UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG DIVISION

ERICK LEONEL CRISTAL CUMES, **Petitioner,** **v.** **DAVID VENTURELLA, Acting Director, United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of Homeland Security; TODD BLANCHE, Acting United States Attorney General; JOHN RIFE, Field Office Director, Philadelphia Field Office, United States Immigration and Customs Enforcement; *in their official capacities*,** **Respondents.**	**Civ. Act. No.: 1:26-cv-00056-TSK** **Hon. Thomas S. Kleeh**

VERIFIED AMENDED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241[1]

1. Petitioner, Erick Leonel Cristal Cumes, by and through undersigned counsel, respectfully petitions this Honorable Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his ongoing civil immigration detention by the United States Department of Homeland Security On information and belief, Petitioner was arrested by Immigration and Customs Enforcement in Weston, West Virginia the afternoon of May 28 during a series of raids by Immigration and Customs Enforcement targeting employees of the Don Patron Mexican Grill,

[1] This Petition is amended as of right pursuant to Fed. R. Civ. P. 15(a)(1). In addition to other amendments, the Petition is amended to reflect that Petitioner Cristal Cumes is now directly prosecuting this action, rather than through his next friend, following communication with counsel.

a popular chain restaurant with locations in Bridgeport, Weston, and Elkins. On information and belief, Petitioner was detained within or near this District at or near the time of the filing of this petition on May 28, although he is presently apparently located in the Moshannon Valley Processing Center in Pennsylvania.

2. Petitioner seeks immediate release from immigration detention, or in the alternative, an order directing Respondents to provide him with a constitutionally adequate custody hearing before a neutral decisionmaker with authority to assess the necessity of detention and to order release on appropriate conditions.

3. On information and belief, Petitioner's current civil confinement is maintained without any individualized determination of flight risk, danger to the community, or the availability of conditions of release. This violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Civil immigration detention must bear a reasonable relation to its purported purpose and may not be imposed in a punitive, arbitrary, or unlawful manner. Accordingly, issuance of the writ of habeas corpus is warranted. *See, e.g.*, *Bekuradze v. Adams*, Civil Action No. 5:26-CV-18, ECF No. 10 (N.D. W.Va. Mar. 2, 2026) (Bailey, J.).

JURISDICTION & VENUE

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 2241 because Petitioner is in federal immigration custody and challenges the legality of his ongoing civil immigration detention by the United States Department of Homeland Security and its officers. The relief sought lies at the core of the writ of habeas corpus.

5. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action raises questions of federal law arising under the Constitution and laws of the United States, including the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

6. The Suspension Clause of the United States Constitution independently guarantees Petitioner the right to seek habeas corpus review to test the legality of his physical confinement where no other adequate and effective remedy exists.

7. Venue is proper in this District under 28 U.S.C. 1391 and 28 U.S.C. 2242 because Petitioner was arrested in this District and Petitioner's last known and verifiable location was in the District. Although Petitioner's location at the time of filing is not entirely certain, "a detainee must always have an available forum for a habeas petition, even if the government doesn't disclose their location." *Suri v. Trump*, No. 25-1560, 2025 WL 1806692, at *5 (4th Cir. July 1, 2025); *see also Linarez Vilchez v. Kluemper*, No. 3:26-0261, ECF No. 17 (S.D. W.Va. Apr. 16, 2026), p. 7:

> The unknown custodian exception applies to the facts of this case. Petitioner was arrested within the Southern District of West Virginia, and his last verified location was within the Southern District of West Virginia. . . . This District was the only available forum for Petitioner's habeas petition while the location o petitioner and his custodian were unknown. *Suri*, 2025 WL 1806692, at *5.

8. On information and belief, Petitioner was arrested in Weston, WV in the early afternoon of Thursday, May 28. Prior to filing the initial petition, counsel undertook efforts to attempt to locate Petitioner in custody and identify his custodian, including: searching for Petitioner via the West Virginia Department of Corrections and Rehabilitation Inmate Search tool and the ICE Online Detainee Locator System; emailing representatives of the West Virginia ICE Enforcement and Removal Operations ("ERO") Field Office; and calling the Pittsburgh ICE ERO Field Office. However, as of the time of the initial filing, counsel was unable to locate Petitioner or identify his present custodian. Documentation confirming that these emails were sent, these phone calls were placed, and these searches were made, and further details regarding such, can be provided to the extent necessary.

PARTIES

9. Petitioner Erick Leonel Cristal Cumes is a resident of Weston, West Virginia, who is detained in the custody of Respondents.

10. Respondent John Rife is the Field Office Director responsible for the Philadelphia Field Office of ICE with administrative jurisdiction over Petitioners' immigration case. He is a legal custodian of Petitioner and is named in his official capacity.

11. Respondent David Venturella is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

12. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security (DHS). He is a legal custodian of Petitioner and is named in his official capacity.

13. Respondent Todd Blanche is the Acting Attorney General of the United States Department of Justice. He is a legal custodian of Petitioner and is named in his official capacity.

FACTUAL BACKGROUND

14. Petitioner Erick Leonel Cristal Cumes was arrested in Weston, WV on the afternoon of Thursday, May 28, during a series of ICE raids targeting employees of the Don Patron Mexican Grill.

15. On information and belief, Petitioner has no criminal history during his time in the United States. Petitioner resides in the Weston are with substantial community ties, including his wife, Lauren Pellian, a native of West Virginia. Ms. Pellian served as Petitioner's next friend prior to counsel's direct contact with Petitioner.

16. Petitioner is currently detained in the custody of Immigration and Customs Enforcement. On information and belief, Petitioner's detention is civil and administrative in nature

and is not based on any criminal conviction or charge. While detained, Petitioner remains physically confined and deprived of his liberty.

17. On information and belief, no immigration officer or decisionmaker has determined that physical confinement is justified by a legitimate governmental purpose in Petitioner's case—i.e., the risk of flight or danger to the community. *See Miranda v. Garland*, 34 F.4th 338, 362 (4th Cir. 2022). On information and belief, no immigration officer, Immigration Judge, or other judge or magistrate has conducted an individualized custody determination assessing whether Petitioner's continued detention is necessary to address flight risk, danger to the community, or the availability of conditions of release. *See Id.*

18. Petitioner's detention has imposed significant restraint on his freedom of movement and personal autonomy. On information and belief, there has been and will be no mechanism by which Petitioner will receive a meaningful opportunity to challenge the necessity of his continued detention. Absent judicial intervention, Petitioner will remain detained without an opportunity to contest whether his continued confinement is lawful, necessary, or justified.

STANDARD OF LAW

19. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The "Great Writ" has been referred to by US Courts as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (cleaned up). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law, 28 U.S.C. § 2241(c)(3), which should be granted if the petitioner meets their burden of proof–a preponderance of evidence. *See Post v.*

Boles, 332 F.2d 738, 742 (4th Cir. 1964); *see also, e.g.*, *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947, at *3 (D. Minn. 2025) (collecting cases).

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

21. Detained immigrants challenging their confinement as unlawful face no statutory exhaustion requirements. *Miranda*, 34 F.4th at 351. This Court's colleagues in the Southern District of West Virginia have universally declined to require prudential exhaustion when evaluating a detained immigrant's petition under similar circumstances. *See, e.g.*, *Briceno Solano v. Mason*, No. 2:26-CV-00045, 2026 WL 311624, at *8 (S.D. W.Va. Feb. 4, 2026) (Johnston, J.).

22. "[T]he Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see also, e.g.*, *Briceno Solano*, 818 F. Supp. 3d at 812:

> The law is clear: all persons present within our country are entitled to due process. The plain text of our Constitution says this explicitly. . . .
>
> [F]or a person deprived of their liberty without due process, it can be the most important thing in their life, and its denial the worst that has ever happened to them.

23. It is no secret that this country is currently experiencing a massive uptick in unlawful civil immigration detentions. *See, e.g.*, *Umarov v. Mason* No. 2:26-cv-00081, 2026 WL 381614, at *1 (S.D. W.Va. Feb. 11, 2026) (Berger, J.) ("As dozens, perhaps hundreds, of courts have found in thousands of cases in recent months, the United States government has again violated

the United States Constitution by arresting and detaining a person without due process and without statutory authority.").

24. As Judge Berger of the Southern District of West Virginia has noted, "[o]ther courts have found that DHS is detaining people 'to fulfill an arrest quota' rather than based on any individual determination that those detained pose a danger or flight risk." *Id.* at *2, *citing Rangel v. Knight*, No. 1:25-CV-00607-BLW, 2025 WL 3229000, at *8 (D. Idaho Nov. 19, 2025) and *Pichardo Medina v. Hermosilla*, No. 3:25-CV-02233-MC, 2025 WL 3712271, at fn. 6 (D. Or. Dec. 22, 2025).

25. The "default rule" is that detention of immigrants already present in the United States and subject to pending removal proceedings is governed by 8 U.S.C. § 1226(a) and its implementing regulations. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Under this default rule, detained immigrants are constitutionally and statutorily entitled to both an initial custody determination by an immigration officer and a prompt bond hearing. *See, e.g.*, *Campos-Flores v. Bondi*, No. 3:25cv797, 2025 WL 3461551, at *7, 2025 U.S. Dist. LEXIS 235303 (E.D. Va. Dec. 2, 2025); *Lopez v. Lyons*, No. 1:25-cv-01838-AJT-IDD, 2025 WL 3285493, 2025 U.S. Dist. LEXIS 232158 (E.D. Va. Nov. 25, 2025); *Miranda*, 34 F.4th at 362; *Tumba v. Francis*, No. 25-CV-8110 (LJL), 2025 WL 3079014, at *7 (S.D.N.Y. Nov. 4, 2025).

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Petitioner is being deprived of an adequate and meaningful process to challenge his ongoing confinement

26. Petitioner realleges and incorporate by reference the allegations contained above.

27. Petitioner has due process rights as a resident of the United States. *Zadvydas*, 533 U.S. at 693.

28. Civil immigration detention is constitutionally permissible only when it is reasonably related to a legitimate governmental purpose and is accompanied by adequate procedural safeguards. Detention that becomes arbitrary or imposed without proper statutory authority violates the Due Process Clause.

29. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

30. Here, all three factors favor the petitioner.

31. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."). Petitioner currently experiences the gamut of deprivations that come with physical detention, including separation from his family and his community, barriers to full participation in immigration proceedings, and forced imprisonment under inhumane conditions.

32. Second, Petitioner has already been deprived of this interest and will continue to be deprived of this interest if the current procedure (detaining Petitioner without a legal basis) is followed. On information and belief, Petitioner has not and will not receive an initial custody determination, as he has been jailed based on an alleged civil immigration violation without consideration of his individual circumstances indicating a lack of threat to the community or risk of flight. *See Miranda*, 34 F.4th at 362 (first opportunity for release under 1226(a) occurs "almost immediately" after arrest); *Tumba*, 2025 WL 3079014, at *7 (holding that the violation of Petitioner's due process rights "originated with her detention in the first instance."); *Rodriguez v. Mason*, No. 2:26-CV-00122, 2026 WL 510426, at *2 (S.D. W.Va. Feb. 24, 2026) (Berger, J.) (holding that detention without "an individualized determination regarding whether the Petitioner should be detained or released" violated the INA and the Due Process Clause).

33. Lastly, the Government has no legitimate interest in refusing to follow its own rules. On information and belief, no evidence indicates that Petitioner poses any safety threat to the community or risk of absconding. Releasing him, or holding a hearing to release him on bond, would in fact *save* the government the resources and expense of continuing to imprison them.

34. The placement of Petitioner in detention pending the resolution of his immigration court proceedings violates Petitioner's constitutional right to due process guaranteed by the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

Petitioner's Detention without an Initial Custody Determination Violates his Statutory Rights Under 8 U.S.C. § 1226(a).

35. Petitioner realleges and incorporate by reference the allegations contained above.

36. Respondents' attempt to apply mandatory detention through 8 U.S.C. § 1225(b)(2) to Petitioner violates the Immigration and Nationality Act.

37. Further, on information and belief, Petitioner's detention is *ultra vires* in violation of 8 U.S.C. § 1357(a)(2) and § 1226(a), in that the detention was initiated in the absence of a valid, signed warrant or valid warrantless arrest authority.[2] On information and belief, at the time that Petitioner was arrested, no Notice to Appear ("NTA") had been issued to initiate removal proceedings against Petitioner. *See* 8 U.S.C. §§ 1229a; 1229(a)(1)-(2). Under binding agency regulations, an administrative warrant may only be issued at the time of or *after* the issuance of an NTA—not before. 8 C.F.R. § 236.1(b). *See Martha C.G.P. v. Blanche*, No. CV 26-2308 (DWF/JFD), 2026 WL 1329577, at *3 (D. Minn. May 13, 2026) (finding that I-200 warrant issued prior to issuance of NTA was invalid and ordering immediate release of petitioner).

38. On information and belief, Respondents have used the same procedures to arrest and detain Petitioner that numerous courts, including Judge Bailey and the four jurists in the Southern District of West Virginia to have considered the issue, have resoundingly rejected as unlawful.

39. On information and belief, Petitioner is thus detained without being afforded an opportunity to advocate for his release back into his community as the law requires. In the absence of an individualized custody determination, Petitioner's continued detention is not meaningfully tethered to the limited statutory purposes authorized by the Immigration and Nationality Act.

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[2] While counsel is aware that an administrative *search warrant* was issued in connection with Petitioner's arrest, counsel is unaware of any *arrest warrant* properly issued for Petitioner. To the extent Respondents submit that a validly issued warrant justifies Petitioner's detention, Petitioner demands strict proof thereof, including production of any such warrant, and reserves the right to assert any deficiencies with respect to any such warrant once produced.

COUNT THREE
Violation of the Suspension Clause of the United States Constitution

40. Petitioner realleges and incorporates by reference the allegations contained above.

41. The Suspension Clause of the United States Constitution provides that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. The Suspension Clause guarantees the availability of judicial review to test the legality of executive detention.

42. Where no adequate and effective administrative substitute exists to permit review of executive detention, habeas corpus remains the sole means through which a detained individual may challenge the lawfulness of confinement.

43. Absent access to habeas corpus review, Petitioner would have no forum in which to test whether their continued civil immigration detention exceeds the limits imposed by the Immigration and Nationality Act and the Constitution.

44. The Suspension Clause forbids the government from maintaining a detention framework that eliminates all meaningful opportunity for a detainee to challenge the legality of executive confinement.

45. Petitioner's continued civil immigration detention, without any individualized custody review, falls within the core protections safeguarded by the Suspension Clause.

46. By continuing to detain Petitioner under civil immigration authority without providing any meaningful mechanism to challenge the legality of their confinement, Respondents have violated the Suspension Clause of the United States Constitution.

REMEDY

47. The most appropriate remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be released.

48. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

49. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

50. Respondents likely will argue that Petitioner's remedy is a bond hearing as opposed to outright release. Like numerous other courts across the country, Judge Bailey and all four jurists in the Southern District of West Virginia who have ruled on this issue have found that immediate release is the appropriate remedy when a Petitioner challenges their unlawful detention under Respondents' current policy of subjecting noncitizens residing within the United States to mandatory incarceration under § 1225(b). *Bekuradze*, Civil Action No. 5:26-CV-18, ECF No. 10, at p. 11; *Briceno Solano*, 818 F. Supp. 3d at 836 (ordering petitioner's immediate release and prohibiting Respondents from re-arresting and detaining petitioner pending further order of the Court); *Estrada Reyes v. Aldridge*, No. 3:26-0084 at *4 n. 6 (S.D. W.Va. Feb. 13, 2026) (Chambers, J.) (same); *Perez v. Mason*, No. 2:26-cv-00108, 2026 WL 508816, at *2 n. 1 (Berger, J.) (same); *Larrazabal-Gonzalez v. Mason*, No. 2:26-CV-00049, 2026 WL 221706, at *6 (S.D. W.Va. Jan. 28, 2026) (Goodwin, J.).

51. *See also, e.g.*, *Luna Sanchez v. Bondi*, No. 1:25-cv-018888-MSN-IDD, 2025 WL 3191922 (E.D. Va. Nov. 14, 2025); *Kerry-Juma v. Noem*, No. SAG-25-04000, 2025 WL 3537525 (D. Md. Dec. 10, 2025); *Chacon v. Hermosilla*, No. 2:25-cv-022990-TMC, 2025 WL 3562666 (W.D. Wash. Dec. 12, 2025); *Resendiz v. Noem*, No. 4:25-CV-00159-GNS, 2025 WL 3527284 (W.D. Ky. Dec. 9, 2025); *Luna v. Warden*, No. EP-25-CV-00565-DCG, 2025 WL 3787494,

(W.D. Tex. Dec. 29, 2025); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110, *4-5 (N.D. Cal. Sept. 3, 2025); *Diego L. v. Bondi*, No. 26-CV-382, 2026 WL 145206, at *3-4 (D. Minn. Jan. 20, 2026) (Nelson, J.); *Washington G. v. Bondi*, No. 26-CV-250, 2026 WL 125173, at *1, *3 (D. Minn. Jan. 16, 2026) (Bryan, J.); *Juan R. v. Bondi*, No. 26-cv-252, 2026 WL 125255, at *2-3 (D. Minn. Jan. 16, 2026) (Nelson, J.); *Ahmed M. v. Bondi*, No. 25-cv-4711, 2026 WL 25627, at *3 (D. Minn. 2026) (Tostrud, J.); *Tzi v. Jamison*, No. 26-0099, 2026 WL 116486, at *3 (E.D. Pa. Jan. 15, 2026); *Cristancho Nava v. Jamison*, No. 26-151, 2026 WL 126152 (E.D. Pa. Jan. 16, 2026); *Mardet v. Jamison*, No. 25-7169, 2025 WL 3772152 (E.D. Pa. Dec. 31, 2025); *Jaigua v. Jamison*, No. 25-7115, 2025 WL 3757076 (E.D. Pa. Dec. 29, 2025); *Rodriguez v. Rokosky* No. 25-17419 (CPO), 2025 WL 3485628 (D.N.J. Dec. 3, 2025) ("the Court declines to allow Respondents to transform an unlawful detention into a lawful one through alternative, retrospective, *post hoc* justification"); *Zheng v. Rokosky*, Case No. 26-cv-01689, ___ F.Supp.3d ___, 2026 WL 800203 at *11 (D.N.J. Mar. 23, 2026) (footnote omitted):

> This Court, following many others around the country, no longer orders even initial bond hearings in cases . . . involving unlawful detention under § 1225(b) because Respondents' conduct can no longer be attributed to mere negligence or ineptitude . . . and doing so would effectively allow the Government to transform an unlawful detention into a lawful one through *post-hoc* justifications. . . . The Court's change of remedy in such cases has been vindicated by the facts of this case.

See also id., at *11 n. 14 (collecting cases).

52. While many of the recent decisions regarding § 1225 and § 1226 focus exclusively on the second opportunity for release discussed in *Miranda*—i.e., detainees' right to a bond hearing—Petitioner here is not merely entitled to a bond hearing following his arrest. He was also entitled to an *ex ante* release determination by an immigration officer prior to their incarceration. On information and belief, here, Petitioner was afforded no such individualized determination by

any immigration officer. This due process violation cannot be remedied by a *post facto* bond hearing following unlawful incarceration. Immediate release is the only adequate remedy.

53. Additionally, implicit in the *Miranda* court's holding that the three-step custody determination process afforded to persons detained under § 1226 is constitutionally adequate is the assumption that immigrants will be afforded *fair* hearings in front of *neutral* immigration judges. This assumption is increasingly untenable. *See Exhibit A, Declaration of Jorge E. Artieda of January 28, 2026.* In the attached declaration, Mr. Artieda—former legal counsel to ICE in Washington D.C. and Virginia—details evidence of what "appears to be a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus" through the reassignment of Immigration Judges and the use of pretextual and legally insufficient rationales for denying bond. *See id.* at ¶¶ 1-2, 16-20, 26, 32 and generally.

54. *See also Exhibit B, Affidavit of Lawerence O. Burman of February 13, 2026.* Mr. Burman—who served as counsel for Immigration and Naturalization Services from 1988 to 1998 and then as an Immigration Judge from April 1998 until December 31, 2025—presided over both detained and non-detained immigration court dockets in his 27 years as an Immigration Judge. *Id.* at ¶¶ 3-8. In his affidavit, he attests to "a troubling trend of Immigration Judges being terminated without explanation or notice" since January 2025 and notes that he has "never witnessed such a high level of turnover" during his 27 years on the bench. *Id.* at ¶ 18. Mr. Burman attests that, based on his "conversations with the immigration bench and professional organizations, including the National Association of Immigration Judges (of which [he] was an officer), it is clear that judges were removed for their strong commitment to due process for those appearing before them." *Id.* at ¶ 19. Mr. Burman attests to "increasing concern among members of the bench about institutional intimidation and the perception that decisions unfavorable to the government could negatively

affect judicial tenure." *Id.* at ¶ 20. Mr. Burman concludes his affidavit by expressing his "concern[ ] that the notable rise in bond denials and adverse case outcomes undermines due process and erodes confidence in the Immigration Court system" *Id.* at ¶ 21. This affidavit and Mr. Artieda's declaration corroborate each other in substantial part, including with respect to the recent, abrupt reassignment of multiple Immigration Judges on the Annandale, Virginia detained docket. *See id.* at ¶¶ 15-17; *Exhibit A* at ¶¶ 12-15.

55. Furthermore, per a recent article in the New York Times, chief immigration judge Teresa Riley "has received daily reports about bond rulings, according to a Justice Department Material. *Exhibit C, How Trump Purged Immigration Judges to Speed up Deportations*, p. 17. According to three people Judge Riley's "office has sometimes emailed judges asking for an explanation about their decisions to grant bond[.]" *Id.* As reported in the article, per one current immigration judge, "pressure to deny bond is overt." *Id.* This judge reported "that there was a requirement to inform a supervisor every time bond was granted[.]" *Id.*

56. Far from disputing the veracity of this reporting, the White House has, in fact, affirmed it. *See* "Era of Amnesty Is Over: President Trump Restores Rule of Law to Immigration Courts," April 9, 2026, https://www.whitehouse.gov/releases/2026/04/era-of-amnesty-is-over-president-trump-restores-rule-of-law-to-immigration-courts/ (last accessed May 21, 2026) (PDF printout attached as *Exhibit D*) (citing *Exhibit C* approvingly and declaring that President Trump is "replacing activist judges—who slow-walked deportations and granted asylum at sky-high rates—with professional committed to enforcing the law, not undermining it").

57. Given the extent of "systematic[ ] pressure[ ]" on immigration judges, who may be fired if "seen as insufficiently supportive of the president's aggressive enforcement agenda," *see id.* at 2, immigration judges now have a pecuniary interest in denying bond to detained immigrants,

creating an obvious structural due process problem in EOIR bond proceedings. *See, e g , Caperton v. A.T. Massey Coal Co , Inc.*, 556 U.S. 868, 891 (2009) (*quoting Tumey v. Ohio*, 273 U.S. 510, 523) (reaffirming the "well established" principle that the Due Process Clause requires disqualification where a judge has a "direct, substantial, pecuniary interest" in the outcome of a case).

58. "[T]he mounting evidence that bond determination hearings conducted in Immigration Court under § 1226(a) have preordained outcomes has become impossible to ignore." *Singh v. Valdez*, Case No. 26-cv-1109-WJM, 2026 WL 890240, at *5 (D. Colo. Apr. 1, 2026). This Court "cannot ignore that the circumstances surrounding [immigration court bond] proceedings raise substantial concerns as to whether any non-citizen can receive the impartial hearing that due process requires." *Zheng*, Case No. 26-cv-01689, ___ F.Supp.3d ___, 2026 WL 800203, at *7 (recognizing that "Respondents have reportedly terminated nearly one hundred IJs in recent months" and "now openly advertise these vacancies for 'deportation' judges"). *See also YOU BE THE JUDGE*, U.S. Dep't of Just., https://join.justice.gov/ (last accessed May 21, 2026) (PDF printout attached as *Exhibit E*) (advertising starting salaries and base pay recruitment incentives for "deportation" judges); Marco Poggio, "Judges See an Immigration Court Gutted from Inside," Law 360, (Oct. 31, 2025), https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside (last accessed May 21, 2026):

> "The linchpin of any court system is that the decision-maker has to be an independent, impartial decision-maker," [A. Ashley Tabaddor, former immigration judge and past president of the National Association of Immigration Judges"] said. "You cannot go into court knowing that your judge is afraid of losing his or her job if they rule against the government."
>
> Elizabeth Young, another former judge who presided in immigration court in San Francisco, said the administration is using fear to push judges to make certain decisions. Judges who are still serving tell her they feel the pressure.

> "I've talked to many of them, 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'," she said.

59. A bond hearing in front of an immigration judge is an inadequate remedy if Respondents cannot establish that the hearing officer will be a genuinely neutral and detached decisionmaker, rather than an agent of the executive branch under circumstances indicating a substantial likelihood of bias. *See Briceno Solano*, 2026 WL 311624, at *20; *see also, e.g.*, *Hamdi*, 542 U.S. at 533.

60. To the extent this Court deems a bond hearing the appropriate remedy, Petitioner respectfully requests that the Court order that he be released unless a bond hearing at which the government bears the burden of proof, is held within seven (7) days of this Court's order. *See Campos-Flores*, No. 3:25cv797, 2025 WL 3461551, at *7, 2025 U.S. Dist. LEXIS 235303; *Lopez*, No. 1:25-cv-01838-AJT-IDD, 2025 WL 3285493, at *3, 2025 U.S. Dist. LEXIS 232158.

61. Additionally, any bond hearing must be held before a neutral and detached court—i.e., *not* an immigration court.

PRAYER FOR RELIEF

Petitioner therefore respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately, or in the alternative afforded a bond hearing before a neutral judge, at which the government bears the burden to prove by clear and convincing evidence that continued detention is justified based on danger to the community or risk of flight;

3. Declare that Petitioner's continued detention violates the Immigration and Nationality Act, its implementing regulations, and the Due Process Clause of the Fifth Amendment to the United States Constitution;
4. Permanently enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1225 and enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1226 absent notice, a reasonable opportunity to obtain counsel, a hearing before a neutral officer at which Respondents bear the burden of justifying the detention under a clear and convincing evidence standard, and prior leave of this Court;
5. Permanently enjoin Respondents from imposing any conditions or restraints on Petitioner's liberty (including but not limited to an ankle monitor, curfew, or electronic monitoring) pending the adjudication of Petitioner's immigration case without an individualized assessment of the need for such restraints and a hearing before a neutral decisionmaker[3]
6. Order that Petitioner be released with all property seized incident to his detention, including legal documents and any vehicle, and specify that this property must be available to him at the time of his release;[4] and

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[3] *See Jimenez*, No. CV 3:26-0327, 2026 WL 1397057, at *5 (S.D. W.Va. May 19, 2026):

> Petitioners' initial detention was unlawful, and all conditions imposed pursuant to it – including electronic monitoring, participation in U.S. Department of Homeland Security's Alternatives to Detention Program, and reporting obligations in Brooklyn, Ohio – are **VACATED**.
>
> Respondents are **PERMANENTLY ENJOINED** from detaining Petitioners or subjecting them to conditions of release during the pendency of their removal proceedings under § 1226(a) unless and until it is determined that such is warranted with a constitutionally adequate pre-deprivation hearing evaluating flight risk or a danger to the community.

[4] *See, e.g.*, *Shailookul Uulu v. Aldridge, et al.*, No. 3:26-cv-00073, ECF No. 27 (Chambers, J.) ("The Court further **ORDERS** Respondents to facilitate the prompt return of any of Petitioner's

7. Grant such other and further relief as the Court deems just and proper.

Dated: June 5, 2026

Respectfully submitted,
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seized property, including legal documents"); *Gutierrez Aroca v. Mason*, No. 2:26-cv-00057, ECF No. 30 (Goodwin, J.) ("Respondents are **DIRECTED** to return all seized personal items of the Petitioners."); *Serna Zar[ate] v. Mason*, No. 2:26-00069, ECF No. 29 (Johnston, J.) ("[T]he Court further **ORDERS** that any personal possessions belonging to Petitioner Romero, including identification and other documentation to include legal documents, be returned to him."); *Perez v. Mason*, No. 2:26-cv-00108, ECF No. 23, p. 1 (Berger, J.) ("The Court further **ORDERS** that all of the Petitioners' personal belongings, including identification, work authorization, and any other documentation, be returned to them **upon release**.").