UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

MACEDONIO APARICIO DEL ROSARIO

Petitioner,

v.

JOHN RIFE, in his official capacity as ICE Field Office Director; KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement, JAMAL LAWRENCE JAMISON, Warden of the Philadelphia Federal Detention Center, and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Case No.:

VERIFIED PETITION FOR HABEAS CORPUS

INTRODUCTION

1. Petitioner Macedonio Aparicio del Rosario is a native and citizen of Mexico who entered the United States without inspection around 2009 and has not left the United States since.

2. Mr. Rosario is eligible for 42B Cancellation of Removal through his two U.S. citizen children and has a bona fide determination for a pending U Visa.

3. Immigration and Customs Enforcement ("ICE") agents detained Mr. Rosario while driving his children to school on March 25, 2026. Mr. Rosario was brought to the Federal Detention Center in Philadelphia, Pennsylvania where he has been detained since. See Exhibit A.

4. On or about September 5, 2025, the Board of Immigration Appeals (the "Board") has issued decisions, including *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which

have said that that those who are classified as "entry without inspection" are now "applicants for admission" under 8 U.S.C. § 1225(b) and not eligible to apply for bond in front of an immigration judge, even if they are not caught near the border and have been in the United States for an extended period of time. Historically, these individuals were subject to the detention rules under 8 U.S.C. § 1226(a), which permitted them to apply for a bond in front of an immigration judge.

5. Mr. Rosario would otherwise have been eligible to apply for a bond in front of an immigration judge. He is now not eligible for any bond and must stay detained for the duration of his immigration court proceedings, including any appeal if he loses.

6. In addition, DHS violated Mr. Rosario's due process rights under the Fifth Amendment of the U.S. Constitution by detaining him without conducting an individualized assessment to determine if his detention was warranted. Detention for those detained under 8 U.S.C. § 1226(a) is used to ensure that an individual will show up to court and is not a danger to persons or property. DHS has not demonstrated that Mr. Rosario, who did not require detention before under either of those categories now poses a flight risk or is a danger to persons or property.

7. For these reasons, Mr. Rosario requests that the Court declare that DHS has violated his due process rights by detaining him under 8 U.S.C. § 1225(b) and declare that he is detained under 8 U.S.C. § 1226(a) and either (1) order his immediate release as DHS has violated his due process rights, (2) order that he receive a bond hearing with the burden on the government to prove by clear and convincing evidence that he is either a danger persons or property and/or a flight risk and that there is no combination of alternatives to detention that could mitigate those risks.

JURISDICTION

8. This action arises under the Constitution of the United States, the APA, and the

Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is proper because Petitioner was detained at the Philadelphia Federal Detention Center ("FDC") in Philadelphia, Pennsylvania, which is within the jurisdiction of this District when this action was originally filed.

12. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, and Petitioner resides in this District. There is no real property involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

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

14. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most

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

EXHAUSTION OF ADMINSTRATIVE REMEDIES

15. To the extent required, Petitioner has exhausted his administrative remedies as required by law and his only remedy is by way of this judicial action. In addition, the administrative agency has already predetermined that Petitioner is not eligible for any relief through the agency. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Therefore, any attempt to seek relief through the agency would be futile.

PARTIES

16. Petitioner is currently detained by the Department of Homeland Security. He was at the Philadelphia Federal Detention Center when he filed his habeas petition with this Court.

17. Respondent, John Rife, is the ICE Field Office Director for the ICE Philadelphia Field Office. He was the Petitioner's immediate custodian at the time this habeas was filed, and, upon information and belief, resides in the Eastern District of Pennsylvania.

18. Respondent Todd Lyons is sued in his official capacity as Acting Director of the United States Immigration and Customs Enforcement. In this capacity, Respondent Lyons oversees all detention of noncitizens held in ICE custody and is a legal custodian of petitioner with the authority to release him.

19. Respondent Kristi Noem is sued in her official capacity as Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, the component agency responsible for Petitioner's detention and custody. Respondent Noem is a

legal custodian of Petitioner.

20. Respondent is Jamal Lawrence Jamison, Warden of the Federal Detention Center in Philadelphia, Pennsylvania. Respondent is a legal custodian of Petitioner.

21. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals.

STATEMENT OF FACTS

22. Petitioner is a native and citizen of Mexico.

23. Petitioner entered the United States without inspection around 2009.

24. DHS detained Mr. Rosario while driving his children to school, with his children present in the car, on March 25, 2025, transported him to the Federal Detention Center, and initiated removal proceedings through the issuance of a Notice to Appear.

25. Mr. Rosario is eligible for 42B Cancellation of Removal with his qualifying relative being his two U.S. citizen children. He also has a bona fide determination for a pending U Visa.

26. Upon information and belief, Petitioner is currently being held in ICE's custody in the Eastern District of Pennsylvania at the Federal Detention Center or was at the FDC when this habeas petition was required.

27. Upon information and belief, Petitioner's sole criminal contact was a DUI in February 2025 for which he planned on completing the necessary courses and requirements.

28. Upon information and belief, neither DHS nor its sub-agencies have made any claim that he is a danger to persons or property or a flight risk.

29. Upon information and belief, DHS did not perform an individual assessment prior to or contemporaneously with the decision to detain Petitioner.

LEGAL BACKGROUND

PETITIONER'S DETENTION VIOLATES PETITIONER'S DUE PROCESS RIGHTS UNDER THE FIFTH AMENDMENT OF THE U.S. CONSTITUTION.

I. This Court has jurisdiction to hear this matter.

30. As noted above, "Federal courts have jurisdiction to review habeas petitioners filed by immigration detainees who assert that they are 'in custody in violation of the Constitution or laws or treaties of the United States.'" *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 U.S. Dist. LEXIS 196847, at *8 (E.D.N.Y. Oct. 5, 2025) quoting 28 U.S.C. § 2241(c)(3). Therefore, this Court has jurisdiction to hear this matter.

II. Petitioner is not required to exhaust his administrative remedies.

31. Petitioner is not required to exhaust his administrative remedies by seeking a bond or requesting discretionary parole.

32. While courts generally require exhaustion of administrative remedies before detainees may challenge their detention in court via a petition for a writ of habeas corpus, exhaustion is a prudential matter, not a statutory requirement. *See eg. Pereira v. O'Neill, 2025 WL 3516665 (E.D. Pa. Dec. 8, 2025) (Marston, J.); Conde v. Jamison, 2025 WL 3499256 (E.D. Pa. Dec. 5,2025) (Brody, J.); Suspes v. Rose, 2025 WL 3492820 (E.D. Pa. Dec. 5, 2025) (Brody, J.)Hidalgo et al. v. O'Neill, No. 25-cv-6775 (E.D. Pa. Dec. 5, 2025) (Diamond, J.); Delgado Villegas v. Bondi, No. 25-cv-6143 (E.D. Pa. Dec. 4, 2025) (Diamond, J.); Nogueira-Mendes v.McShane, 2025 WL 3473364 (E.D. Pa. Dec. 3, 2025) (Slomsky, J.); Juarez v. O'Neill, 2025 WL3473363 (E.D. Pa. Dec. 3, 2025) (Henry, J.); Yilmaz v. Warden of Fed. Det. Ctr. Philadelphia,2025 WL 3459484*

(E.D. Pa. Dec. 2, 2025) (Rufe, J.). Further, the Board of Immigration Appeals (BIA) does not have jurisdiction to adjudicate constitutional issues. See Qatanani v. Att'y Gen. of the *US*, 144 F 4th 485, 500 (3d Cir. 2025). Therefore, any administrative proceedings would be futile because Petitioner raises a constitutional due process claim. *Qatanani*, 144 F 4th at 500.

33. Next, this petition raises a substantial constitution question, i.e., whether DHS has violated his due process rights under the U.S. Constitution in detaining him. Therefore, Petitioner should not be required to exhaust his administrative remedies.

III. PETITIONER IS DETAINED UDNER 8 U.S.C. § 1226(a).

34. The next issue is to determine what section of the Immigration and Nationality Act ("INA") governs Petitioner's detention.

35. Petitioner's detention is governed by 8 U.S.C. § 1226(a).

A. Background of 8 U.S.C. §§ 1225 and 1226.

36. Two sections of Immigration and Nationality Act govern detention of non-citizens who have not received a final order of removal: 8 U.S.C. § 1225 and 8 U.S.C. § 1226.

37. 8 U.S.C. § 1225 governs those who are considered "applicants for admission." 8 U.S.C. § 1225(a)(1). This section states 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 purposes of this chapter an applicant for admission."

38. Applicants for admission under 8 U.S.C. § 1225 are divided into two subsections: those covered by 8 U.S.C. § 1225(b)(1) and those covered by 8 U.S.C. § 1225(b)(2).

39. 8 U.S.C. § 1225(b)(1) generally applies to those noncitizens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." This section also applies to other aliens who receive a special designation by the Attorney General of the United

States. 8 U.S.C. § 1225(b)(1)(A)(iii). These individuals are subject to what is commonly known as "expedited removal."

40. Noncitizens who fall under 8 U.S.C. § 1225(b)(1) are subject to immediate removal unless they make a fear-based claim. Upon making that claim, if they pass a credible fear interview, they are put into removal proceedings where their fear-based application is considered. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Noncitizens who either do not make a fear-based claim or do not make a credible fear-based claim are detained until removal. 8 U.S.C. §§ 1225(b)(1)(A)(ii), (B)(iii)(IV). Those who make a fear-based claim are detained while an immigration court considers the non-citizen's claim. *Jennings*, 583 U.S. at 287 citing 8 U.S.C. § 1225(b)(1)(B)(ii).

41. The next category of individuals fall under 8 U.S.C. § 1225(b)(2). This is a general "'catchall provision' that applies to all other applicants." *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 U.S. Dist. LEXIS 191630, at *12 (E.D.N.Y. Sep. 29, 2025) quoting *Jennings*, 583 U.S. at 285. Those detained under this section are commonly known as "arriving aliens."

42. 8 U.S.C. § 1225(b)(2)(A) provides that: "in 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" while the non-citizen is in removal proceedings under 8 U.S.C. § 1229a.

43. Detention is mandatory under 8 U.S.C. § 1225. But DHS may grant anyone who falls under 8 U.S.C. § 1225(b) temporary parole on a case-by-case and individualized basis. But when the purposes of the parole have been accomplished and/or the terms of that parole are concluded, the individual is returned to detention. *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *13-14. Those designated as applicants for admission are not eligible to apply for a bond from an

immigration judge.

44. Historically, these individuals are noncitizens who go to a border checkpoint crossing and request entry.

45. The next category of individuals fall under 8 U.S.C. § 1226. Noncitizens detained under this section are then classified under one of two subsections here as well: 8 U.S.C. § 1226(a) and 8 U.S.C. § 1226(c).

46. "Section 1226(a) governs a separate non-mandatory detention scheme and provides for the '*default rule*' for detaining and removing aliens 'already present in the United States.'" *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *14 quoting *Jennings*, 583 U.S. at 303.

47. This section provides that "on a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a).

48. "While that decision is pending, the Attorney General may "continue to detain the arrested alien," "release the alien on bond of at least $1,500," or "release the alien on conditional parole." 8 U.S.C. § 1226(a)(1)-(2).

49. 8 U.S.C. § 1226(c) contains several "exceptions [to 8 U.S.C. § 1226(a)] for persons 'who fall[ ] into one of the enumerated categories involving criminal offenses and terrorist activities.'" *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *14 quoting *Jennings*, 583 U.S. at 303. Detention is mandatory for those who fall under 8 U.S.C. § 1226(c).

50. But even those detained under 8 U.S.C. § 1226(c) can file a petition for a writ of habeas corpus for prolonged detention in violation of the Due Process Clause of the Fifth Amendment of the U.S. Constitution. A federal judge can then order that an immigration judge conduct a bond hearing with the burden on the government to show by clear and convincing

evidence that the individual is a danger to persons or property or a flight risk and that no alternatives to detention exist that could mitigate that risk for the detention to continue. *See Black v. Dir. Thomas Decker*, 103 F.4th 133 (2d Cir. 2024); *Cantor v. Freden*, 761 F. Supp. 3d 630, 635-41 (W.D.N.Y. 2025).

51. An NTA issued by the DHS can indicate the non-citizen's detention status. The NTA has specific boxes for those who fall under 8 U.S.C. § 1225(b)(1) and (b)(2). Those under 8 U.S.C. § 1225(b)(1) fall under the box that states, "Section 235(b)(1) order was vacated pursuant to: [ ] 8 CFR 208.30 [ ] 8 CFR 235.3(b)(5)(iv)." Those under 8 U.S.C. 1225(b)(2) fall under the box that states, "You are an arriving alien." Finally, those who fall under 8 U.S.C. § 1226(a) fall under the box entitled "You are an alien present in the United States who has not been admitted or paroled."

B. Petitioner is detained pursuant to 8 U.S.C. § 1226(a).

52. Petitioner is detained pursuant to 8 U.S.C. § 1226(a) for several reasons.

53. Upon information and belief, Petitioner has been charged as alien present without parole or admission under INA 240.

54. Petitioner, to our knowledge, has never committed an aggravated felony that would subject him to mandatory detention nor is he subject to mandatory detention provisions under the Laken Riley Act.

55. In addition, Petitioner does not fall into any other category.

56. DHS makes no allegation that he ever was under expedited removal under 8 U.S.C. § 1225(b)(1), which is referred to generally as "expedited removal." In addition, since he arrived in July 2004, he cannot be subject to expedited removal as a noncitizen must be in the country for less than two years to qualify for expedited removal. *See Make the Road New York v. Noem*, No.

25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).

57. In addition, Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because he has already in the United States several years and is not presently "seeking admission" to the United States. *See Kashranov v. Jamison,* 2025 WL3188399 (E.D. Pa. Nov 14 2025)(Wolson. J.) (explaining that the terms "arriving" and "seeking admission" are present-tense words and do not apply to an individuals who have been in the country for several years).

58. To the extent that Respondent argues that Petitioner is detained under 8 U.S.C. § 1225(b) as an applicant for admission pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), this argument fails.

59. In *Yajure Hurtado*, the Board of Immigration Appeals held that anyone who is classified as an "inadmissible alien who establishes that he or she has been present in the United States for over 2 years" can be detained under 8 U.S.C. § 1225(b)(2) and "shall be detained for a proceeding under section 240." *Id.* at 219-220. The consequence of this decision is that individuals who were historically classified as entry without inspection or EWI and eligible to apply for a bond before an immigration judge under 8 U.S.C. 1226(a) are now ineligible for an immigration judge-issued bond. But the Board's reversal of historical practice and newly revised interpretation of the detention statutes are not entitled to any deference. *See Loper Bright Ent. v. Raimondo*, 603 U.S. 369, 412-13 (2024). Numerous courts around the country have rejected the reasoning in Yajure Hurtado and held that those who have been in the United States longer than two years are classified under 8 U.S.C. § 1226(a) were, at minimum, entitled to a bond hearing before an immigration judge. *Artiga*, 2025 U.S. Dist. LEXIS 196847, at *15-24; *Orellana v. Moniz*, Civil Action No. 25-cv-12664-PBS, 2025 U.S. Dist. LEXIS 196282, at *13-14 (D. Mass. Oct. 3, 2025) (collecting cases).

60. Furthermore, the government's policy in *Yajure Hurtado* renders other statutes, e.g., 8 U.S.C. §1226(c) and the Laken Riley Act, superfluous. *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *22-24.

61. Petitioner was not, at the time of arrest, paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and, therefore, Petitioner could not "be returned" under that provision to mandatory custody under 8 U.S.C. § 1225(b). Petitioner is therefore not subject to mandatory detention under § 1225 for this reason as well.

62. In addition, Petitioner is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because he has not been convicted of any crime that triggers such detention. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).

63. Accordingly, Petitioner is subject to discretionary detention under 8 U.S.C. § 1226(a) based on Respondents' treatment of Petitioner and the plain text of the statue.

64. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a custody redetermination hearing (colloquially called a "bond hearing") with strong procedural protections. 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

65. If the Court does not release Petitioner outright, Petitioner respectfully requests a bond hearing with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger.

IV. Petitioner's Arrest and Detention Violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

66. The Due Process Clause of the Fifth Amendment of the U.S. Constitution prevents

the "Government from depriving any person of 'life liberty or property, without due process of law.'" *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *27. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

67. It is well-established that the Due Process clause "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

68. DHS arrested and detained Petitioner without an individualized assessment as to whether he is a flight risk and/or a danger to the community in violation of the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process
(Unlawful Arrest and Detention)

69. Petitioner alleges and incorporates all prior paragraphs above.

70. DHS detained Petitioner with no process, no showing of changed circumstances and no opportunity for Petitioner to respond to its decision to detain him.

71. This violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

72. Petitioner's arrest and continued detention is therefore unlawful.

73. Petitioner's continuing detention is therefore unlawful.

74. Therefore, Petitioner requests immediate release from custody.

COUNT TWO

Violation of Fifth Amendment Right to Due Process
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))

75. Petitioner alleges and incorporates all prior paragraphs above.

76. Because Petitioner is a person arrested inside the United States and is subject to detention, if at all, under 8 U.S.C. § 1226(a).

77. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

78. Petitioner's continued detention is therefore unlawful.

79. Under the Due Process Clause of the Fifth Amendment to the United States Constitution, 8 U.S.C. § 1226(a), and 8 C.F.R. 236.1(d) & 1003.19(a)-(f), if the Court does not order Petitioner's immediate release, he is entitled to receive a bond hearing before an immigration judge with strong procedural protections.

80. Therefore, if the Court does not release Petitioner outright, Petitioner requests a court order that he is entitled to a bond hearing in front of an immigration judge with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger or on conditions the Court deems just and proper.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;

2. Order that Petitioner shall not be transferred outside the Commonwealth of Pennsylvania.

3. Adjudicate this petition pursuant to 28 U.S.C. § 1657 which requires that the Court expedite consideration of any action brought under 28 U.S.C. Chapter 153, which governs habeas petitions.

4. Declare that Petitioner's detention is unlawful.

5. Issue an order requiring Respondents to release Petitioner immediately, or, in the alternative, to provide Petitioner with a bond hearing with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger or on conditions the Court deems just and proper.

6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

7. Grant any further relief this Court deems just and proper.

Dated: March 25, 2026
Philadelphia, PA

Respectfully submitted,

s/ *Fiona Powell*

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Attorney for Petitioner

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

I represent Petitioner, Macedonio Aparicio de Rosario, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 25th Day of March, 2026.

s/ Fiona Powell
Fiona Powell

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
MACEDONIO APARICIO DE ROSARIO

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Solow, Hartnett & Galvan, 1601 Walnut St., Suite 1200, Philadelphia, PA 19102 215-330-5244

DEFENDANTS
RIFE, et. al.

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☑ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
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PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
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- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

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- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

INTELLECTUAL PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☑ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
23 USC 2243

Brief description of cause:
Habeas Corpus

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☑ No

VIII. RELATED CASE(S) IF ANY

(See instructions):
JUDGE _____ DOCKET NUMBER _____

DATE
03/25/2026

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

10/2024

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

Place of Accident, Incident, or Transaction: Philadelphia, PA

RELATED CASE IF ANY: Case Number:_____ Judge:_____

1. Does this case involve property included in an earlier numbered suit? Yes ☐
2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? Yes ☐
3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? Yes ☐
4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? Yes ☐
5. Is this case related to an earlier numbered suit even though none of the above categories apply? If yes, attach an explanation. Yes ☐

I certify that, to the best of my knowledge and belief, the within case ☐ **is** / ☒ **is not** related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts)
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Wage and Hour Class Action/Collective Action
- ☐ 6. Patent
- ☐ 7. Copyright/Trademark
- ☐ 8. Employment
- ☐ 9. Labor-Management Relations
- ☐ 10. Civil Rights
- ☒ 11. Habeas Corpus
- ☐ 12. Securities Cases
- ☐ 13. Social Security Review Cases
- ☐ 14. Qui Tam Cases
- ☐ 15. Cases Seeking Systemic Relief ***see certification below***
- ☐ 16. All Other Federal Question Cases. *(Please specify)*:_____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (*Please specify*):_____
- ☐ 7. Products Liability
- ☐ 8. All Other Diversity Cases: *(Please specify)*_____

I certify that, to the best of my knowledge and belief, that the remedy sought in this case ☐ **does** / ☒ **does not** have implications beyond the parties before the court and ☐ **does** / ☒ **does not** seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:

☒ Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of $150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

☐ None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

NOTE: A trial de novo will be by jury only if there has been compliance with F.R.C.P. 38.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

MACEDONIO APARICIO DEL ROSARIO

Petitioner,

v.

JOHN RIFE, in his official capacity as ICE Field Office Director; KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement, JAMAL LAWRENCE JAMISON, Warden of the Philadelphia Federal Detention Center, and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Case No.:

VERIFIED PETITION FOR HABEAS CORPUS

EXHIBITS

A. BIRTH CERTIFICATE OF PETITIONER'S U.S. CITIZEN CHILDREN

B. PETIONER'S NOTICE OF BONA FIDE DETERMINATION FOR U VISA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

MACEDONIO APARICIO DEL ROSARIO

Petitioner,

v.

JOHN RIFE, in his official capacity as ICE Field Office Director; KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement, JAMAL LAWRENCE JAMISON, Warden of the Philadelphia Federal Detention Center, and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Case No.:

VERIFIED PETITION FOR HABEAS CORPUS

ORDER TO SHOW CAUSE AND PRELIMINARY INJUNCTION

AND NOW, this _____ day of March, 2026, upon consideration of the Verified Petition for a Writ of Habeas Corpus and Motion for Preliminary Injunction filed by Petitioner Macedonio Aparicio del Rosario and it appearing that the petition raises substantial questions concerning the legality of Petitioner's continued detention under 8 U.S.C. § 1225(b), and that immediate judicial review is necessary under 28 U.S.C. § 2243 and the Due Process Clause of the Fifth Amendment, it is hereby ORDERED as follows:

1. ORDER TO SHOW CAUSE: The Respondents shall show cause in writing on or before the _____ day of April, 2026 (within seven (7) days) from the date of this Order, why the relief requested in the Petition should not be granted.

2. RESPONSE DEADLINE: Respondents' return shall be accompanied by a memorandum of law and all relevant portions of Petitioner's immigration and detention records.

3. PRELIMINARY INJUNCTION / TEMPORARY STAY OF REMOVAL: Pending resolution of this action or further order of the Court:

a. Respondents are temporarily enjoined from transferring Petitioner out of the jurisdiction of the Commonwealth of Pennsylvania; and

b. Respondents shall not remove Petitioner from the United States while this habeas corpus proceeding remains

pending.

4. PETITIONER'S REPLY: Petitioner may file a reply memorandum within three (3) days of Respondents' filing of their return.

5. SERVICE: Petitioner's counsel shall promptly serve a copy of this Order, together with the Petition for Writ of Habeas Corpus and all supporting exhibits, upon the United States Attorney's Office for the Eastern District of Pennsylvania, by hand, electronic, or overnight service, and shall file proof of service with the Clerk of Court.

SO ORDERED.

_____

United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

MACEDONIO APARICIO DEL ROSARIO

Petitioner,

v.

JOHN RIFE, in his official capacity as ICE Field Office Director; KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement, JAMAL LAWRENCE JAMISON, Warden of the Philadelphia Federal Detention Center, and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Case No.:

VERIFIED PETITION FOR HABEAS CORPUS

HABEAS ORDER

Upon consideration of the pleadings in this case and oral argument held on _____ and for good cause, it is hereby ordered that a writ of habeas corpus should issue and that Petitioner shall be immediately released from detention.

Dated: _____

_____
U.S.D.C.J

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

MACEDONIO APARICIO DE ROSARIO

Petitioner,

Case No.:

v.

JOHN RIFE, in his official capacity as ICE Field Office Director; KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement, JAMAL LAWRENCE JAMISON, Warden of the Philadelphia Federal Detention Center, and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

PROOF OF SERVICE

I, Adam Solow, hereby certify that in accordance with Federal Rule of Civil Procedure, I caused to be served Petitioner's Petition for Writ of Habeas Corpus, civil cover sheet, exhibits, by electronic mail and via Certified Mail on the U.S. Attorney for the Eastern District of Pennsylvania, and on each Respondent in this action as follows:

1. **Respondent, John Rife, Field Office Director**,

   Immigration and Customs Enforcement
   Philadelphia Field Office
   114 N. 8th Street
   Philadelphia, PA 19107

2. **Respondent, Jamal Lawrence, Federal Detention Center:**

   Warden, Federal Detention Center (FDC) Philadlephia

700 Arch Street
Philadelphia, PA 19107

Sent by email to Philadelphia.outreach@ice.dhs.gov

3. **Respondent Todd Lyons, US Attorney General:**

Acting Director, Immigration and Customs Enforcement
500 12th Street
Washington, DC 20536

4. **Kristi Noem, Secretary of the Department of Homeland Security**

Kristi Noem
Secretary of the Department of Homeland Security
2707 Martin Luther King Jr. Ave, SE
Washington, DC, 20528

5. **Pamela J. Bondi, Attorney General of the United States:**

Pamela J. Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Dated: March 25, 2026

/s/ Fiona Powell
Fiona Powell
1601 Walnut St, Suite 1200
Philadelphia, PA 19102
Tel: (267) 609-2299
fiona@shglawpa.com
Attorney for the Petitioner