**UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF MICHIGAN**
**SOUTHERN DIVISION**

ANTONI JOSE HERNANDEZ-GOMEZ,

Petitioner,

v.

KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, and ANGELA DUNBAR, Warden, North Lake Processing Center

Respondents.

Case No. 1:26-cv-00831

Hon.

**SECOND PETITION FOR WRIT OF HABEAS CORPUS**

## INTRODUCTION

1. Petitioner Antoni Jose HERNANDEZ-GOMEZ respectfully submits this Second Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner is a native and citizen of Venezuela who has resided in the United States since 2023—having arrived at the age of twenty-seven.

2. Petitioner has a pending I-589 asylum application and is the main provider for his wife and son. He has no criminal history of any kind. He has been detained at the North Lake Processing Center in Baldwin, Michigan, since January 26, 2026, under 8 U.S.C. § 1226(a).

3. This Court previously granted Petitioner's First Petition for Writ of Habeas Corpus and ordered Respondents to hold a bond hearing. That hearing was held. The Immigration Judge ("IJ") denied bond—not based on any criminal history, as the record confirms that Petitioner has none. Instead, the IJ relief primarily on the fact that petitioner is a recent entrant and lacks United States citizen or lawful permanent resident family members or property ties. In doing so, the IJ discounted the undisputed evidence that Petitioner has a sponsor, submitted letter of support, has been compliant with immigration authorities, and has his wife and son present in the United States who depend on him as their primary provider. The IJ further failed to meaningfully consider that Petitioner is actively pursuing a pending asylum application and must be afforded a fair opportunity to prepare

and present his claim. This baseless denial, following a constitutionally inadequate hearing, is precisely the harm habeas corpus was designed to remedy.

4. Petitioner now seeks three alternative forms of relief: (1) immediate release from custody, as the IJ's bond denial was constitutionally defective and further detention without adequate justification violates the Due Process Clause of the Fifth Amendment; (2) in the alternative, a new bond hearing ordered by this Court with specific constitutional safeguards, including a requirement that the Government bear the burden of justifying continued detention by clear and convincing evidence; and (3) any other relief this Court deems just and proper.

5. Both, this petition and the first petition arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

6. This policy has led to the unlawful detention of countless noncitizens nationwide. Many habeas corpus petitions for their release have been filed in jurisdictions across the country (including dozens in the Eastern District of Michigan). Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

7. The recent decision in *Maldonado Bautista* recognizes this unlawful practice, yet Respondents continue to unlawfully detain and refuse bond eligibility to countless noncitizens nationwide.

8. Although 8 U.S.C. § 1226(a) on its face contemplates individualized custody determinations and the possibility of release on bond or conditional parole for noncitizens like Petitioner, the bond hearing he received did not satisfy due process and cannot cure the constitutional defect in his ongoing detention. In practice, immigration judges have adopted an unduly restrictive approach to § 1226(a), seizing on pretextual or minor factors to justify blanket denials of bond rather than conducting a genuine, individualized assessment of danger and flight risk.

9. Petitioner's hearing illustrates this systemic problem: despite his long residence in the United States, family and community ties, and the availability of conditions that could reasonably assure his appearance, the immigration judge denied bond by invoking speculative concerns and refusing to give meaningful weight to the evidence in favor of release. A process that exists only in form, and that is administered in a way that predetermines detention and treats denial of bond as the default outcome, does not provide the "adequate and effective" safeguard the Constitution requires for prolonged civil confinement.

10. Because the bond hearing Petitioner received was constitutionally inadequate

and functions in practice as a rubber stamp for continued detention, due process now requires his immediate release rather than another round of illusory bond review.

**JURISDICTION**

11. This Court has jurisdiction pursuant to 28 U.S.C. § 2241, which grants federal district courts the power to issue writs of habeas corpus to any person held "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Federal courts retain jurisdiction over immigration habeas petitions. See *INS v. St.* Cyr, 533 U.S. 289, 305 (2001); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

12. Petitioner's constitutional claims—due process violations under the Fifth Amendment—fall outside the BIA's remedial authority and thus do not trigger a strict exhaustion requirement. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006) (recognizing that exhaustion is not required where the agency lacks authority to grant the relief requested). Moreover, exhaustion here would be futile: the BIA recently issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), entrenching the government's position, and any further administrative review would only prolong the very constitutional deprivation at issue.

13. Furthermore, this is a second petition following an already-granted first habeas: the bond hearing has now occurred and produced a constitutionally inadequate

result, confirming that the existing administrative process cannot cure the ongoing violation of Petitioner's due process rights.

**VENUE**

14. Venue is proper in this Court because Petitioner is detained within the Western District of Michigan at the North Lake Processing Center, Baldwin, Lake County, Michigan. See Rumsfeld v. Padilla, 542 U.S. 426, 434–35 (2004). Petitioner is detained in an immigration detention facility in Michigan at the direction of, and is in the immediate custody of, Respondent Kevin Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314, 320–21 (6th Cir. 2003).

15. Venue is also properly 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 and relevant facts occurred in the Western District.

**REQUIREMENTS OF 28 U.S.C. § 2243**

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

17. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

## PARTIES

18. Petitioner Antoni Jose HERNANDEZ-GOMEZ is a Venezuelan citizen who has resided in the United States since 2023. He has been in immigration detention since January 26, 2026, and is currently detained at the North Lake Processing Center. After taking custody of Mr. Hernandez-Gomez, ICE did not set bond. Mr. Hernandez-Gomez's has a I-589 application pending with the immigration court. Despite having no criminal history, either past or present, he was detained without probable cause while working as a delivery driver for Amazon.

19. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

20. Respondent Kristi Noem is the Secretary of the Department of Homeland

Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioners and is sued in her official capacity.

21. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

22. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates are component agencies. She is sued in her official capacity.

23. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

24. Respondent Angela DUNBAR is the warden of the North Lake Correctional facility, where the Petitioner is detained by ICE. The North Lake Correctional facility holds immigration detainees under contract with ICE.

**FACTS**

25. Petitioner Antoni Jose HERNANDEZ-GOMEZ came to United States in 2023 at the age of 27. Mr. Hernandez-Gomez has demonstrated that he is willing to comply with all requirements imposed by immigration authorities. He has a pending form I-589 application for Asylum and Withholding of Removal. He has

participated in his immigration proceedings and pursues lawful status through his pending asylum application.

26. Petitioner filed his First Petition for Writ of Habeas Corpus in this Court. This Court granted that petition and ordered Respondents to hold a bond hearing before the Immigration Court. A bond hearing was held. The Immigration Judge denied bond.

27. Petitioner has meaningful ties within the United States. His wife and son are currently present in the United States and rely on him for emotional and financial support. Petitioner serves as the primary provider for his family, and his continued detention places a severe hardship on his spouse and son, who depend on him for stability and support. The family lives in Farmington, Michigan.

28. Petitioner does not have any criminal history. Aside from his entry into the United States without inspection, the record contains no evidence of any criminal conduct or additional immigration violations. His lack of criminal history weighs strongly in favor of release and demonstrates that he poses no danger to the community.

29. On January 26, 2026, Mr. Hernandez-Gomez was apprehended by Immigration and Customs Enforcement (ICE) officers while employed as a delivery driver for Amazon. Mr. Hernandez-Gomez possesses the necessary authorization to work, including an approved and valid employment authorization document and a valid driver's license.

30. After brief processing, Mr. Hernandez-Gomez was transferred to the North Lake

Processing Center in Baldwin, Michigan, where he has been detained since January 26, 2026.

31. Since Mr. Hernandez-Gomez was arrested, ICE either did not conduct a custody determination or chose to continue detaining Mr. Hernandez-Gomez without providing an opportunity to post bond or be released under other conditions.

32. Mr. Hernandez-Gomez has applied for bond, that request was wrongfully denied, and he is currently pursuing an appeal of that denial. He has not sought a new bond hearing before an Immigration Judge because he knows from experience that such a request would be futile so long as Immigration Judges persist in asserting that they lack jurisdiction to conduct bond hearings for individuals in his position. That futility has persisted even after significant federal case law has squarely rejected Respondents' interpretation of the INA.

33. Mr. Hernandez-Gomez is clearly neither a flight risk nor a danger to the community, as demonstrated by:

    a. He lacks criminal history anywhere in the world.

    b. Since 2023, Petitioner has resided in the United States and has complied with all applicable immigration laws. He has submitted his asylum application and attended all his scheduled hearings.

    c. Petitioner's wife and son reside in the United States with him. They all depend on him for daily emotional and financial support.

    d. His deep ties to the community, including his commitment to his

neighborhood's upkeep in Farmington, Michigan.

e. **Petitioner is not a flight risk**. His entire course of conduct shows that he is actively using the lawful immigration system to retain legal status through his pending asylum applications. Petitioner's brother was granted asylum in the United States, which further underscores Petitioner's commitment to pursuing his case lawfully and maintaining stability within his community.

34. As a result of the IJ's bond denial, Mr. Hernandez-Gomez remains in detention. Without relief from this Court, he faces the prospect of months—or even years—in immigration custody, separated from his wife, young child, and community. His detention is devastating for his family. His wife is barely hanging on and cannot continue doing so without his support at home.

35. His detention is emotionally devastating for his family and has caused severe financial strain as the family has lost his income, and his wife has had to dig into savings to care for his son.

## LEGAL FRAMEWORK

36. The INA creates three principal detention regimes for noncitizens in removal proceedings. First, 8 U.S.C. § 1226 governs the detention of noncitizens who are already in the United States and are in removal proceedings under 8 U.S.C. § 1229a. See Jennings v. Rodriguez, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained

"pending the outcome of removal proceedings"). Under § 1226(a), individuals taken into immigration custody while DHS decides whether they will be removed may be detained, but they are generally entitled to seek release on bond or conditional parole. Bond may initially be set by DHS in a custody determination, see 8 C.F.R. § 1236.1(c)(8), and the noncitizen may seek a custody redetermination hearing before an immigration judge, see 8 C.F.R. §§ 1003.19(a), 1236.1(d). For decades, § 1226(a) has been the operative detention statute for noncitizens like Petitioner who have lived in the United States for years and are charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for an entry without inspection.

37. Second, the INA provides for mandatory detention of certain recent arrivals, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1) and other applicants for admission detained under § 1225(b)(2). Jennings describes § 1225(b)(2)'s mandatory detention scheme as applying "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States." 583 U.S. at 287, 289.

38. Third, 8 U.S.C. § 1231 governs detention after the entry of a final order of removal. Section 1231 does not apply here because Petitioner remains in ongoing § 1229a removal proceedings and does not have a final removal order.

39. Petitioner's detention is therefore governed by § 1226(a). That provision, as enacted in IIRAIRA and as later amended, has long been understood by EOIR and

DHS to apply to noncitizens who entered without inspection but have been residing in the United States and are later placed in full removal proceedings. Following the 1996 enactment of IIRAIRA, the Department of Justice promulgated regulations making clear that, "despite being applicants for admission, who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997). Consistent with that interpretation, for nearly three decades individuals who entered without inspection and were later detained in § 1229a proceedings routinely received bond hearings under § 1226(a), unless disqualified by specific criminal provisions.

40. In 2025, DHS and EOIR briefly attempted to upend this settled framework—first by issuing "Interim Guidance Regarding Detention Authority for Applicants for Admission" asserting that all noncitizens who entered without inspection were subject to mandatory detention without bond under § 1225(b)(2)(A), regardless of how long they had resided in the United States; and then by the BIA's precedential decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), which held that all noncitizens who entered the United States without admission or parole were ineligible for bond hearings before an IJ. Multiple district courts rejected that interpretation as contrary to the plain text and structure of the INA and to decades

of agency practice, and Yajure Hurtado has since been vacated. With that decision no longer in effect, the statutory default has reasserted itself: noncitizens like Petitioner are detained, if at all, under § 1226(a) and are entitled to a custody determination consistent with due process.

41. Petitioner ultimately received a bond hearing under § 1226(a). But the existence of a hearing in name does not end the constitutional inquiry. The Fifth Amendment requires not merely the formal opportunity to appear before an immigration judge, but a meaningful, individualized determination that adequately protects against erroneous deprivations of liberty. Where a § 1226(a) bond proceeding functions in practice as a rubber stamp for continued detention—through the application of incorrect legal standards, refusal to meaningfully consider evidence of flight risk and danger, or de facto presumptions in favor of custody—the process is constitutionally deficient. At that point, the continued civil confinement of a presumptively innocent noncitizen, often for many months, is no longer justified by the procedural safeguards Congress and the Constitution require.

42. Here, Petitioner sought bond and presented evidence of deep ties to the United States, a viable path to lawful status through consular processing, and a record free of serious criminal conduct. Nonetheless, the IJ denied bond on grounds that misapplied § 1226(a) and ignored controlling constitutional principles governing prolonged civil detention. The denial did not rest on a supported finding of danger or unmanageable flight risk; instead, it relied on speculative or pretextual concerns

and effectively treated detention as mandatory, notwithstanding the discretionary custody regime Congress established. In these circumstances, the bond hearing Petitioner received was constitutionally inadequate and did not supply the "adequate and effective" safeguard the Due Process Clause demands when the government deprives a person of physical liberty for an extended period.

43. Continued detention under § 1226(a) after such an inadequate hearing violates due process. Once it is clear that the statutory mechanism is being administered in a way that fails to provide a genuine opportunity for release for individuals like Petitioner, additional "bond hearings" before the same agency cannot cure the violation; they only prolong the constitutional injury. Nor do prudential exhaustion principles bar this Court's review: the BIA cannot grant the core relief Petitioner seeks—immediate release from a constitutionally infirm detention regime—and any appeal would take months, during which Petitioner would remain in confinement as the very harm he challenges continues to accrue. See Sterkaj v. Gonzales, 439 F.3d 273, 279 (6th Cir. 2006) (recognizing limits on agency authority to address constitutional claims).

44. In sum, the INA's structure confirms that Petitioner is detained, if at all, under § 1226(a), a discretionary detention scheme that presupposes a meaningful opportunity to obtain release on bond or reasonable conditions of supervision. Petitioner has now had his bond hearing, and the process he received was constitutionally defective. With Matter of Yajure Hurtado vacated and no valid

statutory basis for mandatory detention, there is no longer any lawful justification for his continued confinement. Because the government is holding Petitioner "in custody in violation of the Constitution or laws or treaties of the United States," 28 U.S.C. § 2241(c)(3), and because additional agency proceedings would be futile and would only extend the constitutional deprivation, this Court should order his immediate release.

## CLAIMS FOR RELIEF

### COUNT I

### Violation of the INA and Unlawful Post- Bond Determination Detention

45. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

46. Respondents are unlawfully detaining Petitioner following the denial of bond, in a detention regime inconsistent with the Immigration and Nationality Act. Petitioner is not an "arriving" noncitizen at the border, but a person who entered the United States years ago and has long resided here before being apprehended and placed in removal proceedings. As such, Petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2).

47. Under § 1226(a), Petitioner is entitled to a lawful and meaningful custody determination, including a bond decision that complies with the statute and the Fifth Amendment. Although Petitioner has now received a bond hearing, the

immigration judge's denial of bond wrongfully treated detention as effectively mandatory and failed to provide the individualized, non-arbitrary assessment that § 1226(a) and due process require. By continuing to hold Petitioner in custody under a misapplied detention framework and on the basis of a constitutionally inadequate bond determination, Respondents are detaining Petitioner in violation of the INA and the Due Process Clause. Because there is no longer any lawful statutory basis for Petitioner's continued confinement, and further administrative proceedings would only prolong this wrongful detention, immediate release is required.

## COUNT II

### Violation of Due Process

48. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

49. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

50. Petitioners have a fundamental interest in liberty and being free from official restraint.

51. The government's detention of Petitioners without an opportunity for a custody determination or bond hearing to decide whether each of them is a flight risk or danger violates their right to due process.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioners pray that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from custody or, in the alternative, to provide Petitioner within seven days a constitutionally adequate bond hearing under 8 U.S.C. § 1226(a), at which the government bears the burden to justify continued detention by clear and convincing evidence that Petitioner is a danger to the community or a flight risk and that no set of conditions can reasonably assure his appearance and community safety.

c. Enjoin Respondents from transferring Petitioners from the jurisdiction of this District pending these proceedings;

d. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) — is the appropriate statutory provision that governs Petitioners' detention and eligibility for bond because they are not recent arrivals "seeking admission" to the United States, and instead were already residing in the United States when they were apprehended and charged as

inadmissible for having allegedly entered the United States without inspection;

e. Award Petitioners fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

/s/Marva De Armas
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Dated: March 13, 2026

*Attorney for Petitioner*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 13, 2026 *Petitioner's Second Petition for Writ of Habeas Corpus* was filed with the Court Clerk via ECF system e-filing system which will give notice of such filing to all parties of record.

/s/Marva De Armas
Marva De Armas (P80061)