UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LUIS MANUEL PINO-SOTO,

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; **PAMELA BONDI,** in her official capacity as Attorney General of the United States; **TODD LYONS,** in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement; **MIGUEL VERGARA,** in his official capacity as Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; **ROSE THOMPSON,** in her official capacity as Warden of the Karnes County Immigration Processing Center,

Respondents.

Case No. 5:26-cv-00307

PETITION FOR WRIT OF HABEAS CORPUS

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

1. Petitioner, Luis Manuel Pino-Soto, by and through undersigned counsel, Halimatou Bah of Angeles Law LLC, respectfully petitions this Honorable Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his ongoing and unlawful civil immigration detention by the United States Department of Homeland Security and its agents. Petitioner is a citizen of Cuba currently detained at Karnes County Immigration Processing Center, located at 409 FM 1144; Karnes City, Texas 78118, within the Western District of Texas.
2. Petitioner entered the United States on February 7, 2022, and was subsequently placed into full removal proceedings. He is not subject to mandatory detention under any provision of the Immigration and Nationality Act.
3. On July 31, 2025, Immigration and Customs Enforcement ("ICE") redetained Petitioner and placed him in detention while his removal proceedings are ongoing.
4. On August 13, 2025, the Immigration Judge denied jurisdiction to consider bond, expressly concluding that the Court lacked authority to conduct a custody redetermination pursuant to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Based on this jurisdictional ruling, the Immigration Judge determined that no bond hearing was available and therefore did not consider—or have authority to consider—any individualized custody factors, including danger to the community, risk of flight, community ties, or alternatives to detention.
5. Petitioner is subject to pre-final order of removal detention under 8 U.S.C. § 1226(a). Noncitizens detained under section 1226(a) are subject to discretionary detention and may request a change of custody redetermination, commonly known as a bond hearing, before an Immigration Judge.
6. Despite this statutory framework, DHS has taken the position that—based on *Matter of Q. Li*—the Immigration Court lacks jurisdiction to conduct a bond hearing in Petitioner's case,

thereby depriving him of any meaningful opportunity to seek release and leaving him detained without a constitutionally adequate custody determination.

7. As a result of this jurisdictional denial, Petitioner now faces prolonged and potentially indefinite detention without any meaningful opportunity for an individualized custody review while his removal proceedings remain pending. Despite his eligibility for discretionary release under 8 U.S.C. § 1226(a), DHS continues to detain him without providing a mechanism for release or a hearing before an Immigration Judge empowered to evaluate danger, flight risk, or alternatives to detention.

8. Petitioner's continued detention without a bond hearing violates Petitioner's Fifth Amendment Due Process rights and the Immigration and Nationality Act ("INA"). DHS's position—endorsed through reliance on *Matter of Q. Li*—has eliminated bond jurisdiction under § 1226(a) and resulted in prolonged civil detention without adequate procedural safeguards.

9. Petitioner seeks immediate release, or in the alternative, an order directing Respondents to provide him with a constitutionally adequate bond hearing under 8 U.S.C. § 1226(a) before a neutral decisionmaker with authority to grant release. For the foregoing reasons, the Court should grant habeas relief and direct Respondents to release Petitioner, or in the alternative, promptly provide Petitioner with a constitutionally adequate bond hearing within seven (7) days.

FACTUAL BACKGROUND

10. Petitioner Luis Manuel Pino-Soto is a 42-year-old citizen and national of Cuba. He is seeking asylum in the United States based on political persecution by Cuban government authorities for his participation in the July 11, 2021, nationwide protests against the Cuban

government and for expressing opposition to government corruption and repression. Petitioner has no criminal convictions and no history of violence or dangerous behavior. He has consistently complied with all reporting and supervision requirements imposed by Immigration and Customs Enforcement throughout his immigration proceedings.

11. Petitioner entered the United States on February 7, 2022, and was placed into removal proceedings under section 240 of the Immigration and Nationality Act. Petitioner was determined to be a citizen of Cuba and did not possess valid documents permitting entry into the United States.

12. Following his entry, Petitioner was issued a Notice to Appear and placed into removal proceedings under section 240 of the Immigration and Nationality Act. Petitioner has filed an application for asylum, withholding of removal, and protection under the Convention Against Torture based on his political persecution in Cuba. His removal proceedings remain pending before the Immigration Court.

13. On July 31, 2025, Immigration and Customs Enforcement ("ICE") redetained Petitioner after he appeared as instructed for a scheduled check-in with ICE while his removal proceedings were ongoing.

14. On August 13, 2025, Petitioner appeared before the Immigration Court in Pearsall, Texas, seeking a custody redetermination. Through counsel, he requested an individualized custody determination pursuant to 8 U.S.C. § 1226(a). The Immigration Judge denied the request on jurisdictional grounds, expressly concluding that the Court lacked authority to conduct a bond hearing. Relying on *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Immigration Judge determined that no custody redetermination was available and therefore did not consider any individualized factors relevant to custody, including danger, flight risk, community ties, or alternatives to detention.

15. Petitioner is currently detained at Karnes County Immigration Processing Center, located at 409 FM 1144, Karnes City, Texas 78118, within the Western District of Texas. He has remained in continuous civil immigration detention since July 31, 2025, despite having no criminal convictions, no disciplinary infractions while in custody, and no evidence suggesting that he poses a danger to the community or a flight risk.

16. Petitioner has fully complied with all requirements of his removal proceedings and continues to pursue his application for asylum and related protection in good faith. His removal proceedings remain pending before the Immigration Court.

17. Petitioner's ongoing detention—without any opportunity for an individualized custody determination and based solely on a categorical jurisdictional ruling—has resulted in prolonged and potentially indefinite civil confinement. His detention under restrictive, penal-like conditions, despite his compliance with immigration authorities and lack of criminal convictions, violates fundamental principles of due process and statutory protections under the Immigration and Nationality Act.

18. Petitioner has now been held in civil immigration detention since July 31, 2025, without any meaningful mechanism to seek release, notwithstanding his eligibility for discretionary detention under 8 U.S.C. § 1226(a) and his pending applications for humanitarian protection.

JURISDICTION

19. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of her ongoing civil immigration detention and seeks relief that is within the traditional scope of habeas corpus. Jurisdiction also lies under 28 U.S.C. § 1331, as this Petition raises federal questions arising under the

Constitution, laws, and treaties of the United States. The Suspension Clause of the United States Constitution further guarantees Petitioner's right to seek habeas corpus review where no other adequate remedy exists.

20. The 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. Congress has preserved judicial review of challenges to immigration detention, including claims raising statutory and constitutional questions. See, e.g., *Nielsen v. Preap*, 139 S. Ct. 954, 961–62 (2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (distinguishing reviewable legal and constitutional claims from unreviewable discretionary determinations under 8 U.S.C. § 1226(e)).

21. Federal district courts have jurisdiction to hear habeas corpus claims brought by noncitizens challenging the lawfulness of their immigration detention. See *Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over challenges to immigration detention); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (same).

22. Although 8 U.S.C. § 1226(e) bars review of the Attorney General's discretionary judgments regarding the release or detention of noncitizens, it does not preclude judicial review of questions of law or constitutional claims arising from immigration detention. Petitioner does not ask this Court to second-guess a discretionary bond determination. Rather, he challenges the Department of Homeland Security's legal authority to deny him any bond hearing and to continue detaining him without a constitutionally adequate individualized custody determination, based on a categorical jurisdictional bar. Such claims fall squarely within the scope of habeas review. The Supreme Court has long recognized that federal courts retain habeas jurisdiction to review the statutory and constitutional bases of immigration detention notwithstanding jurisdiction-stripping

provisions, as such review lies at the core of the Great Writ. See *Demore v. Kim*, 538 U.S. at 516–17; *Zadvydas v. Davis*, 533 U.S. at 687–88.

23. No petition for a *writ of habeas corpus* has previously been filed in any court regarding Petitioner.

VENUE

24. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Western District of Texas, San Antonio Division, the judicial district in which Petitioner is currently detained and where his immediate custodian exercises control over his confinement.

25. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims—including Petitioner's detention and the denial of bond jurisdiction—occurred within the Western District of Texas.

PARTIES[1]

26. Petitioner Luis Manuel Pino-Soto is a citizen and national of Cuba who has been in immigration detention since July 31, 2025. Following his redetention after reporting as instructed to ICE, Immigration and Customs Enforcement ("ICE") took Petitioner into immigration custody. Petitioner requested a review of his custody by an Immigration Judge. On August 13, 2025, an Immigration Judge at the Pearsall Immigration Court denied

[1] In *Rumsfeld v. Padilla*, the Supreme Court addressed the identity of the proper respondent to a § 2241 habeas petition filed by a U.S. citizen challenging his detention as an enemy combatant. 542 U.S. 426 (2004). The Court held that the only appropriate respondent for a traditional habeas corpus petition involving a "core challenge" to "present physical confinement" is the individual's "immediate custodian," meaning the person in charge of the facility where the individual is being held *Id.* at 435. In that case, the immediate custodian was the commanding officer in charge of the naval brig where the petitioner was physically held. *Id.* at 442. The Supreme Court also made it clear that it would not address who the proper respondent would be for a petition filed by a noncitizen "detained pending deportation." The Court noted a disagreement among different circuit courts regarding whether the Attorney General is a proper respondent to a habeas petition in such cases and stated, "Because the issue is not before us today, we again decline to resolve it" *Id.* at 435 n.8.

jurisdiction to consider bond, expressly concluding that the Court lacked authority to conduct a custody redetermination pursuant to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). As a result of this ruling, no individualized custody determination was conducted. Petitioner entered the United States on February 7, 2022, and his removal proceedings remain pending.

27. Respondent **Kristi Noem** is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent is a legal custodian of Petitioner.

28. Respondent **Pamela Bondi** is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent is a legal custodian of Petitioner.

29. Respondent **Todd Lyons** is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). In this capacity, Respondent is a legal custodian of Petitioner and possesses authority over ICE detention policies, including the authority to release Petitioner from custody. He is sued in his official capacity.

30. Respondent **Miguel Vergara** is sued in his official capacity as the Field Office Director of ICE's Enforcement and Removal Operations ("ERO") for the San Antonio Field Office. As such, Respondent is responsible for overseeing Petitioner's detention and custody within the San Antonio Area of Responsibility and exercises authority over Petitioner's continued confinement. He is a legal custodian of Petitioner.

31. Respondent **Rose Thompson** is employed as the Warden of the Karnes County Immigration Processing Center in Karnes City, Texas, the facility where Petitioner is currently detained. Respondent Guerrero has immediate physical custody of Petitioner and is sued in her official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

32. Petitioner has no administrative remedies to exhaust.

33. Petitioner's request for custody redetermination was denied solely due to lack of jurisdiction by the Immigration Judge, based on DHS's classification of Petitioner as subject to mandatory detention under INA § 235(b).

34. As such, Petitioner's continued detention in ICE custody cannot be challenged by way of bond proceedings before the Immigration Judge, as the Immigration Court has expressly determined it has no authority to consider bond.

35. Therefore, a writ of habeas corpus is the sole avenue to vindicate Petitioner's constitutional, statutory, and regulatory rights and to restore his liberty.

LEGAL FRAMEWORK

36. The INA prescribes three basic forms of detention for noncitizens in removal proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard, non-expedited removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1226(a); 8 U.S.C. § 1229a. Individuals in section 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

37. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1), as well as for other arriving noncitizens seeking admission who are referred under 8 U.S.C. § 1225(b)(2).

38. Finally, the Act also provides for the detention of noncitizens who have previously been ordered removed, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

39. The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(c) was most recently amended earlier this year by the LRA, Pub. L. No. 119-1, 139 Stat. 3 (2025).

40. Following enactment of IIRIRA, the Executive Office for Immigration Review drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under section 1225 but were instead detained under section 1226(a). 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). In the decades that followed, most noncitizens who entered without inspection—unless they were subject to some other detention authority—received bond hearings. This practice was also consistent with pre-IIRIRA procedure, in which noncitizens not deemed "arriving" were entitled to a custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see* also *H.R. Rep.* No. 104-469, pt. 1, at 229 (1996) (noting that section 1226(a) simply "restates" the detention authority previously found at section 1252(a)).

41. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement ("ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226], is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." The memo further stated DHS' new position with regard to custody determinations as follows:

> An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated.
> **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**
>
> Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286. *See* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authorityfor-applications-for-admission (last accessed August 4, 2025) (emphasis original).

42. As a result, DHS now considers all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including longtime U.S. residents, are now considered to be subject to mandatory detention under section § 1225(b) and ineligible for release on bond. Conversely, according to DHS "[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." *Id.*

43. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that, based on the plain language of 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to noncitizens who are present in the United States without admission.

COUNT I: UNLAWFUL DETENTION IN VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT ("INA") AND IMPLEMENTING REGULATIONS

44. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

45. The Immigration and Nationality Act authorizes immigration detention only when it serves a legitimate statutory purpose—namely, to ensure an individual's appearance at future proceedings or to protect public safety. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Clark v. Martinez*, 543 U.S. 371, 381 (2005). Detention that does not advance those purposes, or that becomes arbitrary and indefinite, exceeds the government's statutory authority.

46. Petitioner is a citizen and national of Cuba who entered the United States on February 7, 2022, and was placed into removal proceedings under section 240 of the Immigration and

Nationality Act. His asylum, withholding of removal, and Convention Against Torture applications remain pending.

47. Petitioner has no criminal convictions and no record of violence, and has never exhibited conduct suggesting danger to the community or risk of flight. Nothing in his immigration file indicates that he poses a threat to public safety or that he would fail to appear for his hearings if released.

48. Petitioner has been detained continuously since July 31, 2025, when he was redetained after reporting to ICE as instructed and confined at the Karnes County Immigration Processing Center in Karnes City, Texas.

49. On August 13, 2025, the Immigration Court denied Petitioner's request for a custody redetermination solely on jurisdictional grounds. The Immigration Judge concluded that the Court lacked authority to consider bond, relying on *Matter of Q. Li*. According to the Immigration Judge, Petitioner was deemed ineligible for a bond hearing based on a categorical jurisdictional determination, rather than an individualized custody assessment.

50. The Immigration Judge did not consider any individualized custody factors and did not evaluate Petitioner's lack of criminal history, his non-dangerousness, his cooperation with immigration authorities, or the feasibility of alternatives to detention.

51. Because the Immigration Judge determined that he lacked jurisdiction, Petitioner now has no administrative mechanism for custody review, effectively subjecting him to prolonged and potentially indefinite detention without statutory authority or procedural safeguards.

52. The INA does not authorize the indefinite detention of a noncitizen in pending section 240 proceedings who poses no danger or flight risk and who has never received a custody hearing before a neutral decisionmaker. *See Zadvydas,* 533 U.S. at 690–91; *Clark,* 543 U.S. at 380–81.

53. Petitioner's continued confinement serves no legitimate statutory purpose. His detention bears no reasonable relation to ensuring his appearance or protecting public safety, and it is not tied to any imminent removal, particularly while his asylum and protection claims remain pending.

54. Petitioner's ongoing detention—without individualized assessment, without lawful statutory justification, and without any ability to seek review—exceeds the narrow detention authority granted by Congress and violates controlling Supreme Court precedent.

55. Accordingly, Petitioner's continued detention is unlawful under the Immigration and Nationality Act, its implementing regulations, and governing constitutional principles. Petitioner respectfully requests that this Court order his immediate release, or, in the alternative, require the government to provide a constitutionally adequate custody hearing before an Immigration Judge with authority to order release on bond.

COUNT II: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

56. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

57. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Noncitizens physically present in the United States—including those who entered without inspection—are entitled to full procedural due process protections. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982).

58. Petitioner is a citizen and national of Cuba who entered the United States on October 11, 2022, sought protection from persecution, and was placed in removal proceedings under section 240 of the Immigration and Nationality Act following a favorable credible fear determination in which she was placed into full removal proceedings.

59. Petitioner has no criminal convictions and no record of violence, and has never exhibited conduct suggesting danger to the community or risk of flight, and has consistently cooperated with immigration authorities since his apprehension.

60. Petitioner has been detained continuously since July 31, 2025, when he was redetained after reporting to ICE as instructed and confined at the Karnes County Immigration Processing Center in Karnes City, Texas.

61. On August 13, 2025, Petitioner sought a custody redetermination before the Pearsall Immigration Court. Through counsel, he requested an individualized custody determination.

62. The Immigration Judge denied bond on August 13, 2025, solely on jurisdictional grounds, relying on *Matter of Q. Li,* 29 I&N Dec. 66 (BIA 2025). The Immigration Judge concluded that he lacked authority to conduct any individualized custody assessment and therefore declined to consider Petitioner's eligibility for release.

63. As a result, Petitioner has been categorically barred from receiving a hearing before a neutral adjudicator to determine whether his detention is justified. He has been denied the opportunity to present evidence, contest the government's assertions, or obtain a meaningful review of his custody.

64. Immigration detention implicates a fundamental liberty interest. Prolonged detention without a meaningful opportunity to challenge confinement violates the core due process guarantees of notice, the right to be heard, and adjudication by a neutral decisionmaker.

65. The government's reliance on a categorical jurisdictional bar to deny Petitioner any opportunity for individualized review contravenes these constitutional protections and results in arbitrary, unjustified, and indefinite detention.

66. Accordingly, Petitioner's continued incarceration without an individualized custody determination violates the Due Process Clause of the Fifth Amendment. Habeas relief is warranted to remedy these constitutional violations by ordering his immediate release or, in the alternative, requiring a prompt and constitutionally adequate bond hearing before a neutral adjudicator with authority to grant release.

COUNT III: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT – ARBITRARY AND CAPRICIOUS AGENCY ACTION

67. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

68. The Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2), requires courts to "hold unlawful and set aside" agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Under this standard, an agency must articulate a rational connection between the facts found and the choices made, and it must provide an adequate explanation for its actions consistent with statutory authority. See *Judulang v. Holder*, 565 U.S. 42, 55 (2011).

69. The Department of Homeland Security has acted arbitrarily and capriciously in continuing to detain Petitioner without any individualized justification. Petitioner has no criminal convictions, has not engaged in violence or dangerous behavior, and has consistently cooperated with immigration authorities since his apprehension. Nothing in his record establishes that he presents a danger to the community or a flight risk.

70. Despite these facts, DHS has maintained Petitioner's detention for an extended and potentially indefinite period without providing any reasoned explanation or evidence that continued confinement serves a legitimate statutory purpose. DHS has failed to articulate why release under supervision, bond, or other alternatives would be insufficient.

71. DHS's reliance on *Matter of Q. Li* to justify continued detention is arbitrary and contrary to law. *Matter of Q. Li* addresses the jurisdiction of Immigration Judges to conduct bond hearings. It does not compel DHS to detain noncitizens indefinitely, nor does it eliminate DHS's longstanding discretionary authority to release noncitizens on parole, recognizance, supervision, or bond.

72. By treating *Matter of Q. Li* as an absolute bar to any form of custody review or discretionary release, DHS has effectively adopted a blanket detention policy that substitutes categorical rules for the individualized determinations required under the Immigration and Nationality Act.

73. DHS has not conducted any meaningful custody assessment of Petitioner, nor has it provided a rational explanation for refusing to exercise discretion in his case. Its failure to consider Petitioner's lack of criminal history, his cooperation with authorities, his pursuit of asylum and protection, or his eligibility for alternatives to detention constitutes arbitrary and capricious decision-making.

74. DHS's actions are inconsistent with the statutory purpose of civil immigration detention, which is limited to ensuring appearance at future proceedings and protecting public safety. Petitioner's continued confinement does not advance either purpose.

75. DHS has therefore acted in a manner that is arbitrary, capricious, an abuse of discretion, and not in accordance with law. Its continued detention of Petitioner must be set aside under 5 U.S.C. § 706(2)(A).

76. Habeas relief is warranted to remedy this unlawful agency conduct. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, direct DHS to provide a constitutionally adequate and reasoned custody determination consistent with the

requirements of the Administrative Procedure Act and the Immigration and Nationality Act.

COUNT IV: VIOLATION OF THE EQUAL PROTECTION GUARANTEE OF THE FIFTH AMENDMENT

77. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

78. The Due Process Clause of the Fifth Amendment contains an implicit guarantee of equal protection that prohibits the federal government from treating similarly situated individuals differently without a rational and legitimate governmental purpose. *Reno v. Flores*, 507 U.S. 292, 302 (1993); *Plyler v. Doe*, 457 U.S. 202, 210 (1982); *Bolling v. Sharpe,* 347 U.S. 497, 499 (1954).

79. Petitioner is placed in removal proceedings under section 240 of the Immigration and Nationality Act, a statutory framework under which noncitizens ordinarily receive an individualized custody determination before an Immigration Judge pursuant to section 236(a).

80. Petitioner is a citizen and national of Cuba who entered the United States on February 7, 2022, has applications for asylum, withholding of removal, and protection under the Convention Against Torture pending, has no criminal convictions, no record of violence or dangerous behavior. He has cooperated fully with immigration authorities since entering ICE custody.

81. Despite being similarly situated to other § 240 respondents, Petitioner has been categorically denied access to any bond hearing based solely on DHS's assertion—drawn from disputed and unreviewed factual allegations regarding the manner and timing of his

entry—that he was apprehended "shortly after entry," resulting in his classification under section 235(b).

82. On August 13, 2025, the Pearsall Immigration Court denied Petitioner's request for a custody redetermination solely on jurisdictional grounds. The Immigration Judge concluded that the Court lacked authority to consider bond, relying on *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). According to the Immigration Judge, Petitioner was deemed ineligible for custody review based on a categorical jurisdictional determination rather than an individualized assessment.

83. The government's treatment of Petitioner creates an unjustifiable disparity between her and similarly situated detainees who receive individualized bond hearings. The Fifth Amendment prohibits the government from treating similarly situated persons differently without a rational basis. *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); *Bolling v. Sharpe,* 347 U.S. 497, 499 (1954).

84. DHS's categorical reliance on section 235(b) to foreclose Petitioner's access to custody review—despite her placement in § 240 proceedings and the absence of any individualized custody determination—lacks a rational connection to any legitimate governmental purpose. Disparate treatment based solely on disputed and unreviewed facts regarding the manner of entry is arbitrary and not rationally related to the goals of ensuring appearance or protecting public safety. See *Zadvydas*, 533 U.S. at 690 (civil detention must relate to its permissible purposes).

85. Moreover, federal courts have recognized that immigration detention classifications must comport with fundamental fairness and may not be applied in an arbitrary or discriminatory manner. See, e.g., *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (government must justify detention with individualized evidence); *Rodriguez v. Robbins*, 804 F.3d 1060,

1074–76 (9th Cir. 2015) (due process prohibits prolonged detention without meaningful review).

86. DHS has provided no individualized or rational explanation for why Petitioner, unlike others in the same statutory posture, is denied access to an individualized custody determination. This unequal treatment violates the equal protection component of the Fifth Amendment.

87. Petitioner's continued incarceration under a discriminatory and arbitrary detention classification violates constitutional guarantees of equal protection and further underscores the unreasonableness and unlawfulness of his confinement.

88. Habeas relief is therefore warranted to remedy this unconstitutional disparate treatment by ordering Petitioner's immediate release or, in the alternative, directing DHS to provide him with the same procedural protection and individualized custody review available to similarly situated noncitizens.

COUNT V: VIOLATION OF THE SUSPENSION CLAUSE OF THE UNITED STATES CONSTITUTION

89. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

90. 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 Clause guarantees the availability of judicial review to challenge the lawfulness of executive detention. *Boumediene v. Bush*, 553 U.S. 723, 745–46 (2008); *INS v. St. Cyr*, 533 U.S. 289, 300–05 (2001).

91. Habeas corpus remains available to all persons in the United States who are detained by executive authority, including noncitizens in civil immigration custody. The Supreme Court has made clear that Congress may not eliminate all avenues of meaningful judicial review of the legality of detention. *St. Cyr*, 533 U.S. at 305–06.

92. Petitioner is detained solely under civil immigration authority and is currently confined at the Karnes County Immigration Processing Center in Karnes City, Texas. He has no criminal convictions, no history of violence, and is pursuing his asylum, withholding of removal, and Convention Against Torture claims in good faith.

93. The Immigration Judge categorically denied jurisdiction to consider bond or conduct any individualized custody determination, relying exclusively on *Matter of Q. Li,* 29 I. & N. Dec. 66 (BIA 2025). This classification—based on disputed and unreviewed allegations regarding the manner and timing of Petitioner's entry—foreclosed access to the custody redetermination process available to other § 240 respondents.

94. Because the Immigration Judge concluded that he lacked jurisdiction, Petitioner has no administrative pathway to challenge the legality, length, or necessity of his detention. ICE has likewise provided no discretionary parole review or case-specific custody assessment.

95. As a result, no alternative remedy exists outside of habeas corpus through which Petitioner may obtain judicial review of the legality of his confinement. Neither the Immigration Courts nor the Board of Immigration Appeals possesses jurisdiction to review custody challenges arising from DHS's classification decisions.

96. The Suspension Clause forbids the government from implementing a detention scheme that eliminates all meaningful opportunity for detainees to test the legality of their confinement. *Boumediene*, 553 U.S. at 779 ("The writ must be effective."). When no adequate and

effective substitute exists, habeas review is constitutionally required. *St. Cyr*, 533 U.S. at 305.

97. Petitioner's detention—prolonged, indefinite, and wholly insulated from individualized review—implicates the core protections of the Suspension Clause. Without habeas corpus, Petitioner would have no mechanism, judicial or administrative, to contest the legality of his civil confinement.

98. The government's application of *Matter of Q. Li* to categorically bar all custody review therefore violates the Suspension Clause by depriving Petitioner of an effective and constitutionally required means to challenge unlawful detention.

99. Accordingly, habeas corpus relief is required. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, direct Respondents to provide him with a prompt, meaningful, and individualized custody hearing before a neutral adjudicator with authority to grant release.

COUNT VI: VIOLATION OF THE *ACCARDI* DOCTRINE WITH RESPECT TO 8 C.F.R. § 287.8(C)(2)(I) AND (II)

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

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

102. At the time of his arrest on July 31, 2025, and at all times thereafter, Petitioner had complied with all immigration requirements, including attending all required immigration proceedings and remaining available to immigration authorities. Petitioner was not evading law enforcement, was not subject to any criminal investigation, posed no danger to any person or to the community, and presented no risk of flight. There was no factual basis to conclude that Petitioner was likely to escape before a warrant could be obtained. Therefore, Petitioner's warrantless arrest and continued detention contravene the governing immigration arrest regulations and violate the Accardi doctrine, which requires agencies to follow their own binding regulations.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days, absent good cause for a short extension not exceeding ten days, and set the matter for a prompt hearing;
3. Enjoin Respondents from transferring Petitioner during the pendency of the instant action;
4. Declare that Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1226(a); the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
5. Grant the *writ of habeas corpus* and order Petitioner's immediate release from ICE custody; In the alternative, order a constitutionally adequate bond hearing at which DHS bears the burden of proving that Petitioner is a danger to the community or risk of flight, or reasonable conditions of supervision.

6. Award Petitioner her costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
7. Grant any other further relief this Court deems just and proper.

Dated: January 21, 2026

Respectfully Submitted,

/S/ Halimatou Bah

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EXHIBIT

EXHIBIT A	**NOTICE TO APPEAR**	**02 – 04**
EXHIBIT B	**ORDER OF RELEASE**	**06 - 08**
EXHIBIT C	**IJ BOND ORDER**	**10 - 13**
EXHIBIT D	**I-213**	**15 - 17**

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

I represent Petitioner, LUIS MANUEL PINO-SOTO, and submit this verification on her 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 21, 2026

/S/ Halimatou Bah
Halimatou Bah

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2026, I filed the foregoing petition for Writ of Habeas Corpus electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

Dated: January 21, 2026

/S/ Halimatou Bah
Halimatou Bah