

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Gabriel Antonio Maldonado-Jovel

(b) County of Residence of First Listed Plaintiff Salt Lake County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Alec S. Bracken, P.O. Box 249, Midvale, UT 84047

DEFENDANTS

Kristi Noem

County of Residence of First Listed Defendant Prince George

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | | | |
|---------------------------------------|------------------------------|----------------------------|---|
| ☐ 1 | U.S. Government
Plaintiff | ☐ 3 | Federal Question
<i>(U.S. Government Not a Party)</i> |
| ☒ 2 | U.S. Government
Defendant | ☐ 4 | Diversity
<i>(Indicate Citizenship of Parties in Item III)</i> |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|--|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated <i>or</i> Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☒ 2 | Incorporated <i>and</i> Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☒ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

[Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
☐ 110 Insurance	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157	INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016	SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g))	FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	375 False Claims Act 376 Qui Tam (31 USC 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit (15 USC 1681 or 1692) 485 Telephone Consumer Protection Act 490 Cable/Sat TV 850 Securities/Commodities/Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes	
☐ 120 Marine									
☐ 130 Miller Act									
☐ 140 Negotiable Instrument									
☐ 150 Recovery of Overpayment & Enforcement of Judgment									
☐ 151 Medicare Act									
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)									
☐ 153 Recovery of Overpayment of Veteran's Benefits									
☐ 160 Stockholders' Suits									
☐ 190 Other Contract									
☐ 195 Contract Product Liability									
☐ 196 Franchise									
REAL PROPERTY		CIVIL RIGHTS	PRISONER PETITIONS	LABOR		IMMIGRATION			
☐ 210 Land Condemnation	☐ 440 Other Civil Rights	Habeas Corpus: ☒ 463 Alien Detainee	☐ 710 Fair Labor Standards Act	☐ 462 Naturalization Application					
☐ 220 Foreclosure	☐ 441 Voting	☐ 510 Motions to Vacate Sentence	☐ 720 Labor/Management Relations	☐ 465 Other Immigration Actions					
☐ 230 Rent Lease & Ejectment	☐ 442 Employment	☐ 530 General	☐ 740 Railway Labor Act						
☐ 240 Torts to Land	☐ 443 Housing/ Accommodations	☐ 535 Death Penalty	☐ 751 Family and Medical Leave Act						
☐ 245 Tort Product Liability	☐ 445 Amer. w/Disabilities - Employment	Other; ☐ 540 Mandamus & Other	☐ 790 Other Labor Litigation						
☐ 290 All Other Real Property	☐ 446 Amer. w/Disabilities - Other	☐ 550 Civil Rights	☐ 791 Employee Retirement Income Security Act						
	☐ 448 Education	☐ 555 Prison Condition							
		☐ 560 Civil Detainee - Conditions of Confinement							

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):
28 U.S.C. § 2241

Brief description of cause:
Petitioner is being denied bond in violation of hte law

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**VIII. RELATED CASE(S)
IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

/S/ ALEC S. BRACKEN

FOR OFFICE USE ONLY

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

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Midvale, Utah 84047
Phone: 801-980-9430
Email: alec@contigo.law
Attorney for Petitioner

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Gabriel Antonio Maldonado-Jovel,

Petitioner

v.

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security,

TODD LYONS, in his official capacity as
Acting Director of Immigration and Customs
Enforcement,

MARCOS CHARLES, in his official capacity
as ICE Field Officer Director,

JOHN MATTOS, in his official capacity as the
warden of the Nevada Southern Detention
Facility,

PAMELA BONDI, in her official capacity as
the United States Attorney General,

The Executive Office for Immigration Review

United States Immigration and Customs
Enforcement.

Respondents

Civil No.: 2:26-cv-360

VERIFIED PETITION FOR HABEAS
CORPUS

IMMIGRATION HABEAS CASE

INTRODUCTION

1
2 1. Gabriel Antonio Maldonado Jovel (Petitioner), by and through his undersigned counsel,
3 hereby files this petition for a writ of habeas corpus. Ex. 1. Petitioner entered the United States on over
4 twenty-four years ago and entered the United States without inspection. Petitioner is a native and citizen
5 of Honduras. *Id.* Petitioner was arrested by ICE on October 25, 2025 in West Valley, Utah. *Id.*
6

7 2. Soon after removal proceedings were commenced against Petitioner. *Id.* Respondent is
8 currently detained at the Nevada Southern Detention Facility and is being denied bond by Respondents
9 based on lack of IJ jurisdiction under Yajure-Hurtado, not discretionary denial.. Exs. 2 and 3.
10

11 3. Under 8 U.S.C. § 1226(a), aliens who have been apprehended within the United States and
12 placed in removal proceedings, other than arriving aliens, are generally eligible for a bond
13 redetermination before an immigration judge. This statutory framework authorizes immigration
14 officers to initially arrest and detain such individuals pending the outcome of their removal
15 proceedings, while also permitting release on bond or conditional parole based on a discretionary
16 custody determination. These provisions apply to noncitizens who have been living within the United
17 States, including those who entered without inspection or overstayed a lawful admission, and are
18 designed to provide a neutral review of custody decisions. During this process, the individual may
19 request a bond hearing before an immigration judge, who evaluates factors such as flight risk and
20 danger to the community. If the immigration judge determines that release is appropriate, the judge
21 may set bond or impose conditions of supervision. Importantly, this bond-redetermination mechanism
22 does not extend to arriving aliens, who remain subject to the separate parole framework under 8 U.S.C.
23 § 1182(d)(5), underscoring the distinct detention and release provisions applicable to different
24 categories of noncitizens.
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1 4. Under *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 225 (BIA 2025), the Department of
2 Justice has taken the position that certain individuals who entered the United States without inspection
3 (EWI) may be classified as “arriving aliens” for custody purposes, despite their physical presence in
4 the interior. In that decision, the Board interpreted the regulatory definition of an arriving alien to
5 include noncitizens encountered after having crossed the border without lawful admission, reasoning
6 that such individuals have not been formally admitted and therefore remain applicants for admission
7 under 8 U.S.C. § 1225. This interpretation allows DHS to process these individuals under the same
8 detention framework applicable to arriving aliens, placing them in a category that is traditionally
9 ineligible for bond redetermination by an immigration judge. As a result, individuals who EWI may be
10 treated as subject to the mandatory detention and parole-only release scheme, rather than the
11 discretionary bond review available to most non-arriving respondents. Importantly, this reading
12 highlights DOJ’s expansive view of the arriving-alien classification and its impact on custody
13 jurisdiction within removal proceedings.

14
15
16 5. Under longstanding statutory and regulatory frameworks, the Board of Immigration Appeals’
17 interpretation in *Matter of Hurtado*, classifying individuals who entered without inspection as “arriving
18 aliens”, is clearly erroneous because it conflicts with both the plain text of the Immigration and
19 Nationality Act and the structure of the custody regulations. The INA expressly distinguishes between
20 “arriving aliens,” who present themselves at a port of entry, and individuals apprehended *after* entering
21 the United States, who are instead treated as applicants for admission under 8 U.S.C. § 1225(a)(1) but
22 are processed under the detention authority of 8 U.S.C. § 1226(a). The regulations reinforce this
23 distinction by defining an arriving alien as one who is “coming to the United States” at a port of entry,
24 not someone already present in the interior. By collapsing these categories, the BIA’s interpretation
25 disregards decades of regulatory practice and nullifies the purpose of § 1226(a), which is to provide a
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27
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1 bond mechanism for individuals apprehended inside the country. Moreover, the BIA's reading
2 produces absurd and untenable results—effectively rendering non-arriving-alien custody jurisdiction
3 meaningless and undermining the statutory right to seek bond redetermination before an immigration
4 judge. This demonstrates that the Board's expansive interpretation cannot be reconciled with the
5 statutory text, regulatory definitions, or the broader scheme Congress enacted.
6

7 6. Petitioner here has been denied bond, citing directly to *Matter of Hurtado*. Ex. 3.

8 7. Pursuant to *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024), the Supreme Court
9 held that federal courts must “exercise independent judgment” when interpreting statutes and may no
10 longer defer to an agency's reasonable interpretation simply because a statute is ambiguous. Under this
11 ruling, the BIA's prior interpretations—such as in *Matter of Hurtado* or *Matter of Q. Li*—cannot
12 automatically command deference, particularly if those decisions rest on unexplained or arbitrary
13 reasoning. By abolishing Chevron deference, *Loper Bright* empowers reviewing courts to scrutinize
14 BIA policy choices on their merits, rather than rubber-stamping agency interpretations.
15

16 JURISDICTION AND VENUE

17 8. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general
18 federal question jurisdiction; 5 U.S.C. §§ 701 et seq., the Due Process Clause of the United States
19 Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
20 et. seq. and the All Writs Act, 28 U.S.C. § 1651.
21

22 9. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the
23 lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8
24 U.S.C. § 1252. See e.g., *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
25

26 10. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the
27 United States or officers or employees thereof acting in their official capacity or under color of legal
28

1 authority; Petitioner is in the custody of the Southern Nevada Detention Center, which is in the
2 jurisdiction of the Nevada District Court and there is no real property involved in this action.

3 11. There is no requirement for exhaustion of administrative remedies in the present case as
4 neither the habeas statute, 8 U.S.C. § 2241, nor the relevant sections of the INA require petitioners to
5 exhaust administrative remedies before filing petitions for habeas corpus. However, administrative
6 remedies were exhausted and bond was denied.
7

8 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

9 12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
10 (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.
11 If an OSC is issued, the Court must require Respondents to file a return “within three days unless for
12 good cause additional time, not exceeding twenty days, is allowed.” *Id.*
13

14 13. Courts have long recognized the significance of the habeas statute in protecting individuals
15 from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ
16 known to the constitutional law of England, affording as it does a swift and imperative remedy in all
17 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).
18

19 14. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and
20 detained by Respondents.

21 **PARTIES**

22 **PETITIONER**

23 15. Petitioner is a Honduran citizen, who is currently in the custody of the Department of
24 Homeland Security in Southern Nevada Detention Center in Pahrump. Petitioner entered the United
25 States without Inspection over twenty-four years ago and has remained in the United States since.
26
27
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RESPONDENTS

16. Respondent Kristi Noem (Secretary Noem) is the Secretary of the Department of Homeland Security, the parent agency of Immigration and Customs Enforcement which is currently detaining the Petitioner. Respondent Kristi Noem is sued in her official capacity as an agent of the United States Government.

17. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Drew Bostock and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

18. Respondent Marcos Charles is the Field Office Director of Immigration and Customs Enforcement. He is in charge of the custody of all Immigration and Customs Enforcement Detainees in the Nevada District Court. Respondent Marcos Charles is sued in his official capacity as an agent of the United States Government.

19. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States. Pamela Bondi is sued in her official capacity as an agent of the United States.

20. Respondent Executive Office for Immigration Review is the federal agency responsible for custody redeterminations relating to non-citizens charged with being removable from the United States.

21. Respondent John Mattos is the warden of the Southern Nevada Detention Center and thus has custody over the Petitioner. Respondent John Mattos is sued in his official capacity as an agent of the United States.

22. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

LEGAL FRAMEWORK

23. Under 8 U.S.C. § 1226(a), aliens who have been apprehended within the United States and placed in removal proceedings—other than arriving aliens—are generally eligible for a bond redetermination before an immigration judge. This statutory framework authorizes immigration officers to initially arrest and detain such individuals pending the outcome of their removal proceedings, while also permitting release on bond or conditional parole based on a discretionary custody determination. These provisions apply to noncitizens who have been living within the United States, including those who entered without inspection or overstayed a lawful admission, and are designed to provide a neutral review of custody decisions. During this process, the individual may request a bond hearing before an immigration judge, who evaluates factors such as flight risk and danger to the community. If the immigration judge determines that release is appropriate, the judge may set bond or impose conditions of supervision. Importantly, this bond-redetermination mechanism does not extend to arriving aliens, who remain subject to the separate parole framework under 8 U.S.C. § 1182(d)(5), underscoring the distinct detention and release provisions applicable to different categories of noncitizens.

PROCEDURAL AND FACTUAL BACKGROUND

24. Petitioner entered the United States on over twenty-four years ago and entered the United States without inspection. Ex. 1. Petitioner is a native and citizen of Honduras. *Id.* Petitioner was arrested by ICE on October 25, 2025 by ICE in West Valley, Utah. Ex. 2.

25. Soon after removal proceedings were commenced against Petitioner. Ex. 1. Respondent is currently detained at the Nevada Southern Detention Facility and is being denied bond by Respondents. Exs.2 and 3.

CAUSES OF ACTION

**1. FIRST CAUSE OF ACTION:
Violation of Fifth Amendment Right to Due Process**

26. Petitioner incorporates and realleges the allegations above.

27. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.57.

28. Here, the petitioner is being deprived of due process because DHS and DOJ categorically refuse to grant him a bond due to Hurtado, despite his placement in removal proceedings and the absence of any statutory bar to custody review. Under the INA, noncitizens in § 1226(a) proceedings are entitled to an individualized bond determination before a neutral adjudicator, and the Supreme Court has emphasized that civil immigration detention must include adequate procedural safeguards to satisfy the Fifth Amendment. Nevertheless, DHS has classified the petitioner as an “arriving alien” under *Matter of Hurtado* and *Matter of Q. Li* solely because he entered without inspection, and DOJ has adopted the position that immigration judges lack jurisdiction to review his custody. As a result, petitioner is denied the opportunity to be heard on whether his detention is justified—an essential element of due process under *Mathews v. Eldridge*, which requires meaningful notice and a fair opportunity to challenge government action. 424 U.S. 319 (1976). By withholding any mechanism for custody review, DHS and DOJ have effectively imposed indefinite civil confinement without the procedural protections the Constitution demands, rendering petitioner’s continued detention a clear violation of the Fifth Amendment.

**2. SECOND CAUSE OF ACTION:
Violation of the Immigration and Nationality Act**

29. Petitioner incorporates and realleges the allegations above.

30. The Immigration and Nationality Act (INA) sets forth specific circumstances under which the federal government may detain noncitizens. Under 8 U.S.C. § 1225(b)(1), arriving aliens may be detained pending a determination of admissibility, and under 8 U.S.C. § 1226(a), the Attorney General may take into custody aliens who are already in removal proceedings. Additionally, 8 U.S.C. § 1226(c) mandates detention for certain criminal aliens during removal proceedings. Once an alien is no longer subject to expedited removal, has completed credible fear proceedings, or does not fall within one of these statutory categories, the INA provides no authority for continued detention. *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018).

31. Matter of *Hurtado* impermissibly expands the definition of “arriving alien” beyond the limits established by Congress, and therefore cannot serve as a basis to deny petitioner bond. The INA expressly distinguishes between individuals seeking admission at the border and those apprehended inside the United States, assigning the former to the § 1225(b) detention framework and the latter to the discretionary custody-and-bond provisions of § 1226(a). By collapsing these categories and treating entry-without-inspection as functionally equivalent to presenting at a port of entry, *Hurtado* rewrites the statutory scheme and nullifies Congress’s deliberate decision to afford bond eligibility to non-arriving respondents. Because agency interpretations that contradict clear statutory text are invalid, DOJ and DHS cannot rely on *Hurtado* to deprive petitioner of custody review. Accordingly, petitioner must be placed within the statutory framework that governs his actual circumstances—§ 1226(a)—and afforded an individualized bond hearing before a neutral adjudicator, as the INA requires.

32. Because the petitioner does not fall within any statutory basis for mandatory detention under the INA, his continued confinement is ultra vires, and he should be given a bond hearing immediately.

RESERVATION OF RIGHTS

Petitioner reserves the right to add additional allegations of agency error and related causes of action upon receiving the certified administrative record.

PRAYER FOR RELIEF

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

- A. Assume jurisdiction over the matter.
- B. Declare Petitioner's detention without a possibility of bond unlawful pursuant to the due process clause and the Immigration and Nationality Act.
- C. Order the Executive Office for Immigration Review to hold a bond hearing immediately.
- D. Enjoin Respondents from denying Petitioner the ability to be released on bond on the basis that Petitioner is subject to mandatory detention under 8 U.S.C.A. § 1225(b)(2).
- E. Award Petitioner costs of suit and attorney's fees under the Equal Access to Justice Act, 42 U.S.C. § 1988 and any other applicable law;
- F. Enter all necessary relief, injunctions, and orders as justice and equity as appropriate to remedy the harms to Petitioner;
- G. Grant such further relief as this Court deems just and proper.

DATED: February 12, 2026

Respectfully submitted,

/S/ ALEC S. BRACKEN

Alec S. Bracken (UT SBN 17178)

Contigo Law

P.O. Box 249

Midvale, UT 84047

Tel. (801) 676-6548

Email: alec@contigo.law

Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. 2242

1 I am submitting this verification on behalf of Petitioner because I am one of Petitioner's
2 Attorneys. I have discussed with Petitioner's counsel for bond the events described in this Petition. I
3 hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and
4 correct to the best of my knowledge.
5

6
7 DATED: February 12, 2026
8
9

10 Respectfully submitted,

11 /S/ ALEC S. BRACKEN
12 Alec S. Bracken (UT SBN 17178)
13 Contigo Law
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15 Midvale, UT 84047
16 Tel. (801) 676-6548
17 Email: alec@contigo.law
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19
20
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27 **Certificate of Service**
28

1 I, Alec S. Bracken, certify that a true and complete copy of this Petition was served on
2 Respondents via email to the United States Attorney's Office for the District of Nevada at:

3 Liam Pisan - Liam.Pisan@usdoj.gov

4 Virginia Tomova - Virginia.Tomova@usdoj.gov

5 Dated: February 12, 2026

6 Respectfully submitted,

7
8
9 /S/ ALEC S. BRACKEN

10 Alec S. Bracken (UT SBN 17178)

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