UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Ernesto MENDOZA Petitioner, v. KRISTI NOEM, Secretary, U.S. Department of Homeland Security; ROBERT LYNCH, Field Office Director, Detroit Field Office, Immigration and Customs Enforcement, Pam BONDI, the Attorney General of the United States, Daren K. MARGOLIN, Director of Executive Office of Immigration Review, and Teresa RILEY, Chief Immigration Judge of Executive Office of Immigration Review Respondents.	Case No. 1:26-cv-837 Agency File Number: [redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF

The Petitioner, Ernesto Mendoza, by and through his own and proper person and through his attorney, JENNIFER PEYTON, of KRIEZELMAN BURTON & ASSOCIATES, LLC, petitions this Honorable Court to issue a Writ of Habeas Corpus to review his unlawful detention in violation of his constitutional and statutory rights.

Introduction

1. Petitioner is presently being detained by U.S. Immigration and Customs Enforcement ("ICE") at the North Lake Detention Facility in Baldwin, Michigan.
2. Petitioner is a native and citizen of Venezuela. Petitioner entered the United States on August 8, 2023.

3. Petitioner's detention became unlawful on October 12, 2025, when he was taken into custody by ICE/ERO officials. He was encountered during and because of operation Midway Blitz after a warrantless arrest, on his way to the laundromat, after attending church. His continued detention is an unlawful violation of due process and an incorrect interpretation of immigration law.
4. Petitioner was granted a bond hearing by an Immigration Judge in the amount of $7,500; however, Respondents appealed this decision to the Board of Immigration Appeals under 8 C.F.R. § 1003.19(i)(2). The Board of Immigration Appeals reversed the grant of bond, citing only *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) as the reason for its reversal.
5. Petitioner respectfully asks this Court to issue a temporary restraining order enjoining Respondents' continued detention of Petitioner and order his immediate release; in the alternative, Petitioner requests release upon the payment of an immigration bond of $7,500, as ordered by the Immigration Judge.
6. Moreover, Petitioner respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

Jurisdiction and Venue

7. The action arises under the Constitution of the United States, the Immigration and Nationality Act of 1952, as amended ("INA"), 8 U.S.C. § 1101 *et seq.*, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 *et seq.*
8. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241, and Article I, section 9, clause 2 of the United States Constitution (the "Suspension Clause"), as Petitioner is presently subject to immediate detention and custody under color of

authority of the United States government, and said custody is in violation of the Constitution, law or treaties of the United States.

9. This action is brought to compel the Respondents, officers of the United States, to accord Petitioner the due process of law to which he is entitled under the Fifth and Fourteenth Amendments of the United States Constitution.

10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1361 (mandamus), and the All Writs Act, 28 USC § 1651.

11. Venue is proper in the Western District of Michigan because Petitioner is presently detained by Respondents at North Lake Detention Facility in Baldwin, Michigan which is located within the Western District. 28 U.S.C. § 1391(b), (e)(1).

Parties

12. Petitioner Ernesto MENDOZA is a native and citizen of Venezuela. Petitioner is presently detained at North Lake Detention Facility in Baldwin, Michigan.

13. Respondent KRISTI NOEM is being sued in her official capacity only. Pursuant to the Homeland Security Act of 2002, Pub. L. 107-296, Respondent NOEM, through her delegates, has broad authority over the operation and enforcement of the immigration laws.

14. Respondent ROBERT LYNCH is being sued in his official capacity only, as the Field Office Director of the Detroit Field Office of ICE. As such, he is charged with the detention and removal of aliens which fall under the jurisdiction of the Detroit Field Office.

15. Respondent PAM BONDI is being sued in her official capacity only. PAMELA BONDI is the Attorney General of the United States. The Immigration Judges who decide removal cases and applications for relief from removal do so as her designees.

16. Respondent Daren K. MARGOLIN is being sued in his official capacity only. Respondent MARGOLIN was appointed as the Director of the Executive Office for Immigration Review (EOIR). MARGOLIN provides guidance and direction to the immigration judges who decide removal cases.

17. Respondent Teresa RILEY is being sued in her official capacity only. Respondent RILEY is the Chief Immigration Judge of EOIR. At the direction of Respondents MARGOLIN and BONDI, RILEY provides guidance and direction to the immigration judges who decide bond and removal cases.

Custody

18. Petitioner Ernesto MENDOZA is being unlawfully detained by ICE and he is not likely to be removed in the reasonably foreseeable future.

Factual and Procedural Background

19. Petitioner Ernesto MENDOZA is a native and citizen of Venezuela. He entered the United States on August 8, 2023, without inspection.

20. Petitioner Ernesto MENDOZA has a pending immigration removal hearing, and his final hearing is scheduled for March 27, 2026 in the Detroit Immigration Court, with Judge Mark Jebson.

21. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued the decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This decision, for the first time in immigration history, proclaimed that any person who crossed the border

unlawfully and is later taken into immigration detention is no longer eligible for release on bond.

22. Before September 5, 2025, just 3 months prior, the official position of the BIA was that the Immigration Judge had power to grant release on bond under INA section 236(a) if the person did not have a disqualifying criminal record and the judge was satisfied, after a hearing, that the person was not a danger to the community or a flight risk. *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025).

23. Moreover, ICE had a longstanding practice of treating noncitizens taken into custody while living in the United States as detained pursuant to 8 U.S.C. section 1226(a). *Rocha Rosado v. Figueroa*, 2025 WL 2337099, (D. Arizona August 11, 2025); *see Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024) ("[T]he longstanding practice of the government—like any other interpretive aid—can inform [a court's] determination of what the law is."). However, this position changed on July 8, 2025, when internal "interim guidance" was released regarding a change in their longstanding interpretation of which noncitizens are eligible for release on bond. ICE's position is that only those already admitted to the U.S. are eligible to be released from custody during their removal proceedings, and that all others are subject to mandatory detention under 8 U.S.C. § 1225, instead of 8 U.S.C. § 1226, and will remain detained with only extremely limited parole options at ICE's discretion.

24. On September 8, 2025, the Department of Homeland Security initiated Operation Midway Blitz, where US Border Patrol conducted operations in the greater Chicago area to encounter non-citizens with the goal to detain and remove non-citizens.

25. Upon information and belief, Petitioner was encountered by United States Custom and Border Protection on October 12, 2025, during Operation Midway Blitz. Petitioner was on his way to the laundromat, after leaving church, and was encountered in a public place.

26. Petitioner was detained by DHS and initially taken to Broadview Detention Center in Broadview, Illinois. Petitioner was eventually transferred to North Lake Correctional Center in Baldwin, Michigan.

27. Petitioner requested bond with his immigration attorney, Attorney Adrianna Unzueta, and a bond hearing was held on October 27, 2025.

28. Attorney Adrianna Unzueta described the bond hearing in her sworn statement. *See*, Exhibit 1: sworn statement of Attorney Arianna Unzueta.

29. During the bond hearing, as affirmed by Attorney Unzueta, the Immigration Judge referenced that he had "recently received several orders from the United States District Court for the Northern District of Illinois in habeas corpus cases addressing the same detention posture", and based on those petitions, the Immigration Judge concluded that he had jurisdiction over the Petitioner's bond request. See, Exh. 1, ¶4.

30. At the conclusion of this hearing, the Immigration Judge granted Petitioner bond in the amount of $7,500. *See* Exhibit 2, the bond decision of the Immigration Judge.

31. However, Respondents filed an automatic stay of this bond decision, and appealed this grant to the Board of Immigration Appeals, the appellate body of immigration judge decisions.

32. On January 30, 2026, the BIA sustained the appeal, and vacated the Immigration Judge's order from October 27, 2025, citing only *Yajure Hurtado*. *See* Exhibit 3, BIA decision.

33. Neither the Respondents nor the BIA, challenged the Immigration Judge's factual determination that the Petitioner was bond eligible, having demonstrated that Petitioner was not a flight risk and not a danger to the community, and therefore, merited a bond in the amount of $7,500.

34. The Petitioner remains detained, and has an individual hearing scheduled for March 27, 2026.

Legal Framework

35. Section 236 of the Immigration and Nationality Act, 8 U.S.C. § 1226 (2000), provides general authority for the detention of aliens pending a decision on whether they should be removed from the United States. Except for certain criminal and terrorist aliens whose detention is mandatory under section 236(c)(1) of the Act, the statute provides authority for the Attorney General to release aliens on bond "with security approved by, and containing conditions prescribed by, the Attorney General." Section 236(a)(2)(A) of the Act. The Attorney General has delegated this authority to the Immigration Judges. 8 C.F.R. §§ 1003.19, 1236.1 (2006).

36. In the present matter, the respondent's custody determination is governed by the provisions of section 236(a) of the Act. An alien in a custody determination under that section must establish to the satisfaction of the Immigration Judge and this Board that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight. *See Matter of Adeniji*, 22 I&N Dec. 1102

(BIA 1999). An alien who presents a danger to persons or property should not be released during the pendency of removal proceedings. *See Matter of Drysdale*, 20 I&N Dec. 815 (BIA 1994).

37. The Petitioner successfully established eligibility for bond; however, the Respondents, while relying on *Yajure Hurtado*, argued the jurisdictional issue to the BIA which agreed with this interpretation, and reversed the Immigration Judge's bond decision solely on the jurisdictional issue.

Due Process Clause

38. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

39. In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. A noncitizen may only be detained based on these two justifications if they are otherwise statutorily eligible for bond. *Zadvydas*, 533 U.S. at 690.

40. Petitioner has a liberty interest in not being detained without legal justification by the Attorney General. *Zadvydas*, 533 U.S. at 696.

41. Deprivation of a fundamental liberty interest can only be justified if narrowly tailored to serve a compelling government interest. *Flores v. Reno*, 507 U.S. 292, 302 (1993).

42. The Court in *Zadvydas* found that the government interests at stake were not compelling. The Court considered two interests asserted by the government, ensuring the alien's appearance at future proceedings, and preventing danger to the community. The first interest was held to be "weak or inconsistent" when an individual cannot be deported in the foreseeable future. *Zadvydas*, 533 U.S. at 690. The second interest, preventative detention, could only be upheld where "limited to especially dangerous individuals and subject to strong procedural protections." *Id.* at 690-91. Neither interest is compelling here.

43. This statute is not narrowly tailored to protect any interest that the Respondents might assert. The statute only provides vague protections and those protections are in the hands of the very Respondents who are detaining Petitioner. No reasonable administrative or judicial safeguards exist to protect detained immigrants from unreasonable detention. It would violate Due Process to permit the Attorney General to exercise such unbridled power to unreasonably detain human beings.

44. There is no implication here that Petitioner is a threat to national security, a terrorist or spy, or that such extraordinary conditions exist, such that Petitioner should continue to be detained without legal justification. *Zadvydas*, 533 U.S. at 696.

45. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In this case, to determine the due process to be afforded to Petitioner, the Court should consider (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the

governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

Detention Provisions under the Immigration and Nationality Act

46. The Immigration and Nationality Act is codified at Title 8 of the United States Code, Section 1221 *et seq.*, and controls the United States Government's authority to detain noncitizens during their removal proceedings.

47. The INA authorizes detention for noncitizens under four distinct provisions:

1) **Discretionary Detention. 8 U.S.C. § 1226(a)** generally allows for the detention of noncitizens who are in regular, non-expedited removal proceedings; however, permits those noncitizens who are not subject to mandatory detention to be released on bond or on their own recognizance.

2) **Mandatory Detention of "Criminal" Noncitizens. 8 U.S.C. § 1226(c)** generally requires the mandatory detention of noncitizens who are removable because of certain criminal or terrorist-related activity after they have been released from criminal incarceration.

3) **Mandatory Detention of "Applicants for Admission." 8 U.S.C. § 1225(b)** generally requires detention for certain noncitizen applicants for admission, such as those noncitizens arriving in the U.S. at a port of entry or other noncitizens who have not been admitted or paroled into the U.S. and are apprehended soon after crossing the border.

4) **Detention Following Completion of Removal Proceedings 8 U.S.C. § 1231(a)** generally requires the detention of certain noncitizens who are subject to a final removal order during the 90-day period after the completion of removal proceedings and permits the detention of certain noncitizens beyond that period. *Id.* at § 1231(a)(2), (6).

48. This case concerns the detention provisions at §§ 1226(a) and 1225(b). Both detention provisions, §§ 1226(a) and 1225(b), 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–

585.0F0F[1]

49. Following enactment of the IIRIRA, the Executive Office for Immigration Review ("EOIR") drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225(b) and that they were instead detained under § 1226(a) after an arrest warrant was issued by the Attorney General. *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) ("Despite being applicants for admission, aliens 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***") (emphasis added).

50. The legislative history behind § 1226 also demonstrates that it governs noncitizens, like Petitioner, who were deemed inadmissible upon inspection at the border, released into the United States at the border after being placed into removal proceedings, and were present in the United States for a number of years prior to being taken into detention. Before passage of the Immigration Reform and Immigrant Responsibility Act ("IRIRA"), the predecessor statute to § 1226(a) governed deportation proceedings for all noncitizens arrested within the United States, and like § 1226(a), included a provision allowing for discretionary release on bond. *See* 8 U.S.C. § 1252(a)(1)

[1] Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

(1994).1F1F[2] After passing the IIRIRA, Congress declared the new § 1226(a) "restates the current provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release on bond" a noncitizen "who is not lawfully in the United States." H.R. Rep. No. 104-469, pt. 1, at 229. *See also* H.R. Rep. No. 104-828, at 210. Because noncitizens like Petitioner were entitled to discretionary detention under § 1226(a)'s predecessor statute, and Congress declared the statute's scope unchanged by IIRIRA, the Court should interpret § 1226 to allow for a discretionary release on bond for noncitizens in a situation similar to Petitioner.

51. As noted, *supra*, on September 5, 2025, the Board of Immigration Appeals issued its decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and proclaimed for the first time that any person who crossed the border unlawfully and is later taken into immigration detention is no longer eligible for release on bond.

52. This decision ignores decades of immigration law and precedent by the Supreme Court, as well as the policies and procedures that had been in place before EOIR for more than 30 years.

53. In *Jennings v. Rodriguez*, the Supreme Court analyzed the statutory sections in question, 8 U.S.C. section 1225 and 8 U.S.C. 1226. 583 U.S. at 287. The Court held that section 1225(b) "applies primarily to aliens seeking entry into the United States." Id. At 297 Then, the Court noted that section 1226 "applies to aliens already present in the United States." Id. At 303.

54. The Court specifically found that "Section 1226(a) creates a default rule for those

[2] See 8 U.S.C. § 1252(a)(1) (1994) ("Pending a determination of deportability...any [noncitizen]...may, upon warrant of the Attorney General, be arrested and taken into custody."); Hose v. Immigration & Naturalization Serv., 180 F.3d 992, 994 (9th Cir. 1999)(noting a "deportation hearing" was the "usual means" of proceeding against an alien physically in the United States).

aliens by permitting- but not requiring- the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those aliens on bond, 'except as provided in subsection (c) of this section.'" (subsection pertains to aliens who fall into categories involving criminal offenses or terrorist activities). Id. At 303. "Federal regulations provide that alien detained under §1226(a) receive bond hearings at the outset of detention." *Id.* At 306; 8 CFR 236.1(d)(1), 1236.1(d)(1)

55. The Supreme Court's analysis in *Jennings* demonstrates the difference for detention of arriving aliens who are seeking entry into the United States under section 1225 and the detention of those who are already present in the United States under section 1226.

56. The BIA's erroneous interpretation of the INA defies the plain text of 8 U.S.C. §§ 1225 and 1226. A key phrase in § 1225 states that "[I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien ***seeking admission*** is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a[.]" 8 U.S.C. § 1225(b)(2)(A) (emphasis added). In other words, mandatory detention applies when "the individual is: (1) an 'applicant for admission'; (2) 'seeking admission'; and (3) 'not clearly and beyond a doubt entitled to be admitted.'" *Martinez*, 2025 WL 2084238, at *2.

57. The "seeking admission" language, "necessarily implies some sort of present tense action." *Martinez*, 2025 WL 2084238, at *6; *see also Matter of M- D-C-V-*, 28 I&N Dec. 18, 23 (BIA 2020) ("The use of the present progressive tense 'arriving,' rather than the past tense 'arrived,' implies some temporal or geographic limit . . . ."); *U.S.*

v. Wilson, 503 U.S. 329, 333 (1992) ("Congress' use of verb tense is significant in construing statutes.").

58. In other words, the plain language of § 1225 applies to immigrants currently seeking admission into the United States at the nation's border or another point of entry. It does not apply to noncitizens "already present in the United States"—only § 1226 applies in those cases. *See Jennings*, 583 U.S. at 303.

59. When interpreting a statute, "every clause and word . . . should have meaning." *United States ex rel. Polansky, M.D. v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) (internal quotation marks and citation omitted). And "the words of the statute must be read in their context and with a view to their place in the overall statutory scheme." *Gundy v. United States*, 588 U.S. 128, 141 (2019) (quotation omitted).

60. The *Matter of Yajure Hurtado* decision in requires the Court to ignore critical provisions of the INA and it also renders portions of the newly enacted provisions of the INA superfluous. "When Congress amends legislation, courts must presume it intends its amendment to have real and substantial effect." *Van Buren v. United States*, 593 U.S. 374, 393 (2021).

61. Congress passed the Laken Riley Act (the "Act") in January 2025. The Act amended several provisions of the INA, including §§ 1225 and 1226. Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Relevant here, the Act added a new category of noncitizens subject to mandatory detention under § 1226(c)—those already present in the United States who have also been arrested, charged with, or convicted of certain crimes. 8 U.S.C. § 1226(c)(1)(E); 8 U.S.C. § 1182(a)(6)(A). Of course, under the government's position, these individuals are already subject to mandatory detention

under § 1225—rendering the amendment redundant. Likewise, mandatory-detention exceptions under § 1226(c) are meaningful only if there is a default of discretionary detention—and there is, under § 1226(a). *See Rodriguez*, 2025 WL 1193850, at *12.

62. Additionally, "[w]hen Congress adopts a new law against the backdrop of a longstanding administrative construction, the court generally presumes that the new provision works in harmony with what came before." *Monsalvo v. Bondi*, 604 U.S. __, 145 S. Ct. 1232, 1242 (2025). Congress adopted the Act against the backdrop of decades of agency practice applying § 1226(a) to immigrants like Petitioner, who are present in the United States but have not been admitted or paroled. *Rodriguez*, 2025 WL 1193850, at *15; *Martinez*, 2025 WL 2084238, at *4; 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.").

63. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." Removal hearings for noncitizens under 1226(a) are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]." By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States.

64. The analysis and holding by the BIA in *Matter of Yajure Hurtado* has also consistently been rejected by district courts across the country over the last several months. Below is a small sample of cases that have been decided out of the Western District of Michigan regarding this exact issue:

- Hernandez v. Noem, No. 25-1823, 2025 WL 3769130 (W.D. Mich. Dec. 31, 2025)
- Lopez Ortiz v. Raycraft, No. 25-1757, 2025 WL 3777031 (W.D. Mich. Dec. 31,

2025)

- Nashash v. Raycraft, No. 25-1738, 2025 WL 3777023 (W.D. Mich. Dec. 31, 2025)
- Pena v. Raycraft, No. 25-1922, 2025 WL 3777048 (W.D. Mich. Dec. 31, 2025)
- Reynoso v. Raycraft, No. 25-1890, 2025 WL 3769139 (W.D. Mich. Dec. 31, 2025)
- Sepulveda v. Raycraft, No. 25-1731, 2025 WL 3777030 (W.D. Mich. Dec. 31, 2025)
- Valera v. Raycraft, No. 25-1718, 2025 WL 3777044 (W.D. Mich. Dec. 31, 2025)
- Verano Cabra v. Raycraft, No. 25-1777, 2025 WL 3777058 (W.D. Mich. Dec. 31, 2025)
- Villegas- Gonzalez v. Lynch, No. 25-1795, 2025 WL 3767939 (W.D. Mich. Dec. 31, 2025)
- Magdaleno Rojas v. Lynch, No. 25-1818, 2026 WL 19383 (W.D. Mich. Jan. 2, 2026)
- Mohamed v. Raycraft, No. 25-1836, 2026 WL 19384 (W.D. Mich. Jan. 2, 2026)
- Pascual Lopez v. Raycraft, No. 25-1832, 2026 WL 19382 (W.D. Mich. Jan. 2, 2026)
- Ramirez Adame v. Raycraft, No. 25-1820, 2026 WL 19381 (W.D. Mich. Jan. 3, 2026)
- Yakubiv v. Raycraft, No. 25--1792, 2026 WL 19099 (W.D. Mich. Jan. 3, 2026)

65. This Court is not required, and should not, give deference to the recent Board decision of *Yajure Hurtado*. In *Loper Bright*, the Supreme Court was clear that "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority," and indeed "may not defer to an agency interpretation of the law simply because a statute is ambiguous." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). Rather, this Court can simply look to the Supreme Court's own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens "seeking admission into the country"—i.e., new arrivals, and that this contrasts with § 1226, which applies to noncitizens "already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

66. The Board's reliance on the decision in *Yajure Hurtado* is another example of this administration's desire to keep noncitizens detained even if it lacks legal basis.

Claims for Relief

FIRST CAUSE OF ACTION

Violation of the Due Process Clause of the Fifth Amendment
of the United States Constitution

67. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

68. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty by continuing to detain him.

69. The government's detention of Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner cannot be safely released back to his community and family.

70. By keeping Petitioner detained today, his detention is unconstitutional as applied to him and in violation of his due process rights. Petitioner should have the opportunity to be released from detention as he has already established to the satisfaction of an immigration judge that he merits a bond in the amount of $7,500.

71. The Board of Immigration Appeals reversed the Immigration Judge's decision granting bond, citing only *Matter of Yajure Hurtado* as the jurisdictional basis that bond should not be granted.

72. As noted, *supra*, *Matter of Yajure Hurtado* is wrongly decided and therefore the Petitioner is eligible for release.

73. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

SECOND CAUSE OF ACTION

Administrative Procedure Act
(Arbitrary and Capricious Removal)

74. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

75. Under Section 706(a) of the APA, final agency action can be set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. § 706(2)(A), including if it fails to make "a rational connection between the facts found and the [determination] made. *Cook Cnty., Illinois v. Wolf,* 962 F.3d 208, 229 (7th Cir. 2020) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43, 103 S. Ct. 2856, 2866, 77 L. Ed. 2d 443 (1983).

76. Respondents continue to perpetuate misplaced reliance on *Yahure Hurtado*. Even when an immigration judge sided with decisions from District Courts in finding jurisdiction and granted bond, the Respondents appealed this decision.

77. Respondents have failed to articulate the facts that formed a basis for their decision to continue detaining this Petitioner, when this Court has held that similarly situated Petitioners should be released, or provided a full and fair bond hearing.

78. Petitioner was provided a full and fair bond hearing which the Respondents have chosen to ignore.

79. This is in violation of the APA, let alone any rational connection between the facts found and the decision made.

80. Defendants' action is therefore arbitrary and capricious and violated the APA.

THIRD CAUSE OF ACTION

Ultra Vires Regulation

81. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

82. The automatic stay regulation as exercised by Respondents in appealing the Immigration Judge's bond decision exceeds the authority given to the Attorney General by Congress and unlawfully eliminates the Immigration Judge's discretionary authority to make custody determinations. Congress gave the Attorney General discretion to decide whether to release detained noncitizens pending removal proceedings if they have not been convicted of certain criminal offenses and are not linked to terrorist activities. *See* 8 U.S.C. § 1226(a), (c). The Attorney General has delegated this authority to immigration judges, who have discretion to determine whether to release these noncitizens on bond. 8 C.F.R. §§ 1003.19, 1236.1; *see also* 28 U.S.C. § 510 (permitting the Attorney General to delegate her function to officers or employees within the Department of Justice).

83. Congress has not delegated this authority to DHS. There is no statutory authority for DHS to unilaterally stay an immigration judge's bond determination. DHS's use of the automatic stay is an unlawful use of the discretionary power granted to the Attorney General and "has the effect of mandatory detention of a new class of aliens, although Congress has specified that such individuals are not subject to mandatory detention." *Zavala*, 310 F. Supp. 2d at 1079; *see also Ashley*, 288 F. Supp. 2d at 673 ("As Congress exempted aliens like Petitioner from the mandatory detention of § 1226(c), it is unlikely that it would have condoned this back-end approach to detaining aliens like Petitioner

through the combined use of § 1226(a) and § 3.19(i)(2).").

84. Here, the immigration judge determined that Petitioner is not a danger to the community or a flight risk and ordered DHS to release him upon posting of bond.

85. The automatic stay regulation, 8 C.F.R. § 1003.19(i)(2), purports to give DHS the authority to unilaterally override the immigration judge's decision. It is unlawful and *ultra vires*.

Prayer for Relief

WHEREFORE, Petitioner respectfully request that this Honorable Court:

A. Accept jurisdiction over this action;

B. Declare that Respondents' actions to detain Petitioner violate the Due Process Clause of the Fifth Amendment and violates the Immigration and Nationality Act;

C. Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order the immediate release of Petitioner or order Respondents to release Petitioner upon Petitioner's payment of a bond in the amount of $7,500;

D. Return all personal items confiscated from Petitioner during his detention, including but not limited to any state drivers license or identification, employment authorization card, and other lawfully issued documents;

E. Award reasonable attorneys' fees and costs for this action; and

F. Grant such further relief as the Court deems just and proper.

Dated: March 15, 2026

Respectfully Submitted,

/s/ Jennifer Peyton

Jennifer Peyton, Esq.
KRIEZELMAN

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