Marcelo Gondim, SBN 271302
Gondim Law Corp.
1880 Century Park E, Suite 400
Los Angeles, CA 90067
Telephone: 323-282-7770
Email: court@gondim-law.com
Counsel for Petitioner

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Mohd Ismail Meraj,

Petitioner,

vs.

Todd Lyons, Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement (ICE);

John Mattos, Warden, Nevada Southern Detention Center;

Kristi Noem, Secretary, United States Department of Homeland Security;

Pamela Bondi, Attorney General of The United States;

Sirce Owen, Acting Director, EOIR,

Respondents.

Case No.:

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR ADMINISTRATIVE PROCEDURE ACT RELIEF

INTRODUCTION

1. Petitioner, Mohd Ismail Meraj, by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. 2241 to challenge the unlawful detention imposed by Respondents.

2. Petitioner seeks immediate release from custody or, alternatively, a bond hearing before the immigration court. Petitioner has been subjected to prolonged detention at the Nevada Southern Detention Center in violation of his constitutional rights under the Due Process Clause of the Fifth Amendment and the principles established in *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491 (2001), and other relevant precedent.

3. Petitioner is a member of the nationwide "Bond-Eligible Class" certified in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025)

4. The *Maldonado Bautista* final judgment is binding nationwide on all DHS and DOJ officers, including Immigration Judges. The case certified a nationwide Bond-Eligible Class and expressly declared that class members are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2). The court further vacated DHS's contrary detention policy and entered final judgment in favor of the entire class.

5. Under established law, federal district court injunctions bind the entire Executive Branch unless stayed or reversed on appeal. The Supreme Court has held

that all federal officers must comply with federal court orders, even if they disagree with them. *Maness v. Meyers*, 419 U.S. 449, 458 (1975); *United States v. United Mine Workers*, 330 U.S. 258, 293 (1947). Immigration Judges—who are DOJ employees—are part of the Executive Branch and therefore must follow these commands.

6. Likewise, nationwide class actions bind all class members and all defendants nationwide, not just those in the issuing district. *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979); *Bresgal v. Brock*, 843 F.2d 1163, 1170–71 (9th Cir. 1987). Because *Bautista* certified a nationwide class, the order necessarily applies in all immigration courts, including this one.

7. Finally, when a federal court has definitively interpreted a statute, that interpretation supersedes any contrary agency interpretation, including BIA precedent. *Nat'l Cable & Telecomms. Ass'n v. Brand X*, 545 U.S. 967, 982–984 (2005). Thus, *Matter of Yajure-Hurtado* cannot be applied to class members after *Bautista*.

8. Despite the clear mandate of the federal courts, the Department of Justice ("DOJ") has engaged in a campaign of administrative defiance. On December 22, 2025, the *Bautista* court issued a clarifying order finding that the DOJ had specifically directed IJs to ignore the court's rulings and continue denying bond hearings to class members.

9. Petitioner's detention is therefore governed by 8 U.S.C. § 1226(a), which entitles him to a prompt, individualized bond hearing. Respondents' continued detention without due process violates the Fifth Amendment and the Suspension Clause.

10. Petitioner accordingly seeks a writ of habeas corpus under 28 U.S.C. § 2241; Declaratory relief confirming that he was not paroled into the United States and thus falls under the jurisdiction of the immigration court; Injunctive relief requiring Respondents to recognize his procedural and statutory rights; and Any other appropriate relief under the Administrative Procedure Act, as the reclassification or denial of jurisdiction constitutes final agency action that is arbitrary, capricious, an abuse of discretion, and contrary to law under 5 U.S.C. § 706(2).

11. Petitioner respectfully requests that this Court order his immediate release, or alternatively, require Respondents to provide a bond hearing within ten days, consistent with statutory and constitutional requirements.

JURISDICTION AND VENUE

12. This case arises under the Immigration and Nationality Act (INA), 8 U.S.C. §§ 1101–1538, and its implementing regulations; the Administrative Procedure Act (APA), 5 U.S.C. §§ 500–596, 701–706; and the U.S. Constitution.

13. 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).

14. 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; Federal Rule of Civil Procedure 65; and the Court's inherent equitable powers.

15. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e) because Respondents are U.S. agencies and officers of the United States acting in their official capacities or because they reside in this district. In addition, a substantial part of the events or omissions giving rise to the claims occurred in this District, Petitioner is detained in this District, and no real property is involved in this action.

REQUIREMENTS OF 28 U.S.C. § 2243

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

17. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England,

affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

18. Petitioner, Mohd Ismail Meraj, is native and citizen of Afghanistan who is currently detained at the Nevada Southern Detention Center in Pahrump, Nevada.

19. Respondent Todd Lyons is the Director of ICE. He is responsible for the implementation of immigration detention policies and oversees the Petitioner's detention.

20. Respondent John Mattos is the Warden of the Nevada Southern Detention Center, oversees the day-to-day functioning of Nevada Southern Detention Center, and has immediate physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens. Mr. Mattos is sued in his official capacity as the Warden of a federal detention facility.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. As Secretary, she oversees the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens. She is sued in her official capacity.

22.Respondent Pamela Bondi is the Attorney General of the United States and head of the U.S. Department of Justice. In that capacity, she oversees EOIR and the immigration court system the agency administers. She is ultimately responsible

for the agency's operation. She is sued in her official capacity.

23. Respondent Sirce Owen is the Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond hearings. He is sued in his official capacity.

STATEMENT OF FACTS

24. Petitioner entered the United States without inspection on or around March 21, 2023. Shortly after his entry, he was apprehended by immigration authorities, released on bond, and placed into removal proceedings. under Section 240 of the Immigration and Nationality Act (INA) and charged as inadmissible under Section 212(a)(7)(A)(i)(I) of the INA for not possessing valid entry documents.

25. Petitioner has no criminal history, poses no danger to the community, and has complied with all immigration requirements throughout his residence in the country.

26.Petitioner has strong family and community ties to the United States. He resides with his family, and his continued detention disrupts the family unit and prevents him from participating in their ongoing immigration proceedings.

27.On January 16, 2026, the Petitioner appeared for a routine ICE check-in, accompanied by his family, as he had consistently done in the past. He fully complied with all reporting requirements and followed all applicable rules. Despite

this compliance, ICE officers detained the Petitioner without providing any explanation and informed him that his bond had been revoked. This action was taken notwithstanding the Petitioner's lack of any criminal history and his continued adherence to all conditions imposed by ICE.

28. DHS's own records confirm that Petitioner's immigration case is active and pending before the Immigration Court.

29. In addition, the Petitioner has suffered severe personal and medical hardship. In December 2025, he experienced the devastating loss of his daughter, which has significantly worsened his mental health. The Petitioner suffers from extreme anxiety and depression stemming from post-traumatic stress disorder related to the persecution and trauma he endured in his home country, and he also has diabetes requiring ongoing medical management. Since his detention, the Petitioner's physical and mental health have deteriorated substantially, including an involuntary weight loss of more than ten pounds, showing the serious and ongoing harm caused by his continued detention.

30. The Petitioner also faces unique and severe humanitarian concerns arising from his past service. He worked as [redacted] The Petitioner's current detention,

despite his full compliance with all immigration requirements, has retraumatized him and is resurfacing the post-traumatic stress disorder he developed from the cumulative injustices and persecution he has endured.

31. On July 8, 2025, the Department of Homeland Security ("DHS") instituted a notice titled "Interim Guidance Regarding Detention Authority for Applicants for Admission" (the "Notice") requiring, in general, that anyone arrested in the United States and charged with being inadmissible to be considered an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A), subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and not subject to detention under 8 U.S.C. § 1226(a).

32. In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.R.D. ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the Notice unlawful under the Administrative Procedures Act but did not issue a final judgment. On December 18, 2025, however, the Bautista court entered final judgement.

33. ICE justified the Petitioner's detention by relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), asserting that the Petitioner is categorically ineligible for a bond hearing under 8 U.S.C. § 1226(a). However, on December 18, 2025, a final judgment was entered in *Maldonado Bautista v. Santacruz*, which directly undermined and

foreclosed the continued application of that interpretation. Despite this binding judgment, ICE blatantly disregarded the court's ruling and, on January 16, 2026, proceeded to arrest and detain the Petitioner anyway, in clear contravention of controlling law.

34. There was therefore no lawful basis to detain Petitioner or to treat him as subject to immediate removal.

35. Petitioner remains detained in ICE custody without any lawful basis, despite having been previously granted bond. He therefore seeks relief from this Court through a writ of habeas corpus under 28 U.S.C. § 2241, requesting reinstatement of the $5,000 bond set by the ICE on June 29, 2023, so that he may secure his release while his immigration proceedings remain pending.

36. Petitioner also seeks a writ of habeas corpus under 28 U.S.C. § 2241; Declaratory relief confirming that he was not paroled into the United States and thus falls under the jurisdiction of the immigration court; Injunctive relief requiring Respondents to recognize his procedural and statutory rights; and Any other appropriate relief under the Administrative Procedure Act, as the reclassification or denial of jurisdiction constitutes final agency action that is arbitrary, capricious, an abuse of discretion, and contrary to law under 5 U.S.C. § 706(2).

37. Petitioner respectfully requests that this Court order his immediate release, or alternatively, require Respondents to provide a bond hearing within ten days,

consistent with statutory and constitutional requirements.

LEGAL FRAMEWORK

Detention under 8 U.S.C. § 1226(a) and § 1225(b)(2)

38. The Immigration and Nationality Act ("INA") authorizes the detention of noncitizens in removal proceedings under three primary provisions: INA § 236(a) (8 U.S.C. § 1226(a)), INA § 235(b) (8 U.S.C. § 1225(b)), and 8 U.S.C. § 1231(a)–(b).

39. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in § 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).

40. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

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

42. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

43. The detention provisions at § 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(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

44. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 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).

45. Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ 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 § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

46. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. §

1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

47. 8 U.S.C. § 1225(b), by contrast, mandates detention of certain arriving aliens and applicants for admission during the pendency of expedited or full removal proceedings. However, this provision only applies to individuals who are "seeking admission" and who are either subject to expedited removal or placed into § 240 proceedings as applicants for admission.

48. A key distinction in this framework is "parole" under INA § 212(d)(5), which permits the Secretary of Homeland Security, in his discretion, to parole an individual into the United States temporarily for urgent humanitarian reasons or significant public benefit. Parole is an express legal status that must be granted affirmatively and documented by the issuance of Form I-94 or other evidence of parole.

49. The Board of Immigration Appeals' decision in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), held that individuals who have been formally "paroled" into the United States under § 212(d)(5) are not eligible for a bond hearing under INA § 236(a), because they are considered "arriving aliens" subject to § 235.

50. However, *Q. Li* does not apply to individuals who, like Petitioner, were never formally granted parole but were instead released on their own recognizance after being processed and issued an NTA. DHS cannot unilaterally designate an individual as "paroled" absent a formal parole determination under § 212(d)(5) and issuance of appropriate documentation.

51. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the BIA extended this reasoning, holding that noncitizens who entered without inspection and were later apprehended in the interior are categorically ineligible for bond hearings under § 236(a), effectively stripping IJs of jurisdiction.

52. These decisions are recent, agency-specific interpretations. They are binding within EOIR but not controlling in federal courts. Following the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, courts now review statutes de novo without deference to agency interpretations.

53. Federal courts have increasingly recognized that reliance on *Q. Li* and *Yajure Hurtado* to deny bond hearings violates statutory and constitutional principles, particularly when the detainee:

- Entered without inspection but was never formally paroled;
- Has strong family or community ties;
- Poses no danger or flight risk; and
- Faces prolonged detention without an individualized custody determination

54. As courts in multiple circuits have found, including *Ponte-Guanare v. Archambeault*, No. 3:25-cv-02081 (S.D. Cal. Sep. 25, 2025), and *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK (D. Mass. Sept. 9, 2025), administrative exhaustion is futile when detention is based solely on these BIA precedents, making habeas review appropriate and ordering that: *"Respondents SHALL NOT deny Petitioner's bond on the basis that 8 U.S.C. § 1225(b)(2) requires mandatory detention"*.

55. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Prolonged detention without an individualized custody determination by a neutral arbiter violates due process. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003); *Jennings v. Rodriguez*, 583 U.S. 131 (2018).

56. Where DHS has misclassified a person as paroled to avoid judicial review of custody under § 236(a), courts retain habeas jurisdiction to correct such errors and order a bond hearing. *See Padilla v. ICE*, 354 F. Supp. 3d 1218, 1228 (W.D. Wash. 2018); *Sajous v. Decker*, No. 18-CV-2447 (AJN), 2018 WL 2357266, at *7 (S.D.N.Y. May 23, 2018).

57. The Administrative Procedure Act, 5 U.S.C. §§ 701–706, provides a cause of action for individuals aggrieved by final agency action that is arbitrary, capricious, contrary to law, or in excess of statutory authority. DHS's and the Immigration Judge's reliance on *Q. Li* under the mistaken belief that Petitioner had

been "paroled" constitutes final agency action that is contrary to law and subject to review under the APA.

The BIA's Practice of Delayed Decisions in Bond Proceedings

58. The BIA's appellate process does not offer a meaningful avenue to correct the Otay Mesa Immigration Court's errors.

59. According to the agency's own data, during FY 2024, the agency's average processing time for a bond appeal was 204 days, or nearly seven months.

60. The lengthy delays in bond appeal determinations do not affect only Mrs. Ponte-Guanare and similarly situated individuals subject to the Board of Immigration Appeals' decision in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) described above. It also affects all noncitizens who are detained, who have a right to a bond hearing, and who have their request for a bond denied or cannot afford the bond they are provided.

61. This average of 204 days tells only part of the story. The data released by EOIR shows that in many cases, the BIA review takes far longer—in some cases, a year or more—to decide a person's bond appeal.

62. These processing times defy the Due Process Clause.

63. The Supreme Court and the Ninth Circuit have explained that appellate review is a critical component of a constitutional civil detention scheme, including in immigration cases. *See*, e.g., *Schall v. Martin*, 467 U.S. 253, 280 (1984); *Singh*

v. Holder, 638 F.3d 1196, 1209 (9th Cir. 2011); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1065–66 (9th Cir. 2008).

64. The Supreme Court has also made clear that *timely* appellate review is a key feature of any civil detention scheme. As the Court has explained, "[r]elief [when seeking review of detention] must be speedy if it is to be effective." *Stack v. Boyle*, 342 U.S. 1, 4 (1951).

65. Most notably, the Court upheld the federal pretrial detention under the Bail Reform Act in part because the statute "provide[s] for immediate appellate review of the detention decision." *United States v. Salerno*, 481 U.S. 739, 752 (1987). As the Ninth Circuit later elaborated, "[e]ffective review of pretrial detention orders necessarily entails a speedy review in order to prevent unnecessary and lengthy periods of incarceration on the basis of an incorrect magistrate's decision." *United States v. Fernandez-Alfonso*, 813 F.2d 1571, 1572 (9th Cir. 1987).

66. These principles derive from the federal pretrial context, where, by definition, individuals are subject to federal criminal proceedings. Yet here, where only civil proceedings are at issue, the BIA provides nothing like the speedy review federal district and appellate courts provide of magistrate judge detention decisions.

67. Without timely review, appellate review is meaningless. Indeed, the Supreme Court has explained that the opportunity to obtain "freedom before conviction permits the unhampered preparation of a defense, and serves to prevent

the infliction of punishment prior to conviction." Stack, 342 U.S. at 4. Additionally, such detention "may imperil the [detained person's] job, interrupt his source of income, and impair his family relationships." *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975).

68. During the many months the BIA takes to review a bond appeal, a detained noncitizen will be forced to defend themselves against their removal on the merits, depriving them of a meaningful chance to assemble evidence outside detention, coordinate with family, or communicate with potential witnesses in other countries.

69. Indeed, their very detention significantly reduces their likelihood of obtaining legal representation. In removal proceedings, noncitizens have the right to be represented by legal counsel but "at no expense to the government." 8 U.S.C. § 1362. Those detained while in removal proceedings face significant challenges to accessing and communicating with counsel or other forms of legal assistance. *See*, e.g., ACLU, No Fighting Chance: ICE's Denial of Access to Counsel in U.S. Immigration Detention Centers 6 (June 9, 2022). [1]

70. The lack of legal representation in turn dramatically reduces the potential for successful outcomes in their underlying removal proceedings. *Id.* at 12.

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[1] https://www.aclu.org/ publications/no-fighting-chance-ices-denial-access-counsel-us-immigration-detention-centers.

71. The months a noncitizen waits for appellate review also deprives them of time with their spouses, children, parents, and other family members. These individuals—who are often U.S. citizens or lawful permanent residents—are similarly deprived of the love, care, and financial support that the detained person provides.

72. Time in detention is also difficult in other ways. Detained persons are often incarcerated in jail-like settings, forced to sleep in communal spaces, receive inadequate medical care, and subjected to other degrading treatment.

73. While not all noncitizens succeed in their appeals, some do. The BIA's months-long appellate review means that for those individuals, they have spent months of unnecessary time in detention and suffered the many harms outlined above.

74. Such review processing times violate the Due Process Clause and do not constitute a reasonable time as required by the APA.

CAUSES OF ACTION

COUNT I
Violation of 8 U.S.C. § 1226(a) – Unlawful Denial of Bond Hearings

75. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

76. Under 8 U.S.C. § 1226(a), the Attorney General may detain an alien

pending a decision on removal proceedings, but the statute expressly authorizes release on bond or conditional parole after a custody redetermination.

77. Petitioner was denied bond by the Immigration Judge on the sole basis of *Matter of Q–Li*, 29 I&N Dec. 66 (BIA 2025) and *Matter of Hurtado* (BIA 2025), under the erroneous finding that he had been "paroled" when he was, in fact, released on his own recognizance and he was not detained at a port-of-entry.

78.Under the clear language of the INA, § 235(b) governs the treatment of "applicants for admission" who present themselves at a port of entry or are intercepted while seeking entry. Section 236(a) applies to noncitizens who have already entered the country and are awaiting removal proceedings.

79. The Immigration Judge's denial of bond without consideration of the statutory factors in § 1226(a) and applicable regulations deprived Petitioner of the individualized custody determination guaranteed by law.

80.Petitioner falls squarely within the latter category and is thus entitled to an individualized bond hearing under § 236(a). The IJ's denial of jurisdiction under *Matter of Q. Li* and *Matter of Hurtado* constitutes an error of law and a violation of the INA.

81.Following the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo* (U.S. June 28, 2024), agency interpretations of ambiguous statutes are no longer entitled to Chevron deference. Courts must interpret statutory provisions

de novo, using the traditional tools of statutory construction.

82.Because *Matter of Q. Li* and *Matter of Hurtado* constitute agency interpretations inconsistent with the INA's plain text, they are not entitled to deference and cannot lawfully strip Immigration Judges of jurisdiction to conduct bond hearings for individuals like Petitioner.

83.By refusing to classify Petitioner under INA § 236(a) and denying him a bond hearing, Respondents are in direct violation of the immigration statutes and the binding decision issued in *Maldonado Bautista*.

84. This constitutes an unlawful application of § 1226(a), warranting habeas relief.

COUNT II
Violation of the Administrative Procedure Act – Unlawful Denial of Bond

85. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

86. The APA, 5 U.S.C. §§ 701–706, prohibits agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

87. The revocation of Petitioner's $5,000 bond by ICE, based on *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), was arbitrary and capricious. The BIA's reasoning rested on an incorrect factual and legal premise, namely, that Petitioner had been "paroled"

into the United States, when in fact, he entered without inspection in 2023, resided continuously, and was granted bond.

88. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

89. The BIA's holdings in *Matter of Q. Li* and *Matter of Hurtado* are agency actions that reinterpret the INA to eliminate jurisdiction for Immigration Judges to hold bond hearings in cases governed by § 236(a).

90. These decisions are contrary to the plain text, structure, and legislative history of the INA and thus not in accordance with law.

91. Moreover, under *Loper Bright Enterprises v. Raimondo*, courts may not defer to such interpretations. Instead, the judiciary must independently construe the INA's statutory scheme. Upon such review, *Matter of Q. Li* and *Matter of Hurtado* constitute unlawful, ultra vires agency actions.

92. Respondents' bond decision was not in accordance with the INA, the APA, or due process, and therefore must be set aside under 5 U.S.C. § 706(2).

Count III: Petitioner Must Be Immediately Released Because His Detention Violates Due Process Under *Mathews v. Eldridge*

93. Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment because ICE deprived him of liberty without adequate procedural safeguards and without any legitimate governmental justification. Applying the three-factor balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), the balance overwhelmingly favors immediate release.

1. Petitioner's Liberty Interest Is Profound and Weighty

94. The first *Mathews* factor requires the Court to consider "*the private interest that will be affected by the [government] action.*" Id. at 321. Freedom from bodily restraint lies "*at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.*" *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Civil immigration detainees are entitled to this fundamental protection. Courts in the Ninth Circuit consistently recognize that noncitizens have a strong liberty interest in avoiding civil immigration detention. See, e.g., *Diouf v. Napolitano*, 634 F.3d 1081, 1086 (9th Cir. 2011) (The Fifth Amendment's Due Process Clause protects individuals in immigration proceedings, entitling them to freedom from unnecessary detention.).

95. Here, Petitioner does not have any criminal history, or allegation of dangerousness. The government has failed to articulate any legitimate justification for Petitioner's continued detention. The government's interest in detaining Petitioner is minimal.

96. Due to the repeated rescheduling and postponements of his immigration hearings, Respondent does not know when his case will be concluded. And, even in the event that his application for asylum is denied, the ongoing civil turmoil in Afghanistan, his home country effectively precludes his immediate deportation for the foreseeable future.

97. Additionally, Petitioner's medical history and the inadequate medical care provided at the detention facility further underscore the unconstitutionality of his detention. The Fifth Amendment's Due Process Clause prohibits punitive conditions of confinement for civil detainees, as recognized in Hernandez-Lara v. Lyons, 10 F.4th 19. and other cases applying the *Mathews* framework to immigration detention. *Hernandez-Lara v. Lyons*, 10 F.4th 19.

98.Petitioner has suffered severe personal and medical hardship. In December 2025, he experienced the devastating loss of his daughter, which has significantly worsened his mental health. The Petitioner suffers from extreme anxiety and depression stemming from post-traumatic stress disorder related to the persecution and trauma he endured in his home country, and he also has diabetes requiring ongoing medical management. Since his detention, the Petitioner's physical and mental health have deteriorated substantially, including an involuntary weight loss of more than ten pounds, showing the serious and ongoing harm caused by his continued detention.

99. To continue detaining a man who is a likely asylee, who poses no danger, and who is facing a medical crisis that the facility cannot manage is the very definition of arbitrary and oppressive government action.

2. The Risk of Erroneous Deprivation Was Extreme, and the Government Provided No Adequate Procedure Prior to Detention

100. The second Mathews factor requires the Court to examine "*the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards*." 424 U.S. at 321. Ninth Circuit courts "regularly apply Mathews to due process challenges to removal proceedings." *Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022). Under that framework, the government's abrupt detention of Petitioner presents one of the highest conceivable risks of error.

101. The risk of erroneous deprivation in this case is not merely theoretical; it is realized. Petitioner has been held for over two months, even though he did not commit any violations or crimes after he was granted bond, meaning his detention was completely untethered to any active adjudicatory process.

102. Even if the Immigration Judge previously denied Petitioner's release under bond solely under *Matter of Yajure Hurtado*, a precedent that does not permit meaningful consideration of Petitioner's actual risk profile and fails to ensure the individualized analysis due process demands. Where the initial arrest itself was

unsupported by any prior procedural protections, a later bond hearing cannot retroactively legitimize unlawful detention. See *Wong Wing v. United States*, 163 U.S. 228, 238 (1896) (punitive or restrictive measures cannot precede due process).

103. Furthermore, the risk of error is underscored by the current posture of his case. The Immigration Judge conducting Petitioner's removal case has stated on the record his intent to grant Petitioner asylum and found no negative factors in his background. Despite the Immigration Judge's finding that Petitioner's life would be in danger if returned to Afghanistan, the government continues to oppose his release and opportunity for removal relief. Without a bond hearing or a meaningful opportunity to contest his detention before a neutral arbiter, the current "procedure" serves only to prolong the incarceration of an individual whom the court seems eager to declare eligible for legal status.

3. The Government's Interest in Detaining Petitioner Is Minimal, and No Legitimate Administrative Burden Justifies His Continued Confinement

104. The third *Mathews* factor examines the government's interest, including "*fiscal and administrative burdens that the additional or substitute procedural requirement would entail*" of additional procedures. 424 U.S. at 321. In the civil immigration context, courts recognize that the government's interests are largely limited to ensuring attendance at proceedings and protecting public safety. See *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

105. The government's interest in detaining Petitioner is minimal, particularly given the Immigration Judge's finding that Petitioner poses no danger to the community and is likely to be granted asylum. Courts have consistently held that the government's interest in detaining noncitizens is limited to ensuring attendance at proceedings and protecting public safety. *Lopez v. Decker*, 978 F.3d 842. In *Lopez v. Decker*, the Second Circuit emphasized that prolonged detention without justification undermines the government's interest and imposes an undue burden on detainees. Lopez v. Decker, 978 F.3d 842. Similarly, in *Black v. Almodovar*, 156 F.4th 171 the court held that due process requires the government to bear the burden of justifying continued detention by clear and convincing evidence in cases of prolonged detention.

106. Here, the government has no legitimate interest in continuing to detain Petitioner:

- He has no criminal history.
- He has never posed any danger to the community.
- Petitioner surrendered voluntarily at the border to seek asylum, demonstrating a clear intent to comply with legal processes. The removal case Immigration Judge's stated intent to grant asylum further incentivizes Petitioner to appear for all future hearings to finalize his

legal status.

- Rather than serving a government interest, continued detention creates an affirmative burden. Petitioner has suffered severe personal and medical hardship, yet the facility lacks a adequate professionals. The government's interest in "efficient" immigration enforcement is actually undermined by the high cost and administrative strain of detaining a medically fragile individual whose primary "offense" is seeking the very protection the Immigration Judge has already indicated he deserves.

107. The Respondents have failed to articulate any legitimate justification for Petitioner's continued detention. Petitioner has demonstrated his willingness to comply with the adjudicatory process. Furthermore, the Immigration Judge's findings in the removal proceedings indicate that Petitioner poses no risk to public safety. The government's continued detention of Petitioner, despite these facts, serves no legitimate purpose and imposes an undue burden on Petitioner's liberty and well-being.

108. Given the availability of far less burdensome and far less restrictive means, the government cannot justify the constitutional cost of detention in this case.

109. Balancing all three *Mathews* factors, the Court should conclude that Petitioner's arrest and ongoing detention violate the Due Process Clause. The

government deprived him of a fundamental liberty interest without any pre-deprivation process, subjected him to an unreasonably high risk of erroneous deprivation, and continues to detain him without any meaningful governmental justification.

110. . Petitioner's fundamental liberty interest, compounded by his critical medical needs and the psychological toll of chronic stress and panic episodes, far outweighs any dwindling government interest in his detention.

111. Because no constitutionally adequate procedures supported his initial arrest or sustain his ongoing confinement, habeas relief is warranted. Petitioner should be immediately released from custody.

PRAYER FOR RELIEF

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

1) Assume jurisdiction and proper venue over this matter;

2) Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Respondents to immediately release Petitioner from immigration detention;

3) Alternatively, Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Respondents to reinstate the $5,000 bond previously granted on June 29, 2023, so that Petitioner may secure his release from immigration detention.

4) Declare that Respondents' denial of bond under *Matter of Q–Li* and *Matter*

of Hurtado was unlawful under 8 U.S.C. § 1226(a), the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment;

5) Declare that Respondents' prolonged delay in adjudicating Petitioner's bond appeal violates the Administrative Procedure Act and the Due Process Clause of the Fifth Amendment;

6) Enjoin Respondents from further detaining Petitioner without providing a lawful and individualized custody determination;

7) Award Petitioner reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

8) Grant such other and further relief as this Court deems just and proper

Date: February 19, 2026

Respectfully submitted,

/s/ Marcelo Gondim

Marcelo Gondim (SBN 271302)
Gondim Law Corp.
1880 Century Park East, Suite 400
Los Angeles, CA 90067
Telephone: 323-282-777
Email: court@gondim-law.com
Attorney for the Petitioner

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

I represent Petitioner, Mohd Ismail Meraj, 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.

February 19, 2026.

/s/ Marcelo Gondim

Marcelo Gondim (SBN 271302)
Gondim Law Corp.
1880 Century Park East, Suite 400
Los Angeles, CA 90067
Telephone: 323-282-7770
Email: court@gondim-law.com
Attorney for Petitioner