

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

Walter Joel Silva-Argueta,

Petitioner,

v.

PAMELA BONDI, Attorney General
of the United States,
KRISTI NOEM, Secretary of the
U.S. Department of Homeland Security
JEFF CRAWFORD, Warden,
Farmville Detention Center;
RUSSEL HOTT, Field Office Director,
Enforcement and Removal Operations,
U.S. Immigration and Customs
Enforcement; in their official capacities,

Respondents.

Case No: 1:26-cv-0029

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

This is a petition for a writ of habeas corpus filed on behalf of Mr. Walter Joel Silva Argueta ("Petitioner"), **was granted adjustment of status**, and is seeking relief from unlawful immigration detention. Respondents are detaining Petitioner in violation of Petitioner's constitutional due process rights and beyond the Department of Homeland Security's lawful statutory authority. By subjecting Petitioner to unlawful and indefinite detention, Respondents further violate the Eighth Amendment's prohibition on cruel and unusual punishment.

The Petitioner was granted adjustment of status in November 2025. Yet he is still detained by ICE.

Walter entered the United States on February 27, 2019, at age 19. He was processed for Expedited Removal under INA § 235, received a modified Orantes Advisal, and issued a Notice to Appear. He was then released on bond.

In January 2020, USCIS approved Walter's Special Immigrant Juvenile Status (SIJS) Form I-360, and he was granted Deferred Action. On February 16, 2022, an Immigration Judge **dismissed** his immigration case. **DHS did not oppose the dismissal.**

On June 27, 2025, Walter was working his regular job for a moving company. His supervisor assigned him and two coworkers to complete a moving job at a specific address. The supervisor provided the location, and Walter and his colleagues drove to the address as instructed. As soon as they arrived at the location, several officers immediately surrounded their work truck and demanded identification documents. Without providing any explanation or legal basis for the detention, the officers handcuffed Walter and his coworkers. The officers then transported them first to another office and subsequently to an ICE detention facility. At the time of his detention, Walter's newborn son was only one week old, and Walter was the primary financial provider for his household.

ICE issued Walter a **new** Notice to Appear (NTA) in July 2025 **under INA § 240**. The NTA **does not designate Walter as an arriving alien**; rather, it states that he is an alien present in the United States who has not been admitted or paroled. This characterization disregards Walter's prior immigration proceedings and legal status.

In July 2025, an Immigration Judge denied Walter's bond request, citing *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019). **On November 25, 2025, the Immigration Judge approved Walter's adjustment of status** based on his previously approved SIJS I-360 petition (**in other words, Walter is a Lawful Permanent Resident**). Despite this approval, the government has continued to hold Walter in custody without explanation, separating him from his infant child and family during a critical period. ICE detained him without lawful cause while he was performing his job duties at a location his employer directed him to attend.

Walter is now 26 years old and originally from El Salvador. He is the father of a U.S. citizen child, now 7 months old, and lives with his fiancée, who is also from El Salvador and currently has a pending SIJS application. Before his detention, Walter worked six days a week for a moving company and served as the primary financial provider for his household. He dedicated Sundays to spending quality time with his family, going on outings and ensuring that all household needs were met. He attended church every Sunday and Wednesday and enjoyed playing soccer with friends.

Walter's fiancée describes him as a responsible, loving, respectful, and thoughtful partner who was very attentive during her pregnancy, accompanied her to all medical appointments, and consistently strived to be the best version of himself. His mother describes him as a hardworking person who respects and loves his family deeply and has always been helpful, responsible, and caring. His strong family bond is demonstrated by the fact that his fiancée accompanied him to every soccer match. Walter's family now survives on his depleted savings and financial assistance from his mother.

The Petitioner has been held at Farmville Detention Center since that June 2025. His A-Number is  These events took place while he was employed and supporting his U.S.-citizen child.

The Petitioner submits that his detention is in violation of his constitutional rights. His detention is not justified under the Constitution or the Immigration and Nationality Act (“INA”). He seeks an order from this Court declaring his continued detention unlawful and ordering Respondents to release him or to hold a custody redetermination hearing.

CUSTODY

1. The Petitioner is in physical custody of Respondents Russel Hott is the Field Office Director, ICE ERO, DHS generally, and Jeff Crawford is the Warden of the Farmville Detention Center located in Virginia.
2. At the time of the filing of this petition, the Petitioner is detained at the Farmville Detention Center, Virginia. The Facility contracts with DHS to detain noncitizens like the Petitioner. He is under the direct control of Respondents and their agents.

JURISDICTION

3. This Court has jurisdiction over this habeas action under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570. This Court has subject matter 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 (Suspension Clause), as the Petitioner is presently in custody under color of authority of the United

States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

4. 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.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

5. Venue is proper in this District because the Petitioner is detained at Farmville Detention Center within this District and because a Respondent with immediate custody is located here.

PARTIES

6. The Petitioner, whose A Number is  is a native and citizen of El Salvador, currently detained at Farmville Detention Center, Virginia.
7. Respondent Jeff Crawford is the Warden of the facility and has immediate custody over Petitioner. He is the Petitioner's legal custodian.
8. Respondent Russel Hott is the Field Office Director, ICE ERO with responsibility for field operations relevant to Petitioner's detention. Respondent is a legal custodian with the authority to release him.
9. Respondent Kristi Noem is the Secretary of DHS and is responsible for policies and practices concerning detention and removal.
10. Respondent Pamela Bondi is the Attorney General of the United States.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

11. The Petitioner should not be required to exhaust administrative remedies through EOIR bond and appeal litigation because such proceedings would be futile and fail to address the fundamental issue: **Walter is a lawful permanent resident who has no legal basis for detention under any provision of the Immigration and Nationality Act.**
12. Even if Respondents contend that the Petitioner has not exhausted his administrative remedies because he has not filed a renewed bond motion with the Immigration Court or appealed a likely BIA denial, the Court should waive the exhaustion requirement. Filing for bond would be futile given that IJ decisions on bond are controlled by the BIA's *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), which found that any noncitizen present in the United States without having been inspected and admitted is subject to detention under 8 U.S.C. § 1225(b)(2), rather than 8 U.S.C. § 1226(a), regardless of how long they have resided in the United States and where they were encountered by immigration authorities. Walter has already been denied bond once under *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), which applies similar reasoning. A renewed motion would inevitably be denied under *Yajure-Hurtado*, and an appeal would certainly result in the BIA affirming the IJ's bond decision.
13. More fundamentally, the entire EOIR bond framework is inapplicable to Walter because he is not a removable alien subject to discretionary bond determinations—**he is a lawful permanent resident** whose adjustment of status was approved on November 25, 2025. The government lacks statutory authority to detain him under either 8 U.S.C. § 1225(b) or § 1226(a), **as neither provision applies to lawful**

permanent residents. Requiring Walter to pursue bond hearings before an Immigration Judge who lacks jurisdiction to order his release from unlawful detention would create an intolerable delay and would be an exercise in futility. *See Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000).

14. The Petitioner's only remedy is by way of this judicial action. The EOIR system cannot remedy the fundamental illegality of detaining a lawful permanent resident under statutory provisions that do not authorize such detention. Only this Court has the authority to order Walter's immediate release from custody that has no basis in law.

STATUTORY FRAMEWORK

15. On September 5, 2025, BIA issued *Matter of Yajure Hurtado*, establishing that any noncitizen present in the United States without having been inspected and admitted is subject to detention under 8 U.S.C. § 1225(b)(2), rather than 8 U.S.C. § 1226(a), regardless of how long they have resided in the United States and where they were encountered by immigration authorities. 29 I&N Dec. 216 (BIA 2025).

Relevant Sections of the Immigration and Nationality Act

16. **U.S.C. § 1225 / INA § 235:** Chapter titled “Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.”
17. **8 U.S.C. § 1225(a)(1) / INA § 235(a)(1):** Defines applicant for admission, “*for purposes of this chapter*” as “an alien present in the United States who has not been admitted or who arrives in the United States[.]”
18. **U.S.C. § 1225(b)(1) / INA § 235(b)(1):** Lays out the class of noncitizens subject to expedited removal. Section 1225(b)(1)(A)(i) subjects to expedited removal any

applicants for admission “who [are] *arriving in* the United States [(“Arriving Aliens”)] **or** who [are] described in clause (iii)” **and** who lack valid entry documents. 8 U.S.C. § 1225(b)(1)(A)(i) (emphases added). Clause (iii) provides for expedited removal of applicants for admission who are not “arriving in” the United States but who have not been admitted or paroled into the United States **and** cannot establish two years of physical presence in the United States “immediately prior to the determination of inadmissibility.” 8 U.S.C. § 1225(b)(1)(A)(iii).

19. **8 U.S.C. § 1225(b)(2)(A) / INA § 235(b)(2)(A)**: A noncitizen who is an “applicant for admission” and is not clearly and beyond a doubt entitled to be admitted *must* be kept in DHS custody during the pendency of removal proceedings under 8 U.S.C. § 1229A (INA § 240). These are non-expedited proceedings and are commenced by the issuance of a charging document known as a Notice to Appear, Form I-862. Section 1225(b)(2) applies to arriving aliens and certain individuals stopped shortly after entry.

20. **8 U.S.C. § 1226 / INA § 236**: Chapter titled “Apprehension and detention of aliens.”

21. **8 U.S.C. § 1226(a) / INA § 236(a)**: Allows the Attorney General, *on warrant*, to arrest and detain a noncitizen pending the outcome of their removal proceedings. Noncitizens arrested under a warrant may be released on bond or recognizance in DHS’s discretion. Predecessor statutes to § 1226(a) authorized arrest, detention, and release of noncitizens inside the United States and permitted discretionary bond; when Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”), it stated that § 1226 “restates the current provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release

on bond a[] [noncitizen] who is not lawfully present in the United States[,]” indicating continuity. H.R. Rep. No. 104-469, pt. 1, at 229.

22. **8 U.S.C. § 1226(c) / INA § 236(c)**: Creates grounds of mandatory detention for criminal and terrorist noncitizens. The Laken Riley Act (LRA) added 8 U.S.C. § 1226(c)(1)(E), which requires DHS to keep detained noncitizens who are arrested for, charged with, or convicted of certain crimes, who are also inadmissible for being present in the country without inspection or admission, for lacking valid documentation, or for committing fraud or misrepresentation.

23. **8 U.S.C. § 1357(a) / INA § 287(a)**: Permits immigration officials to arrest noncitizens without a warrant where (1) the officer sees the noncitizen entering the country in violation of law; (2) the officer has reason to believe that the noncitizen is in the United States unlawfully and is likely to escape before a warrant can be obtained; or (3) the officer has reason to believe the noncitizen has committed a felony. The BIA construed the “reason to believe” standard with probable cause and recognized that a person in a vehicle may be deemed likely to escape before a warrant can be secured. *Matter of Mariscal-Aguilar*, 28 I&N Dec. 666 (BIA 2022).

Neither § 1225 nor § 1226 Authorizes Detention of Lawful Permanent Residents

24. The government lacks statutory authority to detain the Petitioner under either 8 U.S.C. § 1225(b) or § 1226(a) because neither provision applies to lawful permanent residents.

25. Section 1225(b) Does Not Apply to Lawful Permanent Residents

26. Section 1225(b)(2)(A) authorizes detention only of noncitizens who are "applicant[s] for admission." 8 U.S.C. § 1225(b)(2)(A). Section 1225(a)(1) defines "applicant for admission" as "an alien present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). The Petitioner is neither arriving in the United States nor is he a person "who has not been admitted"—he was granted lawful permanent resident status on November 25, 2025, which constitutes admission under the INA.

27. The INA defines "admission" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). When a noncitizen's adjustment of status application is approved, that approval constitutes admission. See 8 U.S.C. § 1255(a) (adjustment of status has "the same effect as though the alien had been admitted to the United States for permanent residence"). The Petitioner's approved adjustment application means he has been "admitted" within the meaning of § 1225 and therefore cannot be detained as an "applicant for admission" under that section.

28. Moreover, § 1225 is found in a chapter titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing." The statutory context makes clear that § 1225 concerns the inspection and processing of noncitizens seeking admission to the United States—not lawful permanent residents who have already been admitted. Applying § 1225(b)(2) detention authority to a lawful permanent resident defies the plain language and structure of the statute.

29. Section 1226 Does Not Apply to Lawful Permanent Residents Not Charged Under §
1227

30. Section 1226(a) authorizes detention of "an alien" pending removal proceedings. 8 U.S.C. § 1226(a). However, this provision must be read in context with the broader statutory scheme. Section 1226 is titled "Apprehension and detention of aliens" and falls under the subchapter addressing removal proceedings. The Supreme Court has described § 1226 as authorizing "the Government to detain certain aliens already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

31. Lawful permanent residents are subject to removal only under the specific grounds enumerated in 8 U.S.C. § 1227, which include certain criminal convictions, security-related grounds, and fraud in obtaining status. See 8 U.S.C. § 1227(a). The Petitioner has not been charged with any ground of removability under § 1227. The July 2025 Notice to Appear does not charge him with any § 1227 violation; instead, it improperly treats him as an alien "present in the United States who has not been admitted or paroled"—a characterization that became legally incorrect upon approval of his adjustment application.

32. Without valid charges of removability under § 1227, there are no lawful "removal proceedings" in which the Petitioner can be detained under § 1226(a). The immigration court lacks subject matter jurisdiction over a lawful permanent resident who has not been properly charged with a ground of removability applicable to LPRs. Accordingly, § 1226(a) provides no authority for the Petitioner's continued detention.

The Government Cannot Re-Initiate Proceedings After Adjustment of Status

33. The dismissal of the Petitioner's immigration case in 2022, combined with his subsequent adjustment of status approval in November 2025, means there are no

valid removal proceedings pending against him. An immigration judge dismissed his case on February 16, 2022, and DHS did not oppose the dismissal. That dismissal terminated any removal proceedings that existed at that time.

34. The July 2025 Notice to Appear was issued while the Petitioner held approved SIJS status and deferred action, before his adjustment was approved. Once USCIS granted his adjustment of status on November 25, 2025, any basis for removal proceedings under the charges in that NTA evaporated. The NTA charged him as a noncitizen present without admission or parole—but upon adjustment approval, he became an admitted lawful permanent resident, rendering those charges inapplicable.

35. The government cannot simply re-arrest and re-initiate proceedings against a lawful permanent resident without proper charges under § 1227. To subject an LPR to removal proceedings, DHS must issue a Notice to Appear charging specific grounds of removability applicable to permanent residents. See 8 U.S.C. § 1229(a) (NTA must include "the charges against the alien and the statutory provisions alleged to have been violated"). The current NTA contains no such charges and therefore cannot support jurisdiction over the Petitioner.

Detention of a Lawful Permanent Resident Without Proper Charges

Violates Due Process

36. Lawful permanent residents possess substantial constitutional protections. As the Supreme Court has recognized, an LPR's interest in remaining in the United States is "substantial" and they are entitled to due process protections. *Landon v. Plasencia*, 459 U.S. 21, 33-34 (1982). Detaining an LPR without valid removal charges and

without any statutory authority violates the Fifth Amendment's guarantee of due process.

37. The Petitioner has been held in detention since June 27, 2025—over six months—despite having been granted lawful permanent resident status on November 25, 2025. ICE has provided no explanation for his continued detention and has not issued any new charging document under § 1227 that would provide a legal basis for his removal or detention. This arbitrary detention of a lawful permanent resident, without charges and without authority, constitutes a clear violation of his constitutional rights.

38. In *Zadvydas v. Davis*, the Supreme Court held that indefinite detention without a clear legal basis raises serious constitutional concerns and must be read narrowly to avoid constitutional problems. 533 U.S. 678 (2001). Here, the Petitioner faces indefinite detention with no lawful basis whatsoever—he is an LPR whom the government detains under statutory provisions that do not authorize detention of LPRs. This detention violates both the INA and the Constitution.

Longstanding Interpretation of 8 U.S.C. §§ 1225 and 1226

39. Since 1996, the immigration courts, Board of Immigration Appeals, and federal courts recognized the plain text of these two sections, accepting that § 1225(b) only covers a narrow subset of detainees, with the rest subject to discretionary detention under the “catch-all” provision of § 1226(a). A longstanding practice of the government applying the law in a certain way can inform the court's determination of what the law is. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 386 (2024).

40. The U.S. Supreme Court added temporal and geographical confines to treating a noncitizen as an applicant for admission. In *Department of Homeland Security v.*

Thuraissigiam, the Court noted that DHS historically treated noncitizens as applicants for admission only when encountered within 14 days of entry, and within 100 miles of the border. 591 U.S. 121, 134 n.2 (2020) (citing 69 Fed. Reg. 48879 (2004)). When the Court analyzed the constitutionality of expedited removal proceedings, it noted that the broad definition of an applicant for admission contained in § 1225 applies *for the purposes of those subject to expedited removal*. *Id.* at 124.

41. Indeed, in *Jennings v. Rodriguez*, the seminal case analyzing §§ 1225 and 1226, the United States Supreme Court maintained that § 1225(b) concerns “primarily [those] seeking entry,” and is generally applicable “at the Nation’s borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible.” 583 U.S. 281, 297, 287 (2018). On the other hand, § 1226 “authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings.” *Id.* at 289 (emphasis added).

42. The discretionary detention provision in § 1226 has been referred to as a catch-all provision, with the Supreme Court dubbing it a “default rule” that “applies to [noncitizens] already present in the United States.” *Id.* at 288, 301.

43. In *Matter of Akhmedov*, the BIA acknowledged that noncitizens arrested within the interior of the United States and placed into removal proceedings with the issuance of a Notice to Appear (NTA) are detained under § 1226(a) and therefore the Immigration Judge had jurisdiction to consider their bond request. 29 I&N Dec. 166 (BIA 2025). *Matter of Q. Li* held that the detention of a noncitizen who is detained and arrested at or near the border and placed into *expedited* removal proceedings is not governed by § 1226(a) but rather by § 1225(b). 29 I&N Dec. 66, 69 (BIA 2025).

Matter of Yajure-Hurtado and DHS Policy on Detention

44. In July 2025, DHS issued a policy alert laying out a novel interpretation of these two sections unsupported by the above case law: 8 U.S.C. § 1225(b)(2) requires mandatory detention of all noncitizens present without admission, and that Immigration Judges therefore lack jurisdiction to grant them bond.

45. In *Matter of Yajure-Hurtado*, the BIA upheld DHS's policy and departed from three decades of statutory interpretation, holding that the detention of any noncitizen who is in the United States without being admitted is governed by § 1225(b)(2), irrespective of whether the noncitizen's encounter with immigration officials was when they were "arriving" or whether they have been physically present in the United States for more than two years. 29 I&N Dec. 216 (BIA 2025).

46. Accordingly, the decision held that Immigration Judges effectively only have jurisdiction over deciding bond for noncitizens who have been inspected and admitted, and that all noncitizens present in the United States without admission or parole must be detained during the pendency of their removal proceedings. *Id.* at 218, 223. It is in this context that the Petitioner requests habeas relief.

47. Respondents continue to subject the Petitioner to what is effectively mandatory detention based on this flawed logic.

Chevron Overruled – Independent Statutory Interpretation Required

48. For decades, courts deferred to reasonable agency interpretations of ambiguous statutes under *Chevron* deference. On June 8, 2024, the U.S. Supreme Court overturned *Chevron U.S.A., Inc. v. NRDC* in *Loper Bright Enterprises v. Raimondo*,

holding that the Administrative Procedure Act requires courts to exercise their own independent judgment in deciding whether an agency has acted within its statutory authority. 603 U.S. 369 (2024). In its decision, the Court emphasized that judges may not defer to an agency interpretation merely because a statute is ambiguous; instead, the courts must decide the best interpretation, giving respectful consideration - but not deference - to the Executive Branch. *Id.*

STATEMENT OF FACTS

49. The Petitioner was granted adjustment of status in November 2025. Yet he is still detained by ICE.

50. Walter entered the United States on February 27, 2019, at age 19. He was processed for Expedited Removal under INA § 235, received a modified Orantes Advisal, and issued a Notice to Appear. He was then **released on bond**.

51. In January 2020, USCIS approved Walter's Special Immigrant Juvenile Status (SIJS) Form I-360, and he was granted Deferred Action. On February 16, 2022, an Immigration Judge **dismissed** his immigration case. **DHS did not oppose the dismissal.**

52. On June 27, 2025, Walter was working his regular job for a moving company. His supervisor assigned him and two coworkers to complete a moving job at a specific address. The supervisor provided the location, and Walter and his colleagues drove to the address as instructed. As soon as they arrived at the location, several officers immediately surrounded their work truck and demanded identification documents. Without providing any explanation or legal basis for the detention, the officers

handcuffed Walter and his coworkers. The officers then transported them first to another office and subsequently to an ICE detention facility. At the time of his detention, Walter's newborn son was only one week old, and Walter was the primary financial provider for his household.

53. ICE issued Walter a **new** Notice to Appear (NTA) in July 2025 **under INA § 240**.

The NTA **does not designate Walter as an arriving alien**; rather, it states that he is an alien present in the United States who has not been admitted or paroled. This characterization disregards Walter's prior immigration proceedings and legal status.

54. In July 2025, an Immigration Judge denied Walter's bond request, citing *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019). On November 25, 2025, the Immigration Judge approved Walter's adjustment of status based on his previously approved SIJS I-360 petition (**in other words, Walter is a Lawful Permanent Resident**). Despite this approval, the government has continued to hold Walter in custody without explanation, separating him from his infant child and family during a critical period. ICE detained him without lawful cause while he was performing his job duties at a location his employer directed him to attend.

55. Walter is now 26 years old and originally from El Salvador. He is the father of a U.S. citizen child, now 7 months old, and lives with his fiancée, who is also from El Salvador and currently has a pending SIJS application. Before his detention, Walter worked six days a week for a moving company and served as the primary financial provider for his household. He dedicated Sundays to spending quality time with his family, going on outings and ensuring that all household needs were met. He attended church every Sunday and Wednesday and enjoyed playing soccer with friends.

56. Walter's fiancée describes him as a responsible, loving, respectful, and thoughtful partner who was very attentive during her pregnancy, accompanied her to all medical appointments, and consistently strived to be the best version of himself. His mother describes him as a hardworking person who respects and loves his family deeply and has always been helpful, responsible, and caring. His strong family bond is demonstrated by the fact that his fiancée accompanied him to every soccer match. Walter's family now survives on his depleted savings and financial assistance from his mother.

57. The Petitioner has been held at Farmville Detention Center since that June 2025. His A-Number is  and he adjusted status on November 2025.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF FIFTH AMENDMENT RIGHT TO SUBSTANTIVE AND PROCEDURAL DUE PROCESS

58. The Petitioner incorporates by reference all preceding paragraphs.

59. The Petitioner's detention under 8 U.S.C. § 1225 violates his substantive due process rights under the Fifth Amendment to the United States Constitution as it subjects him to arbitrary detention.

60. "Government detention violates the Fifth Amendment "unless the detention is ordered in a *criminal proceeding* with adequate procedural protections or, in certain special and narrow nonpunitive circumstances where a special justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint."

Zadvydas v. Davis, 553 U.S. 678, 690 (2001) (internal citations and quotations omitted).

61. Here, there is no “special justification” which allows the Respondents to deny the Petitioner the liberty to which he is entitled. Respondents have not alleged any “special justification” to support the Petitioner’s continued detention.
62. Further, the BIA’s decision in *Matter of Yahure Hurtado* claims that the immigration judge lacks the jurisdiction to grant bond to any noncitizen who has entered the United States without being inspected and admitted or paroled based on 8 U.S.C. § 1225. According to the BIA, anyone who entered without inspection or parole, no matter how long present in the United States before encountering immigration authorities, are essentially subject to mandatory detention. 29 I&N Dec. at 228.
63. Substantive due process also affords the Petitioner “a right to adequate food, shelter, clothing, and medical care . . . [and to] safety and freedom from bodily restraint.” See *Youngberg v. Romeo*, 457 U.S. 307, 315-18 (1982).
64. Without federal court action, the Petitioner will likely remain detained for months. Given that as of the third quarter for fiscal year 2025 the BIA has 186,473 cases pending and only 16 appellate immigration judges (11 permanent members and five temporary members), immediate action from this court is required to prevent the Petitioner’s long-term detention. See *Executive Office for Immigration Review Adjudication Statistics*, U.S. DEPT OF JUSTICE, <https://www.justice.gov/eoir/media/1344986/dl?inline> (last updated July 31, 2025); *Board of Immigration Appeals*, U.S. DEPT OF JUSTICE, <https://www.justice.gov/eoir/board-of-immigration-appeals> (last updated Sept. 16, 2025).

COUNT TWO

VIOLATION OF EIGHT AMENDMENT RIGHT TO PROTECTION FROM CRUEL AND UNUSUAL PUNISHMENT

65. The Petitioner incorporates all preceding paragraphs by reference.

66. The Petitioner's continued detention constitutes cruel and unusual punishment in violation of the Eighth Amendment. The government has subjected Walter to prolonged incarceration without any lawful basis, under circumstances that are punitive in effect and grossly disproportionate to any legitimate governmental interest.

67. Walter was arrested on June 27, 2025, while performing his job duties at a location his employer directed him to attend. His son was one week old. The government has now held him in custody for over six months, separating him from his newborn child during the most critical period of early infancy. Despite approving Walter's adjustment of status on November 25, 2025, making him a lawful permanent resident, ICE has refused to release him. The government detains a lawful permanent resident—a person with no valid removal charges and no legal basis for detention—while providing no explanation for his continued incarceration.

68. The conditions and consequences of Walter's detention are extreme. He was the sole financial provider for his household. His fiancée and infant son now survive on depleted savings and his mother's financial assistance. Walter remains imprisoned despite having valid lawful permanent resident status, watching his family suffer while ICE provides no justification for holding him. The government's conduct serves no legitimate immigration enforcement purpose; it is purely punitive.

69. The Eighth Amendment prohibits punishment that is "incompatible with the evolving

standards of decency that mark the progress of a maturing society." *Estelle v. Gamble*, 429 U.S. 97, 102 (1976). Detaining a lawful permanent resident for months without explanation or legal authority, separating him from his week-old infant, and causing severe harm to his family constitutes punishment that shocks the conscience. This is detention as punishment, imposed without conviction, without charges, and without any lawful authority. The Eighth Amendment forbids such governmental conduct.

70. This relentless mental and emotional pain, coupled with the indefinite nature of his confinement, heightens the cruelty of the Petitioner's detention and underscores the punishment's unusual severity.

71. The Eighth Amendment to the U.S. Constitution prohibits the government from inflicting cruel and unusual punishment on individuals.

72. To state a cognizable claim under the Eighth Amendment, the Petitioner must allege acts or omissions sufficiently harmful to show deliberate indifference to his needs. *See Estelle v. Gamble*, 429 U.S. 97, 106 (1976).

73. Even if no harm has occurred, the lack of safety in the Petitioner's detention conditions is sufficient for judicial intervention. *See Helling v. McKinney*, 509 U.S. 25, 33 (1993) (explaining that the Supreme Court and Courts of Appeals have recognized a remedy for unsafe conditions where a tragic event has not yet occurred, i.e. one need not wait for a tragic event to occur to file a claim for future harm under the Eighth Amendment).

74. The Petitioner's continued unlawful detention also constitutes cruel and unusual punishment under the Eighth Amendment because the Petitioner is subject to mandatory, indefinite detention based solely on Respondents' erroneous interpretation of 8 U.S.C. § 1225(b)(2).

75. Detainees may challenge their confinement's unconstitutional conditions through writs of habeas corpus, an avenue which the U.S. Supreme Court has never explicitly foreclosed. *See Preiser v. Rodriguez*, 411 U.S. 475, 499-500 (1973) (stating that when "a prisoner is put under additional and unconstitutional restraints during his lawful custody, it is arguable that habeas corpus will lie to remove the restraints making the custody illegal.").

76. Respondents' continued custody of the Petitioner has transformed civil immigration detention into cruel and unusual punishment..

PRAYER FOR RELIEF

WHEREFORE, the Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter.
2. Issue an order directing Respondents to Show Cause why the Writ should not be granted.
3. Enjoin Respondents from transferring Petitioner outside this District during this action or in a way that would strip this Court's jurisdiction.
4. Order the **immediate and unconditional release** of the Petitioner from custody. **The Petitioner is a lawful permanent resident** of the United States who is being detained without any statutory authority. Neither 8 U.S.C. § 1225(b) nor § 1226(a) authorizes the detention of a lawful permanent resident who has not been charged with any ground of removability under 8 U.S.C. § 1227. His continued detention violates the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause. The Court should order his immediate release.

In the Alternative, if the Court declines to order immediate release:

5. Declare that Petitioner is detained under 8 U.S.C. § 1226(a), not § 1225(b)(2)(A);
6. Direct Respondents to provide Petitioner with a bond hearing before an immigration judge within seven (7) days of this Court's order, with the following safeguards:
 - a. The government bears the burden of proof by clear and convincing evidence that the Petitioner poses a danger to the community or is a flight risk;
 - b. Petitioner shall have the opportunity to present evidence and witnesses in support of his release;
 - c. The immigration judge shall issue written findings of fact and conclusions of law explaining the basis for any custody determination; and
 - d. Any appeal by the government shall not automatically stay the release order.
7. Grant any other relief which this Court deems just and proper.

DATED: January 6, 2026

Respectfully submitted,

Petitioner

By: _____/s/_____
Jorge E. Artieda, Esq.
Counsel for Petitioner
Va. Bar # 82963
P.O. Box 343
Falls Church, VA 22040
(703) 388-6055 (telephone)
(703) 649-6491 (facsimile)
jorge@artiedalaw.com (email)

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

I represent Petitioner and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: January 6, 2026

 /s/
Jorge E. Artieda, Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2026, I served a true and correct copy of the foregoing Petition on Respondents by USPS Certified Mail, Signature Required, to:

Farmville Detention Center
Attn: **Warden, Jeff Crawford**
508 Waterworks Road
Farmville, VA 23901-2674

U.S. Immigration and Customs Enforcement
and Removal Operations, Washington Field Office
Attn: **Field Office Director, Russell Hott**
14797 Murdock Street, Mail Stop 5216
Chantilly, VA 20598-5216

The Honorable Kristi Noem
Secretary of Homeland Security
U.S. Department of Homeland Security
Office of the Executive Secretary
Mail Stop 0525
Washington, DC 20528

The Honorable Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

_____/s/_____

Jorge E. Artieda