylum approval rates.**"[5] This is not the complaint of disgruntled employees—these are career jurists with decades of combined experience who felt compelled to speak out publicly.

20. The terminated and resigned judges report three consistent themes. **First, explicit pressure to serve as instruments of mass deportation rather than neutral adjudicators.** Former Baltimore IJ Emmett Soper stated: "I think the current administration of the immigration courts does not fundamentally see the immigration courts as neutral decision-makers. I think that **they see the immigration courts as a tool for this administration to advance its policy**

[5] Woo-Sun Lim, Former judge highlights legal failures in U.S. worker detentions, The Dong-A Ilbo (Sept. 20, 2025), https://www.donga.com/en/article/all/20250920/5859412/1.

objectives."[6] Former San Francisco IJ George Pappas was even more direct: "**We were told to facilitate deportation… Due process is dead in immigration courts**."[7]

21. **Second, a pervasive climate of fear designed to ensure compliance.** Former Baltimore IJ David C. Koelsch described it as "an atmosphere of paranoia and fear, which is exactly what they want."[8] Former Annandale IJ Anam Petit observed. "There's a climate of fear…Judges feel like, if they step a toe out of line right now…or they're one [asylum] grant away from being fired because of the arbitrary nature of the firings."[9] Former New York IJ Carmen Maria Rey Caldas similarly described judges working "**under 'constant threat' of getting fired if they don't follow certain rules from leadership.**"[10]

22. **Third, the inevitable compromise of judicial independence when self-preservation requires favoring the government.** Former San Francisco IJ Elizabeth Young explained: "I've talked to many of [the judges still serving], and they're like, 'When I go into court, I am concerned about applying the law, but I'm also concerned that I should deny more, because if I don't, then I'll get fired.'"[11] Former Boston IJ Sarah Cade reached her breaking point: "I felt I might have to compromise my ethics and might be put in a place **where I felt like I was going to be asked to violate due process.** So, I left and I went to private practice."[12]

23. The message to remaining immigration judges is unmistakable: neutrality is a terminable offense. **No adjudicator can remain impartial when faced with the choice between**

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[6] Geoff Bennett & Ali Schmitz, Ousted Immigration Judge Describes Deepening Court Backlog, PBS NewsHour (Nov. 12, 2025), https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog.
[7] Marco Poggio, Judges See an Immigration Court Gutted from Inside, Law360 (Oct. 31, 2025), https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside.
[8] Poggio, supra note 8.
[9] Eric Katz, 'Climate of Fear': Immigration Judges Say Functioning of Their Court System Is in Jeopardy Due to Trump's Firings, Gov't Executive (Nov. 14, 2025),
[10] Isabela Dias, "Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts, Mother Jones (Oct. 9, 2025),
[11] Poggio, supra note 8.
[12] Poggio, supra note 8.

upholding due process and keeping their position. Any immigration judge assigned to Petitioner's bond hearing now operates under the understanding that granting bond may cost them their livelihood.

24. Beyond that, the clearest evidence that EOIR has abandoned its role as a neutral tribunal comes from its response to federal court orders protecting bond hearing rights. In *Maldonado Bautista v. Santacruz*, the Central District of California issued both declaratory and injunctive relief holding that noncitizens who entered without inspection but were not apprehended at the border are detained under § 1226(a), not § 1225(b)(2), and are therefore entitled to bond hearings. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v Santacruz*, No. 5:25-CV-01873, SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Judge Sunshine Sykes certified a nationwide class and entered final judgment. *Id.* Rather than comply with the order, EOIR leadership directed all immigration judges to ignore the order. On January 13, 2026, Chief Immigration Judge Teresa L. Riley sent an email to all immigration judges instructing:

> "Please provide the following guidance to all immigration judges forthwith: Maldonado Bautista is not a nationwide injunction and does not purport to vacate, stay, or enjoin Yajure Hurtado. Therefore Yajure Hurtado remains binding precedent on agency adjudications. For clarification, declaratory judgments differ from injunctions in that the former clarifies parties' legal rights and relationships without ordering specific action, while the latter is a court order compelling a party to do or stop doing a specific act. A declaratory judgment is not an equitable remedy and does not, by itself, have the effect of compelling specific action by a party. Thank you for your attention to this matter."[13]

25. The effect was immediate: ACLU lawyers reported that immigration judges who had begun granting bond hearings in compliance with Judge Sykes' ruling reversed course after

[13] Am. Immigr. Laws. Ass'n, Practice Alert: EOIR Issues Nationwide Guidance on Maldonado Bautista, AILA Doc. No. 26011404 (Jan. 16, 2026), https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista.

receiving Chief Judge Riley's directive. Immigration judges were placed in an impossible position—comply with a federal district court order and risk termination, or defy the federal court and retain their positions.

26. On January 16, 2026, Judge Sykes issued a scathing order directly addressing the government's systematic defiance:

> "This matter is yet another in a slew of habeas petitions following the Court's ruling in *Bautista v. Santacruz* that has unfortunately become routine in this Court. ... But individuals filing these habeas petitions are not to blame; rather, the current volume of habeas petitions and temporary restraining orders being filed can **be attributed to Respondents' deliberate choice to continue defying the final judgment entered in Bautista**. ...
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> Despite the clarity of the Court's previous orders and legal doctrines that preclude Respondents from relitigating issues at the heart of these requests, Respondents continue to manufacture arguments for sake of opposition. At this point in time, **the Court can no longer confer Respondents with the benefit of the doubt as to the intent of their filings**.
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> Despite the final judgment in Bautista, **it appears that immigration judges continue to rely on legal interpretations that were expressly found unlawful**. ... Respondents are collaterally estopped from relitigating the issue as to whether Bond Eligible Class members are entitled to the exact relief as provided in the Bautista final judgment. Accordingly, Respondents are collaterally estopped from relitigating this issue against all members of the Bond Eligible Class."
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> Palomera Baltazar v. Janecka, No. 5:26-CV-00019-SSS-BFM at *2-3 (C.D. Cal. Jan. 16, 2026). (emphasis added)

27. Judge Sykes' findings are devastating: the government is not merely disagreeing with her legal conclusions—**it is engaged in "deliberate" defiance, "manufacturing arguments," and instructing immigration judges to rely on "interpretations that were expressly found unlawful**." This is not a case of good-faith disagreement over statutory interpretation. It is systematic institutional defiance of federal court orders, orchestrated by EOIR leadership and enforced through the threat of termination.

28. No clearer evidence of institutional capture could exist: when presented with a federal court order protecting noncitizens' rights, EOIR's response was to order judges to violate

it. **The ultimate victim is the detained noncitizen, who like Petitioner, remains detained in violation of the due process and is denied their fundamental right to have an impartial adjudicator determine whether their continued detention serves any legitimate purpose related to flight risk or community safety.**

29. Under these circumstances, ordering a bond hearing would not cure the constitutional violation. A custody determination conducted within a structurally compromised system—one operating under binding precedent that forecloses jurisdiction, directives that prioritize enforcement over neutrality, and leadership that has openly resisted federal court rulings—cannot provide the meaningful process the Constitution requires. **Due process guarantees not the mere formality of a hearing, but a fair and impartial adjudication.** Where the adjudicatory mechanism itself has been rendered incapable of delivering that protection, additional process becomes illusory. **Accordingly, because Petitioner's detention lacks lawful statutory authority and because no neutral forum presently exists to review its necessity, immediate release is the only remedy capable of fully vindicating his statutory and constitutional rights.**

VIII. CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment- Unlawful Detention and Denial of Due Process

1. The above paragraphs are realleged and incorporated herein.

2. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Noncitizens physically present in the United States are "persons" within the meaning of the Fifth Amendment and entitled to full procedural due process protections. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). 87.

3. Petitioner has been categorically barred from receiving any hearing before a neutral adjudicator to determine whether his detention is justified. The immigration courts have expressly denied the opportunity to present evidence, contest the government's assertions, or obtain a meaningful review of custody for arriving aliens.

4. Immigration detention implicates a fundamental liberty interest. While Congress may authorize civil detention in the immigration context, such detention must remain reasonably related to its non-punitive purposes—ensuring appearance at proceedings and protecting public safety—and must comport with basic procedural due process.

5. Respondents have unlawfully detained Petitioner under the purported authority of 8 U.S.C. § 1225, the "mandatory detention" provision applicable to certain individuals who are in the process of entering the United States.

6. Section 1225 applies to arriving aliens and those apprehended at or near the border. Petitioner was not arriving in the United States at the time of his arrest. Rather, he had been physically present in the United States for more than 4 years prior to his detention. Accordingly, his custody is not governed by § 1225 but by 8 U.S.C. § 1226(a), which provides for discretionary detention pending removal proceedings.

7. Petitioner's detention further violates the Immigration and Nationality Act because he was arrested and detained without a warrant issued by the Attorney General or an authorized officer, as required under § 1226(a). Respondents neither revoked his prior release determination nor afforded him any meaningful procedural safeguards prior to re-detaining him.

8. Having been unlawfully detained under an inapplicable statutory provision and without the procedural protections required by law, Petitioner seeks the only appropriate relief

available in habeas: release from unlawful custody. See *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020).

9. There is no logical alternative avenue for release. Respondents have categorically deemed individuals in Petitioner's position ineligible for bond. Moreover, pursuant to precedential decisions such as *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), immigration judges have been stripped of jurisdiction to conduct bond hearings in circumstances materially indistinguishable from Petitioner's.

10. The Supreme Court has made clear that the absence of a statutory right to a bond hearing does not foreclose as-applied constitutional challenges to immigration detention. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Court rejected a statutory bond-hearing requirement but expressly remanded for consideration of constitutional due process claims. Id. at 302–03. 91.

11. Petitioner was re-detained following a routine check in with ICE, while having a pending asylum case. Petitioner faces a substantial risk of prolonged or indefinite detention under penal-like conditions without any finding that his confinement is necessary to serve the government's legitimate interests.

12. The constitutional infirmity here is not merely the length of detention but the complete absence of any meaningful custody process. Petitioner is detained pursuant to a regime in which: (a) No immigration judge may conduct a bond hearing; (b) DHS is not required to justify continued detention with evidence; and (c) No neutral decisionmaker is empowered to order release, regardless of the Petitioner's lack of danger or flight risk.

13. This categorical denial of any individualized custody determination violates procedural due process. Fundamental fairness requires, at a minimum, a meaningful opportunity

to be heard before a neutral adjudicator when the government restrains physical liberty for a prolonged period. *Zadvydas*, 533 U.S. at 690; *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

14. As the Immigration Judges have disclaimed jurisdiction and DHS has provided no alternative constitutionally adequate custody process, habeas corpus is the only effective mechanism by which Petitioner may test the legality of his confinement

15. Accordingly, Petitioner's continued detention without an individualized custody determination violates the Fifth Amendment as applied to him. Habeas relief is warranted. Petitioner respectfully requests that this Court order his immediate release from ICE custody; or in the alternative, order Respondents to provide a prompt, constitutionally adequate individualized custody hearing before a neutral decisionmaker with authority to grant release, at which the government bears the burden of justifying continued detention.

COUNT TWO

Violation of Petitioner's Order of Release

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

2. Regulations at 8 CFR § 236.1(c)(9) and (g) require specific procedures to release or revoke the release of an individual. This regulation also limits the authority to make these decisions to specific enumerated officers.

3. At the time Petitioner was detained, Petitioner's release on parole had not been lawfully revoked.

4. Respondents violated the provisions at 8 CFR § 236.1(c)(9) because they did not make individualized findings specific to Petitioner's circumstances.

5. Respondents violated the provisions at 8 CFR § 236.1(c)(9) because Petitioner's custody determination was not rendered by one of the specified officers.

6. Petitioner's detention is unlawful because the Department of Homeland Security violated the regulations and procedures at 8 CFR § 236.1(c)(9).

7. This unlawful detention and violation of existing regulations also violate the Administrative Procedure Act. See 5 U.S.C. § 706(2).

8 Petitioner requests release from detention because he has a valid order of release which has not been revoked

COUNT THREE

Violation of INA

1. Petitioner incorporates by reference the allegations of fact outlined in the preceding paragraphs.

2. 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 the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States before being apprehended and placed in removal proceedings by the Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

3. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT FOUR

Violation of the Accardi Doctrine with Respect to 8 C.F.R. § 287.8(c)(2)(i) and (ii)

1. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

2. Under the Accardi doctrine, federal agencies are required to follow their own binding regulations, and failure to do so renders resulting agency action unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). This principle applies with full force in immigration proceedings and is enforceable through habeas corpus where regulatory violations result in unlawful detention.

3. The United States has also failed to follow immigration-specific arrest and processing regulations. Regulations governing immigration enforcement require that warrantless arrests comply with the standards set forth in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present in the United States illegally. 8 C.F.R. § 287.8(c)(2)(i). And, for a **warrantless arrest, officers must also have reason to believe that an individual is "likely to escape before a warrant can be obtained."** 8 C.F.R. § 287.8(c)(2)(ii).

4. These regulatory requirements are mandatory, not discretionary. They impose substantive limitations on ICE's authority to conduct warrantless arrests in the interior of the United States and are designed to protect against arbitrary deprivations of liberty.

5. At the time that Petitioner was taken into ICE custody and at all times thereafter, he had complied with all immigration requirements, including appearing for his immigration proceedings and remaining available to immigration authorities. In fact, Petitioner was taken into custody while complying with an appointment scheduled by the very same government that now seeks to detain him.

6. Petitioner was not evading law enforcement, was not subject to any criminal investigation, posed no danger to any person or to the community, and presented no risk of flight.

There was no factual basis to conclude that Petitioner was "likely to escape before a warrant could be obtained," as required by 8 C.F.R. § 287.8(c)(2)(ii).

7. ICE officers, therefore, failed to comply with a mandatory regulatory prerequisite to a lawful warrantless arrest. This violation of DHS's own binding regulations renders Petitioner's arrest unlawful under the Accardi doctrine.

8. The consequences of this regulatory violation are not limited to the moment of arrest. Petitioner's ongoing detention flows directly from—and is predicated upon—the unlawful warrantless arrest conducted in violation of 8 C.F.R. § 287.8(c). Continued detention based on an arrest that contravenes binding regulations is itself unlawful.

9. Federal courts have repeatedly recognized that habeas corpus is an appropriate vehicle to remedy detention that results from an agency's failure to follow its own regulations, particularly where those regulations are designed to protect individual liberty. See *Accardi*, 347 U.S. at 267–68; St. Cyr, 533 U.S. at 301–05.

10. By arresting Petitioner without a warrant and without satisfying the regulatory requirements governing such arrests, DHS violated the Accardi doctrine and deprived Petitioner of liberty in a manner not authorized by law.

11. Habeas relief is therefore warranted. Petitioner respectfully requests that this Court grant the writ and order his immediate release from ICE custody or, in the alternative, provide appropriate relief to remedy the unlawful detention resulting from DHS's regulatory violations.

PRAYER FOR RELIEF

The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); see also *Schlup v. Delo*, 513 U.S. 298, 319 (1995)

("**[H]abeas corpus is, at its core, an equitable remedy**"). This Court should order a remedy that fully addresses the statutory and constitutional violations in this case and is efficient to administer. *Carafas v. LaVallee,* 391 U.S. 234, 238 (1968) (the habeas statute "does not limit the relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may be granted")

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

a. **Assume jurisdiction over this matter**;

b. Order that Petitioner **shall not be transferred** outside the Middle District of Georgia while this habeas petition is pending.

c. Issue an **Order to Show Cause** ordering Respondents to show cause why this Petition should not be granted within three days;

d. Declare that Petitioner's detention is unlawful;

e. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately. Immediate release is the most appropriate remedy given the Government's repeated use of unlawful detention policies across the country, which have caused petitioners to remain incarcerated while awaiting judicial intervention. Under these circumstances, ordering a bond hearing would only prolong the constitutional violation and impose additional delay;

f. In the alternative, at a minimum, the Court should order a bond hearing under 8 U.S.C. § 1226(a) with constitutionally required safeguards. Specifically, the Court should require that the Department of Homeland Security bear the burden of proving, by clear and convincing evidence, that continued detention is necessary to prevent flight or protect the community. This allocation of the burden reflects the fundamental due process principle that, because the deprivation of liberty is

severe, the detainee should not share the risk of error equally with the Government. See *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025);

g. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

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Attorney for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I William Matos or my co-counsel have discussed with the Petitioner the events described in this Petition. 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: May 19, 2026

S/ William Matos
William Matos Esq.