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

Ender Y. Hernandez Agudelo, Petitioner, v. KEVIN RAYCRAFT, in his official capacity as 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, Respondents.	Case No. 26-cv-861 Hon. **PETITION FOR WRIT OF HABEAS CORPUS AND IMMEDIATE RELEASE BASED ON RESPONDENT'S BOLD-FACE VIOLATION OF STATUTES AND SYSTEMATIC DENIAL OF DUE PROCESS**

INTRODUCTION

1. Petitioner respectfully requests this Honorable Court to issue a writ of habeas corpus **immediately releasing** him from detention. This request is based on three premises: 1) Respondents violated the Constitution when

arresting and detaining Petitioner, 2) Respondents lack lawful authority to detain Petitioner, and 3) Respondents have forfeited any deference they would otherwise be owed from a federal court.

2. The "typical remedy" for "unlawful executive detention" is **release** from custody. See *Munaf v. Geren*, 553 U.S. 674, 693 (2008); see also Preiser, 411 U.S. at 484. "[T]he court shall summarily hear and determine the facts, and dispose of the matter as law and justice require." 28 U.S.C. § 2243.

3. First, Petitioner's detention categorically violates the Fourth and Fifth Amendments of the U.S. Constitution, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.8, Section 236 of the INA.

4. Second, Respondents uniformly argue in habeas cases, and likely will in this case, that it derives authority to detain Petitioner **exclusively** under § 1225(b)(2)(A). Uniformly, courts in this district have rejected this argument, stating that § 1225 does not give the government authority to detain people like Petitioner. If this Court comes to the same conclusion and rejects the assertion that § 1225 alone applies, Respondents are left with no defense to their unlawful detention of Petitioner.

5. Third, Respondents make no pretenses about their intention to continue to deny due process to individuals like Petitioner. This intention is evidenced by:

   - Respondents' own argument that "Deportation Judges," as they are now termed by the Departments of Justice and Homeland Security[1], lack authority to hear bond requests by individuals like Petitioner, "who are present in the United States without admission" under the Government's interpretation of § 1225. *Hurtado*, 29 I. & N. Dec. at 216.
   - Respondents' broadcasting of their intention of providing non-neutral, biased adjudication for any request brought by Petitioner and others similarly situated before these courts. The recent rebrand of "Immigration Judges" to "Deportation Judges" is a clear statement to Petitioner and others similarly situated of this intention. Additionally, the public statements by Respondents make this point even more clear. See Exhibits 1 and 2 below.

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[1] **See job postings by Respondents stating: "Apply to become a deportation judge,""Apply to become a deportation judge,"** U.S. Dep't of Justice, https://join.justice.gov/ (last visited Feb. 8, 2026); **"Help write the next chapter of America. Apply today to become a deportation judge and define America for generations"** Homeland Security Careers, U.S. Dep't of Homeland Sec., https://www.dhs.gov/homeland-security-careers; "Apply to join the **Department of Justice as a deportation judge**" U.S. Department of Homeland Security, Facebook, https://www.facebook.com/homelandsecurity (official DHS page).



Exhibit 1: Photograph of "tweet" from US Department of Justice's official Twitter/X account, which includes, in part, the line: "Your work will have generational consequences."



Exhibit 2: Photograph of "tweet" from US Department of Homeland Security's official Twitter/X account, which states: "Remember what they did to our country."

- Respondents have also been insidious in their actions. Beginning in early-January 2026, outcomes in bond hearings following grants of habeas relief shifted dramatically. Whereas bond had routinely been granted in such post-habeas cases, particularly where individuals lacked significant criminal history, had strong family and community ties in the United States, had long-term residence, possessed viable claims for relief, and secured stable housing and employment prospects, Deportation Judges[2] have, in the weeks since, begun uniformly denying bond in materially similar circumstances. See Exhibit 3.
- Firing Deportation Judges who do not fall into lockstep with Respondents' policy goals;[3]
- Codifying the wholesale denial of appeals brought to the Board of Immigration Appeals.[4]

6. Without justification, probable cause, or reasonable suspicion of a crime or immigration violation, Petitioner was driving to work. Petitioner is currently

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[2] Expecting an adjudicator titled "deportation judge" to be "neutral" is like expecting the Archbishop of Canterbury to impartially preside over Henry VIII's annulment.

[3] See Ximena Bustillo, *The Trump Administration Fired Nearly 100 Immigration Judges in 2025. What's Next?*, NPR (Jan. 10, 2026), https://www.npr.org/2026/01/10/nx-s1-5672386/the-trump-administration-fired-nearly-100-immigration-judges-in-2025-whats-next.

[4] See Appellate Procedures for the Board of Immigration Appeals, Interim Final Rule,, 90 Fed. Reg. 15,525, 15,525–26 (Apr. 14, 2025) (reducing the BIA to 15 permanent Board members), https://www.govinfo.gov/content/pkg/FR-2025-04-14/pdf/2025-06294.pdf.

detained at the North Lake Processing Center in Baldwin, Michigan, a *privately-owned, for-profit* facility owned and operated by GEO Group Incorporated.

7. This sequence is indistinguishable from holding a citizen on a criminal charge without arraignment or bail hearing. The Constitution does not tolerate such actions simply because the detained person is subject to immigration law. In fact, the Petitioner's immigration status does not impact constitutional protections. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

8. Detention is not self-justifying. Courts do not infer constitutionality of a detention. Courts do not presume lawfulness when no justification or law supports it. *Larrazabal-Gonzalez v. Mason*, No. 2:26-cv-00049, slip op. at 1–10 (S.D. W. Va. Jan. 28, 2026).

9. This detention-first and hearing sometime-later practice finds no support in the Constitution. "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).

10. The Constitution does not tolerate what would be plainly unlawful in the criminal context simply because the detention is labeled "civil." Nor does

the Constitution withhold its protections when a person is an immigrant. These statutory errors reinforce the conclusion that Petitioner's ongoing detention violates the Fifth Amendment and **must end**. See *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV (W.D.N.Y. July 16, 2025) (where a noncitizen detainee's due process was violated, his detention is unlawful and he must be released).This Court should exercise its equitable power in this case, because the administrative body that could provide relief to Petitioner has already predetermined the issue. See *Shalala v. Ill. Council on Long Term Care, Inc.,* 529 U.S. 1, 13 (2000).

11. Because both the unlawful detention and continued violation of due process render his current detention unconstitutional, the appropriate remedy is immediate release.

JURISDICTION

15. The judicial power of the federal courts extends to "Cases" and "Controversies" that arise under the Constitution and the laws of the United States. U.S. Const. art. III, § 2.

16. Indeed, challenges to present immigration confinement "fall within the 'core' of the writ of habeas corpus." *Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (quoting Nance v. Ward, 597 U.S. 159, 167 (2022)).

17. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

17. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction, and is in the immediate custody, of Respondent Kevin Raycraft. See *Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

18. 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 this District.

REQUIREMENTS OF 28 U.S.C. § 2243

19. 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). Section 2241 of Title 28 confers the federal courts with the power to issue writs of habeas corpus to persons "in custody in violation of the Constitution or laws or treaties of the United States." 28

U.S.C. § 2241(c)(3); *Torrence v. Lewis*, 60 F.4th 209, 213 (4th Cir. 2023) ("A federal court may grant habeas relief only on the ground that the petitioner is in custody in violation of the Constitution or laws or treaties of the United States." (internal citations and brackets omitted)).

20. After receiving the petition and any response thereto, "[t]he court shall summarily hear and determine the facts, and dispose of the matter as law and justice require." 28 U.S.C. § 2243. The petitioner bears the burden of proving that he is being held contrary to law by a preponderance of the evidence. *Walker v. Johnston*, 312 U.S. 275, 286 (1941).

PARTIES

21. Petitioner is a citizen of Venezuela and a resident of Belmont, CA. Petitioner has been detained since 01/07/2026.

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

23. 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 Petitioner and is sued in her official capacity.

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

25. 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 (EOIR) and the immigration system it operates is a component agency. She is sued in her official capacity.

26. 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.

LEGAL FRAMEWORK

I. RESPONDENTS VIOLATED THE CONSTITUTION AND SEVERAL STATUTES

A. Petitioner's Detention Violates Fifth Amendment's Due Process Clause

21. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citation omitted). The Fifth Amendment's Due Process Clause extends to all persons, regardless of status. See *A. A. R. P. v. Trump*, 145 S. Ct 1364, 1367 (2025). Thus, noncitizens, such as Petitioner, are entitled to its protections. See *id.*; see also *Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 246837, at *3 (6th Cir. Jan. 18. 2023).

22. "[I]t is unconstitutional for the Government to detain a person without explanation, without a hearing, without notice, or without any means of challenging that detention," which is exactly what the Government did here. See *Larrazabal-Gonzalez*, 2026 WL 221706, at *4

23. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court must consider the following three factors: "(1) the private interest that will be affected by official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." See *Lopez-Campos*, 2025 WL 2496379, at *9 (citing Mathews, 424 U.S. at 335).

24. The first *Mathews* factor clearly weighs in favor of Petitioner. Here, Petitioner entered the United States at a port of entry, and Respondents granted Petitioner entry into the United States, determining that Petitioner was not a flight risk or danger. Since then, Petitioner has only further established that he is neither a flight risk nor danger. Respondents have now detained Petitioner, and there is no dispute that Petitioner has a significant private interest in avoiding detention, as one of the "most elemental of liberty interests" is to be free from detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (citation omitted)

25. The second *Mathews* factor also weighs in Petitioner's favor. Clearly, there is a high risk of erroneously depriving Petitioner of his freedom if Petitioner does not receive an individualized determination regarding the revocation of his parole. "To mitigate the risk of erroneous deprivation, due process would require, 'at [a] minimum, the opportunity for [Petitioner] to submit evidence relevant to whether [the government] should revoke [his parole] before [it] make[s] a revocation decision.'" *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 153 (W.D.N.Y. 2025) (citation omitted).

26. Finally, under the third *Mathews* factor, courts recognize that the Government "does, indeed, have a legitimate interest in ensuring

noncitizens' appearance at removal proceedings and preventing harms to the community." See *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924, at *12 (D. Mass. Sep. 9, 2025) (citation omitted). However, Respondents cannot show that they have a significant interest in this Petitioner's continued detention. Notably, continuing to detain Petitioner will impose more financial and administrative costs upon the Government, as it would be required to continue funding and overseeing Petitioner's detention. See *id.*[5]

27. Further, "[p]erhaps more importantly, such unnecessary detention imposes substantial societal costs," as it "separates families and removes from the community breadwinners, caregivers, parents, siblings and employees." *Hernandez-Lara*, 10 F.4th at 33 (citing, in part, *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020)).

28. Petitioner's constitutional rights combined with the *Mathews* factors make clear that this Court should order him released immediately.

B. Exhaustion Not Necessary

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[5] In fact, the American taxpayer is footing the bill for Petitioner's continued detention to the tune of millions of dollars a month. *See* U.S. Attorney Moore Capito Announces Success of Major Immigration Operation in West Virginia, Press Release, U.S. Dep't of Justice, U.S. Att'y's Office for the S. Dist. of W. Va. (Jan. 29, 2026), https://www.justice.gov/usao-sdwv/pr/us-attorney-moore-capito-announces-success-major-immigration-operation-west-virginia

29. A court may choose to rule upon the merits of the issues presented when the "legal question is 'fit' for resolution and delay means hardship." *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000) (citation omitted). A court may also waive exhaustion if the "pursuit of administrative remedies would be a futile gesture." *Shearson*, 725 F.3d at 594 (citation omitted).

30. Even in situations where a court may ordinarily apply exhaustion, the court may still choose to waive exhaustion. See *Lopez-Campos*, 2025 WL 2496379, at *4 (citations omitted). Here, no applicable statute or rule mandates administrative exhaustion by Petitioner. Thus, whether to require exhaustion is within this Court's "sound judicial discretion." See *Shearson v. Holder*, 725 F.3d 588, 593–94 (6th Cir. 2013) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)). "Courts have described an implied requirement to raise issues with an agency as a 'judgemade,' 'prudential,' or 'common law' duty to exhaust," *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019)

31. Respondents' policy issued on July 8, 2025, instructing all employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i) and the precedential decision by the Board of

Immigration Appeals (BIA) in *Matter of YAJURE HURTADO*, 29 I & N Dec. 216, issued on September 5, 2025, renders any administrative exhaustion futile.

32. Notably, Respondents updated the procedures for the Board of Immigration Appeals on February 6, 2026. **This update makes summary dismissal of all BIA appeals the default**. It cuts most appeal deadlines to 10 days (retaining 30 days only for certain asylum denials), imposes simultaneous 20-day briefing with no reply briefs and very limited extensions, and streamlines forwarding of the record and internal decision timelines. The rule also removes tools the Chief Appellate Immigration Judge previously had to delay cases, and rebrands "noncitizen" as "alien" throughout several EOIR regulations.[6]

33. Any attempts at exhaustion by Petitioner are futile and will result in further hardship to Petitioner.

34. The Sixth Circuit has noted that **due process challenges generally do not require exhaustion** because the Board of Immigration Appeals (BIA) cannot review constitutional challenges. See *Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006) (discussing that "an alien's due process challenge

[6]See Appellate Procedures for the Board of Immigration Appeals, Interim Final Rule,, 90 Fed. Reg. 15,525, 15,525–26 (Apr. 14, 2025) (reducing the BIA to 15 permanent Board members), https://www.govinfo.gov/content/pkg/FR-2025-04-14/pdf/2025-06294.pdf.

generally does not require exhaustion," but noting that an "alien must raise correctable procedural errors," such as a claim "that the BIA denied him due process by relying upon an 'incomplete and inaccurate' transcript to review his case," "to the BIA"). Finally, it is doubtful that BIA review of Petitioner's custody would preclude the need for judicial review. The Court reaches that conclusion based upon the fact that the Government has clearly set forth its belief that all noncitizens are subject to mandatory detention during removal proceedings. And, recently the BIA proclaimed that all noncitizens are subject to mandatory detention under § 1225(b)(2)(A). See *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 229 (BIA 2025).

35. It is **guaranteed** that an appeal to the BIA would not obviate the need for judicial review of Petitioner's § 2241 petition.

36. Because Petitioner's is "in custody in violation of the Constitution or laws of the United States" under 28 U.S.C. § 2241(c)(3), and the appropriate remedy is immediate release from detention.

II. RESPONDENTS LACK STATUTORY AUTHORITY TO ARREST AND DETAIN PETITIONER

A. Petitioner's Parole Was Never Terminated Prior to His Arrest, in Violation of Both § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e)(2)(i)

36. Approximately 2 years ago, Respondents paroled Petitioner into the United States under 8 U.S.C. § 1182(d)(5)(A).

37. "[A]pplicants for admission may be temporarily released on parole [into the United States] 'for urgent humanitarian reasons or significant public benefit,'" as set forth in 8 U.S.C. § 1182(d)(5)(A). *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)).

38. The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined "on a case-by-case basis." 8 U.S.C. § 1182(d)(5)(A). Then, "when the purpose of the parole has been served," § 1182(d)(5)(A) provides that "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

39. To terminate the previously granted parole, the agency must comply with the applicable regulatory and statutory requirements.

40. 8 C.F.R. § 212.5(e)(2)(i), which governs the "[t]ermination of parole,"

> In cases not covered by paragraph (e)(1) of this section,[1] upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole. 8 C.F.R. § 212.5(e)(2)(i).

41. That is, "[u]nder the governing regulation, [§ 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is accomplished, or humanitarian reasons and the public benefit no longer warrant parole." *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025).

42. Respondents did not follow the applicable statutory and regulatory requirements to revoke or terminate Petitioner's parole.

43. Petitioner, at the time of his arrest, had a pending asylum application and, prior to his arrest, was never given a "case-by-case" assessment or review of his parole.

44. If Respondents did not follow those requirements, then they did not have lawful authority to arrest and detain Petitioner, "unless there [wa]s some other valid reason to arrest him." *Mata Velasquez*, 794 F. Supp. 3d at 145; cf. Norfolk S. Ry. Co. v. U.S. Dep't of Lab., No. 21-3369, 2022 WL 17369438, at *6 (6th Cir. Dec. 2, 2022) (discussing that "an agency's action that fails to observe the procedures required by its own regulations should be set aside" (citation omitted)); *Wilson v. Comm'r of Soc. Sec.*, 378 F.3d 541, 545 (6th Cir. 2004) ("It is an elemental principle of administrative law that agencies are bound to follow their own regulations[,] . . . [and] '[a]n agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.'" (additional internal quotation marks omitted) (quoting *Sameena, Inc. v. U.S. Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998))).

B. If Petitioner is Not Subject to § 1225, This Court Should Order His Immediate Release.

45. Respondents will argue that § 1225 governs the detention of Petitioner. Respondents' position is based on the policy issued on July 8, 2025, instructing all employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i) and the

precedential decision by the Board of Immigration Appeals (BIA) in *Matter of YAJURE HURTADO*, 29 I & N Dec. 216, issued on September 5, 2025.

46. Multiple courts throughout the country, including within this very district, have rejected this argument. Cf., e.g., *Salgado Mendoza v. Noem*, No. 1:25-cv-1252, 2025 WL 3077589, at *6 (W.D. Mich. Nov. 4, 2025); *Ruiz Mejia v. Noem*, No. 1:25-cv-1227, 2025 WL 3041827, at *5–6 (W.D. Mich. Oct. 31, 2025); *De Jesus Ramirez v. Noem*, No. 1:25-cv-1261, 2025 WL 3039266, at *5 (W.D. Mich. Oct. 31, 2025); *Escobar-Ruiz v. Raycraft*, No. 1:25-cv-1232, 2025 WL 3039255, at *5 (W.D. Mich. Oct. 31, 2025); *Marin Garcia v. Noem*, No. 1:25-cv-1271, 2025 WL 3017200, at *5 (W.D. Mich. Oct. 29, 2025); *Cervantes Rodriguez v. Noem*, No. 1:25-cv-1196, 2025 WL 3022212, at *6 (W.D. Mich. Oct. 29, 2025); *Puerto-Hernandez v. Lynch*, No. 1:25-cv1097, 2025 WL 3012033, at *9 (W.D. Mich. Oct. 28, 2025); *Rodriguez Carmona v. Noem*, No. 1:25-cv-1131, 2025 WL 2992222, at *6 (W.D. Mich. Oct. 24, 2025).

47. Under the party-presentation principle, this Court "rel[ies] on the parties to frame the issues for decision" and may not supply its own, unbriefed theory of detention after rejecting the government's chosen argument. See *Greenlaw v. United States*, 554 U.S. 237 (2008) ("[Courts] rely on the

parties to frame the issues for decision and assign to courts the role of neutral arbiter of matters the parties present").

48. If this Court rejects this position, and Respondents cite no other statute or authority that authorizes detention, Respondents are left without any lawful justification for continuing to detain Petitioner.

49. Petitioner does not assert that his detention is subject to a specific statute or authority.

50. On this basis, if this Court finds that § 1225 does not apply, Petitioner must be ordered released.

III. RESPONDENTS CANNOT BE TRUSTED TO PROVIDE DUE PROCESS FOR PETITIONER

A. Respondents Are Acting Based on Policy-Oriented Edicts, Rather Than Constitutional or Statutory Rationale

51. Respondents are holding pretextual bond hearings in response to habeas corpus orders and have codified the default denial of all BIA appeals.

52. The Fifth Amendment guarantees 'due process of law,' not just 'some process of law.' *D.B. v. Cardall*, 826 F.3d 721, 741 (4th Cir. 2016) (citing *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976)). (citing *Davidson v. City of New Orleans*, 96 U.S. 97, 107 (1877) (Bradley, J., concurring)).

53. Beginning in or around the first week of January 2026, a seismic shift in bond hearing outcomes for individuals who had been granted federal habeas relief and ordered bond hearings by this Court. See Exhibit 3.

54. Prior to this shift, while bond amounts had increased in recent months, bond was routinely granted in post-habeas cases where individuals demonstrated: lack of significant criminal history, strong family ties in the United States, lengthy residence in the country, viable claims for relief from removal, and community support including stable housing and employment prospects. This pattern abruptly and uniformly ceased. In numerous cases, Deportation Judges have denied bond in circumstances that, weeks earlier, would have resulted in bond being set. See Exhibit 3.

55. The consistency, timing, and uniformity of these denials cannot be readily explained by coincidence, changes in individual case facts, or independent judicial decision-making. The pattern appears systematic and suggests coordinated institutional direction. See Exhibit 3.

56. Respondents' own stated policies and actions raises three (3) questions about their ability to evaluate Petitioner's detention in a constitutional manner:

Question 1: If Respondents' consistently argue that individuals like Petitioner are not entitled to a bond hearing, can Respondents be trusted to give a constitutionally-sound bond hearing when ordered by this Court?

- No. Despite the thousands of habeas cases filed across the country, Respondents have not altered their position: Deportation Judges lack authority to hear bond requests by individuals like Petitioner, "who are present in the United States without admission" under the Government's interpretation of § 1225. *Hurtado*, 29 I. & N. Dec. at 216.
- Indeed, Respondents are telegraphing the result of these hearings before they occur. Both DHS and DOJ use the term "immigration judge" and "deportation judge" interchangeably.[7] Expecting an adjudicator titled "deportation judge" to be "neutral" is like expecting

[7] **"Apply to become a deportation judge,"** U.S. Dep't of Justice, https://join.justice.gov/ (last visited Feb. 8, 2026); **"Help write the next chapter of America. Apply today to become a deportation judge and define America for generations"** Homeland Security Careers, U.S. Dep't of Homeland Sec., https://www.dhs.gov/homeland-security-careers; "Apply to join the **Department of Justice as a deportation judge**" U.S. Department of Homeland Security, Facebook, https://www.facebook.com/homelandsecurity (official DHS page).

Caesar's own praetorian guard to sit in judgment between Caesar and the proletariat.

Question 2: Respondents are clear about their position on Petitioner's right to a bond hearing. Are they complying with the District Court orders to provide constitutionally-sufficient bond hearings?

- No. Deportation Judges are now, as a result of hundreds of habeas corpus petitions, outright denying bond based on illusory findings. These judges are typically basing their findings not on the lack of evidence, but on the weight of evidence. In almost all of these cases, Petitioners present some combination of the following: proof of work authorization, pending relief applications, family ties, sponsorship, no criminal record, and a majority of the eight (8) *Guerra* factors. See Exhibit 3.
- Respondents do not hide the fact that these hearings are not being decided on individual merits. Some Deportation Judges are, on the record at post-habeas bond hearings, requiring an argument by Petitioners as to why authority exists to conduct post-habeas bond hearings. See Exhibit 3.

- Likewise, many Deportation Judges are CATEGORICALLY misrepresenting evidence and statements during these hearings in their bond orders, including fabricating statements that were never presented during the hearings and misapplying the burden of proof. See Exhibit 3.
- DJs are relying nearly exclusively on a single piece of *hearsay* evidence presented by the government: I-213 Record of Deportable/Inadmissible Alien. In most criminal or civil contexts, this document would be scrutinized under the rules of evidence regarding hearsay. Deportation Judges, however, are often finding a self-serving two-page hearsay statement presented by the government as more probative than dozens of pieces of evidence presented by Petitioners. See Exhibit 3.
- Additionally, immigration attorneys from across the country have observed a concerning change in the judges who preside over post-habeas bond hearings. During the final weeks of January, many of the judges who were previously presiding over bond hearings for months were suddenly moved off of the detained docket and replaced with judges who are either unfamiliar with post-habeas bond hearings

and, on occasion, openly protest the district-court ordered hearings.[8] See Exhibit 3.

- One court recently compiled an appendix that identifies at least 96 court orders that ICE has violated in 74 cases since January 1, 2026. *Juan T.R. v. Noem*, No. 26-CV-0107, 2026 WL 232015, at *1 (D. Minn. Jan. 28, 2026) ("ICE has likely violated more court orders in January 2026 than some federal agencies have violated in their entire existence.").

Question 3: If a Deportation Judge denies bond, can the Petitioner simply appeal to the BIA?

- No. Respondents updated the procedures for the Board of Immigration Appeals on February 6, 2026. **This update makes summary dismissal of all BIA appeals the default**. It cuts most appeal deadlines to 10 days (retaining 30 days only for certain asylum denials), imposes simultaneous 20-day briefing with no reply briefs and very limited extensions, and streamlines forwarding of the record and internal decision timelines. The rule also removes tools the Chief Appellate Immigration Judge previously had to delay cases, and

[8] Alfred Tennyson, "The Charge of the Light Brigade," in Tennyson's Poems (1854) ("Theirs not to make reply, / Theirs not to reason why, / Theirs but to do and die.").

rebrands "noncitizen" as "alien" throughout several EOIR regulations.[9]

57. Based on the above, Respondents have forfeited any deference they would otherwise be due from a federal court. A court may choose to rule upon the merits of the issues presented when the "legal question is 'fit' for resolution and delay means hardship." *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000) (citation omitted).

58. A court may choose to rule upon the merits of the issues presented when the "legal question is 'fit' for resolution and delay means hardship." *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000) (citation omitted).

B. Petitioner is Neither a Danger to the Community or Flight Risk and Should be Ordered Released by this Court

59. The Fifth Amendment applies to all persons in the United States, including noncitizens, and protects against deprivation of liberty without due process. *Zadvydas v. Davis*, 533 U.S. 678, 690–93 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976).

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[9]See Appellate Procedures for the Board of Immigration Appeals, Interim Final Rule,, 90 Fed. Reg. 15,525, 15,525–26 (Apr. 14, 2025) (reducing the BIA to 15 permanent Board members), https://www.govinfo.gov/content/pkg/FR-2025-04-14/pdf/2025-06294.pdf.

60. 28 U.S.C. § 2241 gives this Court authority to grant a writ of habeas corpus ordering the release of Petitioner.

61. Under *Matter of Guerra*, 24 I. & N. Dec. 37 (B.I.A. 2006), Petitioner must prove that he is neither a danger to the community nor a flight risk.

62. Respondents **previously made a determination that Petitioner was neither a danger to the community nor a flight risk** when they previously released him from custody.

63. Petitioner has no criminal record that would indicate any danger to the community.

64. Petitioner satisfies all eight (8) "flight risk" factors under *Matter of Guerra*:

a. **Fixed address in the United States**. Petitioner has a fixed address at 649 Old County Rd., Apt. 335, Belmont, CA 94002.

b. **Length of residence in the U.S. and stability here**. Petitioner has resided in the United States for 2 years.

c. **Family ties, including U.S. citizen or LPR relatives, and whether those ties could lead to lawful status.** Petitioner has numerous friends who are both US Citizens and legal permanent residents.

d. **Employment history and community ties.** Petitioner has maintained employment.

e. **Criminal record.** Petitioner has no criminal record that would indicate any danger to the United States or Petitioner's community.

f. **Record of appearing in court or fleeing prosecution/immigration proceedings.** Petitioner has no record of fleeing or absconding from authority. This is evidenced by Petitioner complying with arresting officers despite the concerning nature of his arrest.

g. **History of immigration violations and manner of entry.** While entering the United States, Petitioner was released by Respondents into the country following a determination that he is neither a danger nor a flight risk.

h. **Any other specific evidence bearing on dangerousness or likelihood of appearance (e.g., sponsorship, community support letters).** No evidence exists which indicate any dangerousness or a likelihood to abscond. It is difficult, if not impossible, to prove a negative. Additionally, Petitioner has

numerous US Citizens and legal permanent residents who are willing to sponsor him.

65. Based on the above, this Court should exercise its authority under 28 U.S.C. § 2241 to release Petitioner on his own recognizance or on a bond amount of the Court's choosing.

CLAIMS FOR RELIEF

66. The "heart of habeas corpus" is the challenge to a petitioner's confinement (or the duration of his confinement), where he seeks "immediate release or a speedier release from that confinement." *Preiser v. Rodriguez*, 411 U.S. 475, 498 (1973). "The traditional function of the writ is to secure release from illegal custody." *O'Brien v. Moore*, 395 F.3d 499, 505 (4th Cir. 2005) (quoting *Preiser*, 411 U.S. at 484 and citing *Fay v. Noia*, 372 U.S. 391, 430 (1963)).

67. Upon finding a person is in custody in violation of the laws of the United States, a district court may grant a writ of habeas corpus and "dispose of the matter as law and justice so require." 28 U.S.C. §§ 2241(a), 2243.

68. The "typical remedy" for "unlawful executive detention" is release from custody. See *Munaf v. Geren*, 553 U.S. 674, 693 (2008); see also Preiser, 411

U.S. at 484. "[T]he court shall summarily hear and determine the facts, and dispose of the matter as law and justice require." 28 U.S.C. § 2243.

69. There is no process to await. The Constitution requires release. *Larrazabal-Gonzalez v. Mason*, No. 2:26-cv-00049, slip op. at 1–10 (S.D. W. Va. Jan. 28, 2026)

PRAYER FOR RELIEF

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

A. ORDER Petitioner's immediate release from custody within twenty-four (24) hours and enjoining them from re-detaining Petitioner absent leave of this Court, which should not be granted unless and until Respondents demonstrate that Petitioner has received constitutionally adequate notice and a meaningful opportunity to be heard before a neutral decisionmaker. As explained above, Respondents have forfeited any deference they would otherwise be due from a federal court, so Petitioner requests a direct order for release from this Court;

B. ENJOIN Respondents from transferring Petitioner from the jurisdiction of this District pending these proceedings;

C. To the extent the Court reaches the statutory issues, AWARD Petitioner 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

D. GRANT any other and further relief that this Court deems just and proper.

Respectfully submitted,

By: **/s/ Joseph Williams**

Counsel for Petitioner

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Dated: 03/16/2026

PROOF OF SERVICE

I hereby certify that on 03/16/2026, I filed the above Petition for Writ of Habeas Corpus with the UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MICHIGAN via PACER and I further certify that all parties and attorneys of record were served with same via email and PACER. I declare that the above statements are true to the best of my information, knowledge and belief.

/s/ Joseph Williams

Joseph Williams (P88177)

Attorney for Petitioner