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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

DIONMA GABRIEL RUIZ PADILLA

Petitioner

v.

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

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

ARTHUR WILSON, in his official capacity as ICE Field Officer Director,

JUAN BALTAZAR, in his official capacity as warden of the Aurora Immigration Detention Facility,

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

Respondents,

Case No. _____

VERIFIED PETITION FOR HABEAS CORPUS

IMMIGRATION HABEAS CASE

INTRODUCTION

DIONMA GABRIEL RUIZ PADILLA (Petitioner), by and through his undersigned counsel, hereby files this petition for a writ of habeas corpus. Upon information and belief, Petitioner entered the United States on or about May 5, 2023 without parole or inspection. Petitioner is a native of Venezuela. (Exhibit 1). Petitioner was apprehended by the Department of Homeland Security ("DHS") on or about January 5, 2026 at his house. ICE did not explain the reason for his detention. It does not appear that Petitioner has any disqualifying criminal convictions or other violations under INA § 101(f).

Petitioner has not filed an application for bond redetermination. Pursuant to the holding in *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA 2025)[1], Petitioner has elected to postpone a bond hearing knowing that such request would be futile under the current BIA framework. The decision in *Matter of Hurtado* dictates that U.S.C. § 1225(b)(2)(A) bars individuals without inspection from receiving a bond redetermination from an immigration judge, thereby depriving the Immigration Court of relevant jurisdiction for bond determination. *Id.* at 229.

In an order dated February 18, 2026, the United States District Court for the Central District of California vacated *Matter of Hurtado*. *See Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM, at 16* (C.D. Cal. Feb. 18, 2026) (Civil Minutes – General) (attached as Exhibit 9). *Maldonado Bautista* is a class action primarily concerned with aliens who entered without inspection ("EWI") and who's first encounter with

[1] Holding, "[t]herefore, just as Immigration Judges have no authority to redetermine the custody of arriving aliens at a port of entry, they likewise have no authority to redetermine the custody conditions of an alien who crossed the border unlawfully without inspection, even if that alien has avoided apprehension for more than 2 years." (at 228).

DHS was in the interior of the United States. The "Bond Eligible Class" certified in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025) (class certification order), 2025 WL 3288403, includes all noncitizens who: 1) EWI, 2) who were not apprehended at the time of entry, and 3) are not subject to mandatory detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231. Based on Petitioner's status, it is not clear that he is a member of the foregoing "Bond Eligible Class" certified in *Maldonado Bautista*. However, in the instant case, it does appear that DHS indicated in their own documentation, that he is not an "arriving alien" but rather an "alien present in the United States" who was "not admitted or paroled after inspection by an Immigration Officer." (Exhibit 2). While it is clear Petitioner entered without inspection, it is not clear if he was apprehended at the time of entry on or about May 5, 2023. It is the case, however, that he was present within the interior of the United States when he was apprehended by DHS on January 5, 2026.

Whether or not Petitioner is a member of the "Bond Eligible Class," there is a well-established "distinction between an alien who has effected entry into the United States and one who has never entered [that] runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). "[O]nce an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all "persons" within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* (collecting cases). After all, it is a "well established" rule "that the Fifth Amendment entitles aliens to due process of law." *Trump v. J. G. G.*, 145 S. Ct. 1003, 1006 (2025).

At issue in this matter, is DHS's interpretation of the holding in *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020). That case involved a petitioner that had been detained after making it 25 yards into U.S. territory. *Thuraissigiam*, 591 U.S. at 104. The Court had made

clear that an individual detained shortly after unlawful entry cannot be said to have "effected an entry." *Id.* In declining an as-applied constitutional challenge to Section 1252(e)(2), the Court reasoned that "[w]hile aliens who have established connections in this country have due process rights in deportation proceedings, the Court long ago held that Congress is entitled to set the conditions for an alien's lawful entry into this country and that, as a result, an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause." *Id.* at 107.

Essentially, the argument is that Petitioner, and those similarly situated whether "released" or "paroled" into the interior, are an "applicant for admission" who must "be inspected by immigration officers" to ensure they may be admitted into the country." 8 U.S.C. §§ 1225(a)(1), (a)(3). It is the contention of DHS that individuals who enter illegally, but are detained shortly after unlawful entry, cannot be said to have "effected an entry" and remain, similar to an alien detained at a port of entry, "on the threshold" and subject to § 1225. *See Thuraissigiam*, at 140.

Petitioner, regardless of whether detained shortly after unlawful entry, was released into the interior. At no point can he be considered "on the threshold" of entry as justification for his current detention in Aurora, CO. Even in *Thuraissigiam*, the core point of the Court's analysis in rejecting an as-applied challenge rested on the fact that, as an individual who was on the initial threshold of entry, he was not entitled to more due process than that afforded by statute. Precedent and logic tell us that those individuals who have established ties in the country are protected by constitutional due process.

Pursuant to *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), the United States Supreme Court held that the federal courts must "exercise independent judgement" when

interpreting statutes and need no longer defer to an agency's reasonable interpretation simply reliant on the ambiguity of a specific statute. This ruling suggests that DHS's interpretation of *Thuraissigiam*, and its application to individuals like Petitioner, is not granted automatic deference, particularly because this interpretation relies on fundamentally arbitrary reasoning. The abolition of automatic deference precedent in *Loper Bright* empowers reviewing courts to scrutinize BIA policy choices on the merits rather than deference to unlawful agency interpretations.

JURISDICTION AND VENUE

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

Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of conduct perpetuated by DHS and DOJ. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252; *see Zadvydas*, 533 U.S. at 687.

Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or Officers or employees thereof acting in their official capacity or under color of legal authority. Petitioner is also in custody of the Aurora Detention Center, which is in the jurisdiction of the Colorado District Court. There is no real property involved in this action.

Finally, there is no requirement for exhaustion of administrative remedies in the present case as neither the habeas statute, 8 U.S.C. § 2241, nor the relevant sections of the INA require Petitioner to exhaust administrative remedies prior to filing petitioners for habeas corpus – particularly those situated on unlawful and prolonged detention.

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

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

Courts have long recognized the significance of the habeas statute protecting individuals from unlawful detention – particularly detention that is prolonged and absent avenues for relief. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Faye v. Noia*, 372 U.S. 391, 400 (1963).

Petitioner is "in custody" for applicability determination of 28 U.S.C. § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

PETITIONER

Dionma Gabriel Ruiz Padilla, is a Venezuelan citizen who is currently in the custody of the Department of Homeland Security in Aurora, Colorado.

RESPONDENTS

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

Respondent Todd Lyons is the acting director of the United States Immigration and Customs Enforcement and has the authority over the actions of respondent Arthur Wilson, Juan Baltazar, and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

Respondent Arthur Wilson is the Field Office Director of Immigration and Customs Enforcement which detains individuals currently pending removal proceedings and determination in the Colorado District Court. Respondent Arthur Wilson is sued in his official capacity as an agent of the United States.

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

Respondent Juan Baltazar is the warden of the Aurora Detention Center and thus has custody over the Petitioner. Respondent Juan Baltazar is sued in his official capacity as an agent of the United States.

PROCEDURAL AND FACTUAL BACKGROUND

1. Petitioner, a 20-year-old native of Venezuela, entered the United States at or near Brownsville, TX, on or about May 5, 2023. (Exhibit 3). Petitioner fled Venezuela with his mother due to concerns regarding local security and the presence of armed groups which posed significant risks to Petitioner. During their journey, the family was involved in a vehicular accident resulting in the death of the Child's mother. The Petitioner's sister has assisted him upon arrival and has since petitioned for guardianship in the State of Colorado. (Exhibit 4).

2. The petition for guardianship by Petitioner's sister is part of the process for additional findings for an application for a Special Immigrant Juvenile visa.
3. Petitioner has lived with his sister and family members in Colorado since entry in 2023.
4. Petitioner was granted work authorization on March 29, 2024. (Exhibit 1).
5. Petitioner received receipt of his I-589 application for asylum and for withholding of removal on May 23, 2024. (Exhibit 5). He attended his biometrics appointment on June 1, 2024. (Exhibit 5).
6. Petitioner applied for Temporary Protected Status (I-821) on July 9, 2025. (Exhibit 6).
7. Petitioner applied for Employment Authorization on that same date (July 9, 2025). (Exhibit 7).
8. Petitioner is currently detained at the ICE Detention Center in Aurora, Colorado and his upcoming Master Calendar Hearing is set for March 23, 2026. (Exhibit 8).
9. Petitioner has no known criminal history.
10. Petitioner has not filed an application for bond determination.

LEGAL FRAMEWORK

I. Petitioner's Detention Pursuant to 8 U.S.C. § 1225 or § 1226

To the extent DHS has classified Petitioner under § 1225, that classification is erroneous as a matter of law. 8 U.S.C. § 1225(a) provides that "[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for the purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Noncitizens who are apprehended within the United States and placed in removal proceedings are detained under 8 U.S.C. § 1226(a), which authorizes detention pending removal proceedings but expressly

provides that such individuals may seek release through an individualized custody determination before an immigration judge.

Because Petitioner was apprehended within the United States and placed in removal proceedings, his detention is governed by **8 U.S.C. § 1226(a)**. Unlike the petitioner in Thuraissigiam, Petitioner was not apprehended at the threshold of entry but was released into the interior and resided in the United States for over two years.

The Supreme Court explained that § 1225 governs detention of individuals seeking admission at the border, whereas § 1226 governs detention of noncitizens already present in the United States who are placed in removal proceedings. For those who have already entered the interior of the United States, "the Court has recognized additional rights and privileges not extended to those in the former category who are merely 'on the threshold of initial entry." *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958).

Section 1226(a) authorizes detention pending removal proceedings but expressly provides for the possibility of release on bond following an individualized custody determination before an immigration judge.

Petitioner has not been provided a bond hearing before an immigration judge, despite the statutory framework that contemplates the availability of such a custody determination.

II. Petitioner's Detention Violates the Due Process Clause

The Fifth Amendment to the United States Constitution provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V.

To determine whether civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the familiar three-part test articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

Mathews requires courts to weigh three factors:

1. "The private interest that will be affected by the official action";
2. "The risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and
3. "The government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail."

Id. at 335–36.

Petitioner has been detained since **January 5, 2026** without access to the custody review procedures contemplated by **§ 1226(a).**

A. Petitioner Has a Legitimate Private Interest in Remaining Free from Physical Detention

The Supreme Court has recognized that freedom from physical detention implicates "the most elemental of liberty interests-the interest in being free from physical detention by one's own government." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

Petitioner asserts that the government has violated his due process rights by detaining him without providing access to the custody review procedures contemplated by **8 U.S.C. § 1226(a).**

Releasing Petitioner would not preclude the government from continuing removal proceedings at the appropriate time. Moreover, Petitioner's liberty interest is not so diminished because of his immigration status that he should be summarily denied the opportunity to seek a bond determination.

B. There is a Significant Risk of Erroneous Deprivation of Petitioner's Due Process Rights

Petitioner has not received a meaningful opportunity to challenge the lawfulness of his current detention.

As discussed above, § 1226 governs his detention, and the statute contemplates the availability of a bond redetermination before an immigration judge. The second *Mathews* factor weighs heavily in his favor as he is presently detained without access to the custody review procedures contemplated by the statutory framework governing his detention.

C. The Government Must Show a Compelling Interest in Detaining Petitioner Without Holding a Bond Hearing

Undoubtedly, immigration enforcement is an important public interest. However, it is also in the public interest that the due process rights of individuals subject to immigration enforcement are adequately protected through an individualized custody determination.

Releasing the Petitioner on bond, pursuant to an Immigration Judge's determination, would not preclude the government from continuing removal proceedings. Moreover, if appropriate, an Immigration Judge may deny bond following such a hearing.

All three *Mathews* factors weigh in Petitioner's favor.

III. Administrative Exhaustion Would Be Futile

The exhaustion of available administrative remedies is generally a prerequisite for § 2241 habeas relief, although the Tenth Circuit recognizes that the statute itself does not expressly contain such a requirement. *Garza v. Davis*, 596 F.3d 1198, 1203 (10th Cir. 2010) (citing *Williams v. O'Brien*, 792 F.2d 986, 987 (10th Cir. 1986)).

A narrow exception to the exhaustion requirement applies if a petitioner can demonstrate that exhaustion would be futile. Id.

Futility may exist where the administrative body has effectively predetermined the issue before it. *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992).

Petitioner has not sought administrative custody review because, under the circumstances of this case, such relief would not provide a meaningful opportunity to challenge his current detention. Habeas review is therefore the appropriate mechanism for judicial consideration of the lawfulness of Petitioner's custody.

CAUSES OF ACTION

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

Petitioner incorporates and references the above allegations herein.

The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due Process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

These constitutional protections extend to Petitioner, who is currently detained by the federal government while his removal proceedings remain pending.

Here, Petitioner is deprived of due process under the Fifth Amendment because DHS is detaining Petitioner without providing a meaningful opportunity to obtain custody review, despite his placement in removal proceedings and the absence of any statutory bar to such review.

Under the Immigration and Nationality Act, noncitizens detained pursuant to **8 U.S.C. § 1226(a)** are entitled to an individualized custody determination before a neutral adjudicator. The United States Supreme Court has repeatedly emphasized that civil immigration detention must

include adequate procedural safeguards to satisfy the Fifth Amendment. See *Zadvydas*, 533 U.S. at 690.

SECOND CAUSE OF ACTION:

Violation of the Immigration and Nationality Act

Petitioner incorporates and references the above allegations herein.

The Immigration and Nationality Act ("INA") establishes specific statutory frameworks governing the detention of noncitizens. Under **8 U.S.C. § 1225(b)**, certain applicants for admission may be detained pending a determination of admissibility. Under **8 U.S.C. § 1226(a)**, the Attorney General may arrest and detain noncitizens who are already in removal proceedings, but the statute expressly authorizes release on bond or conditional parole. Furthermore, **8 U.S.C. § 1226(c)** mandates detention only for certain noncitizens with specified criminal convictions during removal proceedings. Petitioner does not fall within any of the categories subject to mandatory detention under **§ 1226(c)**. Where, as here, the noncitizen was released into the interior and developed substantial ties, the 'entry fiction' no longer applies, and detention is governed by § 1226(a).

Because Petitioner was apprehended within the United States and placed in removal proceedings under § 212(a)(6)(A)(i), his detention is governed by **8 U.S.C. § 1226(a)**.

Section **1226(a)** authorizes detention pending removal proceedings but contemplates that noncitizens may seek release through an individualized custody determination before an immigration judge. By detaining Petitioner without providing access to the custody review procedures contemplated by **§ 1226(a)**, Respondents are acting in a manner inconsistent with the statutory framework established by the INA.

Accordingly, Petitioner must be treated under the detention provisions that govern his circumstances-**§ 1226(a)**-and afforded the opportunity to seek an individualized custody determination before a neutral adjudicator.

Because Petitioner does not fall within any statutory category that authorizes mandatory detention under the INA**,** his continued confinement is ultra vires.

Petitioner therefore seeks **habeas relief and immediate release from unlawful custody**, or alternatively, an order directing Respondents to provide Petitioner with a **prompt custody determination before an immigration judge**.

RESERVATION OF RIGHTS

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

PRAYER FOR RELIEF

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

A. Assume jurisdiction over the matter.
B. Declare Petitioner's detention without a possibility of bond unlawful pursuant to the Due Process clause of the Fifth Amendment of the United States Constitution, and the Immigration and Nationality Act.
C. Order Petitioner's immediate release on bond; or, in the alternative, order an individualized determination of Petitioner's eligibility for bond by an IJ where DHS bears the burden of proving by clear and convincing evidence that Petitioner is a flight risk or danger to the community.
D. Award Petitioner costs of suit and attorney's fees under the Equal Access to Justice Act, and any other applicable law.

E. Enter all necessary relief, injunctions, and orders as justice and equity as appropriate to remedy the harms to Petitioner.

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

DATED this 23rd day of March, 2026.

Respectfully submitted,

/s/ *Jonathon Bell*
Jonathon Bell
Counsel for Petitioner

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

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

Dated this 23rd Day of March, 2026.

Respectfully Submitted,

/s/ Jonathon Bell

Jonathon Bell