

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

JOSE MONTES ESPARZA ,

Petitioner,

v.

WARDEN, FOLKSTON ICE
PROCESSING CENTER, in their official
capacity; KRISTI NOEM, in her official
capacity as Secretary of Department of
Homeland Security; TODD LYONS in his
official capacity as Acting Director of
Immigration and Customs Enforcement;
GEORGE STERLING in his official
capacity as Deputy Field Office Director of
the Atlanta Field Office, Immigration and
Customs Enforcement.

Respondents.

Civil Action No.:

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO 28
U.S.C. § 2241**

INTRODUCTION

1. Petitioner Jose Montes Esparza is a Mexican citizen born in  1978. He entered the United States without inspection in 1997 at the age of 19 and has resided here for nearly three decades. He is married and the father of five U.S. citizen children, including a 10-year-old son with autism who depends on Petitioner's care and parental support. Petitioner is currently detained at Folkston ICE Processing Center where he remains separated from his wife and children.

2. Petitioner has no criminal record, and with the exception of his entry in 1997, he has no prior immigration violations. He is eligible to seek relief from removal under cancellation of removal and as a derivative beneficiary of his wife's approved U visa status. Prior to his detention, Petitioner was the primary provider for this family.

3. On June 10, 2025, Respondent Immigration and Customs Enforcement (ICE) arrested and detained Petitioner. On July 11, 2025, following a full hearing on Petitioner's custody, an Immigration Judge (IJ) determined that Petitioner was entitled to release under 8 U.S.C. § 1226(a) because he an individual in removal proceedings who has been residing in the United States for many years. The IJ further found that Petitioner is neither a flight risk, nor dangerous and granted his release on bond. **See Exhibit A, IJ Bond Determination.**

4. This case involves the interpretation of the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2). The well-established construction of these provisions and Respondents' longstanding agency practice, is that Section 1226(a) pertains to noncitizens already living in the United States, while Section 1225 pertains to individuals seeking admission into the United States—whether abroad or at a port of entry—or those who are apprehended attempting to enter the country.

5. Under 8 U.S.C. § 1226(a) and corresponding regulations, an individual in standard removal proceedings, like Petitioner, may be released on bond following a bond redetermination hearing before an IJ, *see* 8 U.S.C. § 1226(a), 8 C.F.R. § 1236.1(d), whereas an individual seeking admission to the United States is detained under Section 1225(b) and subject to mandatory detention. *See* 8 U.S.C. § 1225(b)(2).

6. Respondents appealed the IJ's bond decision to the Board of Immigration Appeals (BIA) and unilaterally invoked the automatic stay provisions at 8 C.F.R. §§ 1003.6 (c), 1003.19(i)(2). Respondents do not challenge the IJ's determination regarding flight risk or dangerousness—only the IJ's exercise of jurisdiction under a well-established construction of the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b).

7. Despite the IJ's sound determination granting Petitioner's release on bond, Respondents continue to detain him at Folkston ICE Processing Center while they appeal—a process that can take many months.

8. Respondents' continued deprivation of Petitioner's liberty interest is significant given that he was granted bond over a month ago. Petitioner challenges his detention as a violation of the Immigration and Nationality Act (INA), Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act (APA). Without an order from this Court, Petitioner is subject to continued detention in violation of his constitutional rights.

9. Accordingly, Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order Respondents to release him from custody pursuant to the IJ's July 11, 2025 order.

CUSTODY

10. Petitioner is in the physical custody of Respondents. He is imprisoned at Folkston ICE Processing Center, an immigration detention facility within D. Ray James Correctional Facility located in Folkston, Georgia. Petitioner is detained in Georgia and under the direct control of Respondents and their agents.

JURISDICTION

11. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq.*

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

13. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the APA, 5 U.S.C. § 701, *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

14. Nothing in the Immigration and Nationality Act (INA) deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(a)(5), 1252(b)(9), 1225(g), or 1226(e). District courts have jurisdiction under 28 U.S.C. § 2241 to decide habeas claims by individuals challenging the lawfulness or constitutionality of their civil immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

15. Petitioner’s sole challenge is to the fact of his detention—not any aspect of his removal proceedings. Challenges to the “fact or duration of confinement fall within the core of habeas corpus.” *Vaz v. Skinner*, 634 F. App’x 778, 780 (11th Cir. 2015); *see Preiser v. Rodriguez*, 411 U.S. 475, 486 (1973). Because Petitioner does not have a final order of removal and does not challenge any aspect of his underlying removal proceedings, his habeas petition is not subject to the jurisdictional provisions of Section 1252. *See* 8 U.S.C. §§ 1252(a)(5), (b)(9), and (g); *see also Jennings*, 583 U.S. at 293-94 (noting Sections 1252(b)(9) and (g) do not apply to a habeas petition that does not challenge a removal order, decision to detain or remove, or aspect of removal proceedings).

16. Likewise, Section 1226(e) does not bar habeas review, such as here, where petitioner asserts a statutory or constitutional challenge to detention. *See, e.g., Demore*, 538 U.S. 510, 517 (2003) (finding that “Section 1226(e) contains no explicit provision barring habeas review”); *J.G. v. Warden*, No. 7:20-CV-93 (HL), 2021 U.S. Dist. LEXIS 227248, at *4 (M.D. Ga. Jan. 15, 2021) (analyzing Section 1226(e) and holding habeas review is not barred). *Mehmood v. Sessions*, No.

18-cv-21095-Scola, 2018 U.S. Dist. LEXIS 202463, at *27 n.20 (S.D. Fla. Nov. 28, 2018) (same, citing cases).

VENUE

17. Venue is proper under 8 U.S.C. § 1391 because Respondents, all of whom are officers, employees, or agencies of the United States, have detained Petitioner at the Folkston ICE Processing Center, which is within the jurisdiction of this District. In addition, venue is proper in this District because a substantial part of the events giving rise to Petitioner's claims occurred in this District.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. Although there is no statutory exhaustion requirement in 28 U.S.C § 2241, Petitioner has exhausted all administrative remedies available.

19. On August 28, 2025, Petitioner, through undersigned counsel, submitted a request to Respondents for discretionary release under humanitarian parole. As of the filing of this Petition, Respondents have not responded to Petitioner's request.

PARTIES

20. Petitioner Jose Montes Esparza has been in ICE custody since June 10, 2025, when he was arrested by ICE agents. He remains detained at Folkston ICE Processing Center in Folkston, Georgia. Before detention, Petitioner resided in Jonesboro, Georgia with his wife and children.

21. Respondent Warden of Folkston ICE Processing Center is sued in his or her official capacity as the individual is in charge of the facility where Petitioner is currently detained. He or she is the immediate custodian of Petitioner and has the authority to release him.

22. Respondent Kristi Noem is sued in her official capacity as the Secretary of Department of Homeland Security. Respondent Noem is responsible for the implementation and enforcement of

the INA, and oversees ICE, which is the agency responsible for Petitioner's detention. She is the legal custodian of Petitioner and has the authority to release him.

23. Respondent Todd M. Lyons is sued in his official capacity as the Acting Director of ICE, a component agency of the Department of Homeland Security. Respondent Lyons has authority over the operations of ICE and broad authority over the enforcement of immigration laws. He is the legal custodian of Petitioner and has the authority to release him.

24. Respondent George Sterling is sued in his official capacity as Deputy Field Officer Director responsible for the Atlanta Field Office of ICE. He is the legal custodian of Petitioner and has the authority to release him.

FACTUAL ALLEGATIONS

25. Petitioner Jose Montes Esparza is 47 years old and a native and citizen of Mexican. At 19 years old, he entered the United States at an unknown place in early May 1997. **Exhibit B, Notice to Appear (NTA)** at 2. He has lived in the United States for 28 years and has no criminal record. *See id.* Petitioner is married and has five U.S. citizen children ranging from age 10 to 21. His youngest son was diagnosed with autism in 2022.

26. On June 10, 2025, ICE agents detained Petitioner while he was parked at a shopping center in Morrow, Georgia. Ex. B. at 2. Respondents issued Form I-862, Notice to Appear and charged him as removable as an "alien present in the United States without being admitted or paroled, or who arrived in the United States at a time and place other than as designated by the Attorney General." *Id.* at 2, 3; *see* 8 U.S.C. § 1182(a)(6)(A)(i). In the NTA, Respondents stated that Petitioner's case was "amenable to be processed as Notice to Appear (Detained) under section 240 of the INA [8 U.S.C. § 1229a]." Ex. B. at 2.

27. On July 7, 2025, through undersigned counsel, Petitioner requested a bond redetermination hearing before the Immigration Court. *See* Ex. A; 8 C.F.R. § 1236.1(d)(1) (authorizing IJ jurisdiction to review initial custody determinations). An IJ held a bond hearing on July 11, 2025. Ex. A. at 1. After full consideration, the IJ granted bond and ordered Petitioner’s “release from custody under bond of \$5,000.00.” *Id.* In making her decision, the IJ first determined that Petitioner was subject to detention under 8 U.S.C. § 1226(a) and not 8 U.S.C. § 1225(b)(2) because was not an applicant for admission. *Id.* at 3–5. Next, the IJ found that Petitioner was not a danger to the community mainly because he has no criminal record and no prior history of immigration violations, other than his initial entry into the United States without inspection over 28 years ago. *Id.* at 6. Regarding flight risk, the IJ determined that Petitioner would appear for his immigration proceedings and that any flight risk could be ameliorated by bond. *Id.* at 6–7.

28. The same day, Respondents filed a Notice of Intent to Appeal the IJ’s decision to the Board of Immigration Appeals (BIA). **Exhibit. C, Appeal Documents** at 1. On July 21, 2025, Respondents filed a Notice of Appeal, based on their position that Petitioner is an applicant for admission and subject to mandatory detention under Section 1225(b)(2)—despite encountering him in Morrow, Georgia decades after his initial entry. *Id.* at 5.

29. Respondents invoked the stay provisions at 8 C.F.R. §§ 1003.6(c), 1003.19(i)(2), which allows for an automatic stay up to 90 or 120 days. However by taking certain actions under the stay provisions, Respondents can continue extending the automatic stay well beyond 120 days pending the BIA’s resolution of Respondents’ appeal. at 8 C.F.R. § 1003.6(c)-(d).

30. To preserve an automatic stay, Respondents “shall file with the Notice of Appeal a certification by a senior legal official.” *Id.* § 1003.6(c)(1). The certification must state that the official approved the filing of the Notice of Appeal and is satisfied that continued detention is

supported by evidence and legally justified under current law or a reasonable argument for changing it. *Id.* § 1003.6(c)(1)(i)-(ii).

31. At the time of filing the Notice of Appeal, Respondents failed to include EOIR-43, Senior Legal Official Certification (Certification) as required to preserve the automatic stay under 8 C.F.R. § 1003.6(c)(1). *See Exhibit D, Official Certification* at 2. Respondents eventually filed the Certification on July 24, 2025, attesting that the evidentiary record supports continued detention and the legal arguments on appeal are warranted based on Petitioner “being subject to mandatory detention *pursuant to 236(c) of the INA, 8 U.S.C. § 1226(c).*” *See id.* at 4 (emphasis added).

32. Petitioner is not and cannot be subject to detention under Section 1226(c) because that provision pertains specifically to individuals with applicable criminal offenses. *See* 8 U.S.C. § 1226(c) (mandating “detention of criminal aliens”). As ICE acknowledged in the NTA, Petitioner has no criminal history. Ex. B at 2.

33. Petitioner is in ICE custody and remains detained at Folkston ICE Processing Center pending the outcome of the BIA appeal. He is not afforded an opportunity to challenge the imposition of the automatic stay provisions or his continued detention, even though Respondents failed to timely file the Certification, certified appeal based on an unsupported assertion of mandatory detention under Section 1226(c), and advance a tenuous interpretation of Section 1225(b)(2).

34. Petitioner faces significant hardship and a serious deprivation of his fundamental right to be free from arbitrary detention. In addition to the loss of his freedom, Petitioner’s continued detention hinders his and undersigned counsel’s ability to prepare for his immigration proceedings. Due to Petitioner’s detention, the limited visiting hours at Folkston ICE Processing Center, and the

facility's distance from his family in Jonesboro, Petitioner is unable to spend any appreciable time with his children, including his 10-year-old son with autism who relies on Petitioner for support.

LEGAL FRAMEWORK

19. “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. *Zadvydas*, 533 U.S. at 690. All individuals within the United States, including noncitizens, are entitled to due process. *Id.* at 693. Federal courts are empowered to hear claims by noncitizens challenging the constitutionality of their detention. *See Demore*, 538 U.S. at 516–17.

Detention Authority

20. There are three statutes that govern civil immigration detention. *See* 8 U.S.C. §§ 1225, 1226, 1231.

21. Section 1226(a) authorizes discretionary detention of noncitizens in standard removal proceedings under 8 U.S.C. § 1229a. Noncitizens in detention under Section 1226(a) are entitled to an initial bond hearing. *Jennings*, 583 U.S. at 306 (noting “[f]ederal regulations provide that aliens detained under §1226(a) receive bond hearings at the outset of detention.”); 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a). Within Section 1226 is a carve-out provision that subjects noncitizens with applicable criminal history to mandatory detention. 8 U.S.C. § 1226(c).

22. Section 1225 authorizes mandatory detention of individuals subject to expedited removal, 8 U.S.C. § 1225(b)(1), and individuals who seek admission into the United States. *Id.* § 1225(b)(2).

23. Finally, Section 1231 authorizes detention of noncitizens subject to a final or reinstated order of removal. *Id.* § 1231(a)(2), (5).

24. The Executive Office of Immigration Review (EOIR) drafted regulations explaining that, in general, people who enter the United States without inspection are not considered detained under

Section 1225; instead detention under Section 1226(a) applies. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

25. Consistent with EOIR regulations, the longstanding interpretation of Section 1225 is that it applies to “certain aliens seeking admission into the country.” *Jennings v. Rodriguez*, 583 U.S. at 289. Admission refers to a determination that “generally begins at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 287. By comparison, Section 1226(a) detention applies to inadmissible noncitizens who are already present in the United States and placed in removal proceedings. *See id.* at 289.

26. This interpretation aligns with the statutory framework governing immigration detention and ensures no provision is rendered meaningless. *Corley v. United States*, 556 U.S. 303, 314 (2009) (reiterating rule that statutes should be construed as a whole so that effect is given to all its provisions). The opposite construction—which Respondents assert against Petitioner in their BIA appeal—renders Section 1226(c) inoperable. If Section 1225 authorizes mandatory detention of all noncitizens in the United States without admission or parole, there would be no need for mandatory detention under Section 1226(c) for criminal noncitizens in removal proceedings. *See Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1277 (W.D. Wash. 2025) (analyzing the very same interpretation advanced by Respondents and concluding it “would render significant portions of Section 1226(c) meaningless.”) Such a reading collapses the distinction between the two provisions and renders superfluous amendments to Section 1226(c) that Congress enacted through the Laken Riley Act. *Id.* at 1279–80; 8 U.S.C. § 1226(c)(1)(E), *as amended* by Pub. L. 119-1, 139 Stat. 3 (2025).

27. As the IJ properly concluded, Petitioner is subject to detention under Section 1226(a) because he is not an applicant for admission, has no criminal record, and is not subject to a final removal order. *See* Ex. A.

28. Respondents' reliance on Section 1225(b)(2) in their appeal of the IJ's bond decision is unfounded because it contradicts both the government's established interpretation and the statutory framework governing immigration detention. By pursuing a BIA appeal on tenuous grounds, Respondents unjustly subject Petitioner to mandatory detention without a bond hearing.

29. Respondents' deprivation of Petitioner's fundamental liberty interest is profound given that he was already found eligible for release on bond and remains separated from his family.

Stays of Bond Determination

30. DHS's filing of a Notice of Intent to Appeal Custody, automatically stays an IJ's bond decision for 10 business days. 8 C.F.R. § 1003.19(i)(2). If DHS files a Notice of Appeal within 10 business days, the automatic stay lapses after 90 days, absent a decision from the BIA. 8 C.F.R. § 1003.6(c)(4). DHS is permitted to continue detention beyond the 90-day automatic stay by seeking a discretionary stay with the BIA, thereby automatically extending the stay for an additional 30 days while the BIA decides DHS's request. *Id.* § 1003.6(c)(5).

31. Yet again the automatic stay is extended for 5 business days if "the Board authorizes an alien's release (on bond or otherwise), denies a motion for discretionary stay, or fails to act on such a motion before the automatic stay period expires. *Id.* § 1003.6(d). During that period, DHS can refer the bond decision to the Attorney General, which extends the automatic stay for an additional 15 business days. *Id.* The Attorney General can then extend the stay "pending the disposition of any custody case by the Attorney General or by the [BIA]." *Id.*

CLAIMS FOR RELIEF

**COUNT ONE
FIFTH AMENDMENT DUE PROCESS VIOLATION
(Procedural Due Process)**

32. Petitioner alleges and incorporates by reference the paragraphs above.

33. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. The Supreme Court has long-established that noncitizens are afforded due process rights. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Demore*, 538 U.S. at 523.

34. To determine whether civil detention violates an individual’s due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts weigh three factors: (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.” *Mathews*, 424 U.S. at 335.

35. Petitioner has a significant liberty interest in being free from detention—especially where an IJ determined after a full hearing that he was entitled to release on bond. Petitioner has no criminal record and is not a danger or a flight risk, yet he remains imprisoned since June, separated from wife and U.S. citizen children. While Petitioner remains in detention, he is unable to support his family or be present in his children’s lives—depriving them of the daily comfort, guidance, and stability that Petitioner provides.

36. The automatic stay provisions present a significant risk of erroneous deprivation of Petitioner’s liberty interest. Although Petitioner prevailed at his bond hearing, the stay provisions

are imposed on him without due process, prolonging his detention based solely on Respondents' appeal, which lacks support in the statutory framework, longstanding interpretation, and prevailing case law. *See, e.g., Romero v. Hyde*, 25-cv-11631-BEM, 2025 U.S. Dist. LEXIS 160622, at *1–2 (D. Mass. Aug. 19, 2025) (citing cases).

37. In their Certification, Respondents attested to the BIA that appeal was based in part on Petitioner being subject to mandatory detention under Section 1226(c)—an incorrect assertion that is not supported by the evidence or the plain text of 8 U.S.C. § 1226(c).

38. Petitioner is not afforded an opportunity to challenge Respondents' incorrect factual assertions or questionable position on appeal *before* he is forced to undergo additional months of detention under the automatic stay provisions.

39. Considered in their entirety, the stay provisions operate without any avenue for challenge, and in the absence of procedural safeguards, they subject Petitioner to prolonged, unwarranted detention—without justification and without recourse—while Respondents' appeal languishes. The stay provisions, permit Respondents to unilaterally deprive Petitioner of his freedom without meeting any minimum standards or demonstrating likelihood of success on the merits. Stay of an order releasing a detained individual is an extraordinary mechanism, because “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).

40. There is no significant governmental interest in keeping Petitioner detain. To the extent that the government has an interest in ensuring Petitioner is not a danger and will appear at future immigration hearings, the IJ already determined that Petitioner is not a flight risk or a danger to the community. Furthermore, the IJ was satisfied that any risk of flight could be ameliorated by

bond. As evidenced by Respondents Notice of Appeal, Respondents do not seek to challenge the IJ's determination on dangerous or flight risk. *See* Ex. C at 5.

41. Imposing alternative procedural requirements will not burden Respondents. 8 C.F.R. § 1003.19(i)(1) sets forth procedures for Respondents to request a discretionary stay pending appeal of an IJ's bond decision. This provision "follows a more traditional process of requesting a stay from the appellate court and considers whether a stay is warranted based on the individual circumstances and merits of the case." *Leqaa Kordia v. Kristi Noem*, No. 3:25-cv-01072-L-BT, 2025 U.S. Dist. LEXIS 136346, at *16-17 (N.D. Tex. June 27, 2025) (internal quotation omitted).

42. Petitioner's continued detention without procedural due process amounts to a serious deprivation of his constitutional rights and violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
FIFTH AMENDMENT DUE PROCESS VIOLATION
(Substantive Due Process)

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

44. Due process "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

45. Petitioner has lived in the United States continuously since 1997 and has significant ties to this country. After a full hearing on July 25, 2025, an IJ properly determined that Petitioner is subject to detention under 8 U.S.C. § 1226(a) and granted his release on bond.

46. Respondents appealed the bond decision based on a legally unsupported interpretation of 8 U.S.C. § 1225(b)(2), unilaterally invoked the automatic stay provisions, and subject Petitioner to continued detention. Petitioner has no meaningful avenue to challenge his continued detention following the order granting release on bond.

47. Petitioner's continued detention after a finding that he is neither dangerous, nor a flight risk does not serve a compelling governmental interest.

48. Respondents' actions violate Petitioner's substantive due process rights.

COUNT THREE
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT
(Ultra Vires Agency Action)

49. Petitioner alleges and incorporates by reference the paragraphs above.

50. The Administrative Procedure Act (APA) requires courts to hold unlawful and set aside agency action found to be "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right" 5 U.S.C. § 706(2)(C).

51. Under Section 1226(a) and its implementing regulations, IJs have discretionary authority to release noncitizens pending a decision on removal. 8 U.S.C. § 1226(a), 8 C.F.R. § 1236.1(d) ("except as otherwise provided in this chapter, the immigration judge is authorized to exercise the authority in section 236 of the Act.")

52. The automatic stay provisions in 8 C.F.R. §§ 1003.19(i)(2) and 1003.6 exceed the statutory detention framework in 8 U.S.C. § 1226(a) and eliminate IJs' discretionary authority to release noncitizens subject to discretionary detention under Section 1226(a).

53. Respondents' reliance on these regulatory provisions to continue detaining Petitioner after a favorable bond determination exceeds the authority Congress granted under Section 1226(a), and effectively imposes mandatory detention on Petitioner where Section 1226(a) does not.

54. The automatic stay provisions and Respondents' reliance on them to subject Petitioner to continued and unwarranted detention is a violation of the APA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause within three days why this Petition should not be granted;
3. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this District pending the resolution of this case;
4. Declare that Petitioner's continued detention violates 8 U.S.C. § 1226(a); the Administrative Procedure Act, 5 U.S.C. § 706(2)(C); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
5. Vacate the stay of the IJ's bond decision from July 11, 2025;
6. Issue a Writ of Habeas Corpus ordering Petitioner's release from detention on bond with no additional conditions on release;
7. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act and on any other basis justified under law; and
8. Grant any further relief this Court deems just and proper.

Date: September 11, 2025

Respectfully Submitted,

/s/ Alexis Ruiz

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Attorney for Petitioner

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

I am submitting this verification on behalf of Petitioner Jose Montes Esparza as his attorney. I have discussed with Mr. Montes Esparza the events described in this Petition and have examined all documents referenced herein. On the basis of those discussions and upon my review of those documents, on information and belief, I hereby verify that the factual statements made in the forgoing Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

Date: September 11, 2025

/s/ Alexis Ruiz
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Attorney for Petitioner