UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
JOHNSTOWN DIVISION

HERMINIO IVAN GARCIA LOPEZ, Petitioner, v. WARDEN of Moshannon Valley Processing Center; BRIAN MCSHANE, Acting Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO") Field Office, Philadelphia; MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS"); and TODD BLANCHE, Acting Attorney General of the United States, in their official capacities, Respondents.	Case No. 3:26-cv-701 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Herminio Ivan Garcia Lopez, a citizen of Guatemala, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge the legality of his detention by Immigration and Customs Enforcement ("ICE"), a component of the U.S. Department of Homeland Security ("DHS"). He

is currently detained at the Moshannon Valley ICE Processing Center in Pennsylvania, and has been detained in ICE custody since on or about February 1, 2026.

2. At the time of Petitioner's arrest, no open removal proceedings were pending against him. The removal proceedings initiated by the Notice to Appear issued to him in 2016 had been administratively closed in 2024. His Form I-589 and application for T nonimmigrant status pursuant to 8 U.S.C. § 1101(a)(15)(T) remain pending. Following the closure, there was no active proceeding under which Petitioner's removability was being adjudicated.

3. Despite the absence of any pending removal proceedings, ICE officers arrested Petitioner after performing a vehicle stop in his driveway. He was not arrested pursuant to a judicial warrant. Nor was he arrested pursuant to an administrative warrant issued under 8 U.S.C. § 1226 or § 1357. DHS did not issue a new Notice to Appear, and only moved to re-calendar his immigration proceedings nearly three weeks after his arrest.

4. Petitioner is thus being held illegally without due process of law and in violation of the Administrative Procedure Act ("APA") and Immigration and Nationality Act ("INA").

5. Petitioner was also denied a bond hearing to determine whether he is a flight risk or danger to society, as Respondents assert he is subject to mandatory

detention under 8 U.S.C. § 1225(b)(2)(A). However, 8 U.S.C. § 1225(b)(2)(A) is inapplicable to the Petitioner, as he lived and worked in the interior of the country for years before being arrested by Respondents.

6. Petitioner faces this unlawful detention because the DHS and Executive Office of Immigration Review ("EOIR") have concluded Petitioner is subject to mandatory detention based on a recently released ICE memo directing a new interpretation of the law. (*See* Ex. 1, ICE Memo "Interim Guidance Regarding Detention Authority for Applicants for Admission" dated July 8, 2025 (hereinafter "ICE Memo")).

7. Petitioner's detention on the above basis violates the plain language of the INA. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

8. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

9. This Court has recently considered whether a noncitizen who is already present in the United States, not at its port of entry seeking admission, is deemed an "applicant for admission" subjecting him to mandatory detention under Section

1225(b)(2) or, if not, subjecting him to discretionary detention with a right to a bond hearing under Section 1226(a). *See Nunez Ramos v. Noem*, Case No. 3:25-cv-387, 2025 WL 3687335 (W.D. Pa. Dec. 19, 2025) (Brown, M.J.) (rejecting *Matter of Hurtado* decision); *Vasquez Mejia v. Noem, et al.*, Case No. 3:25-cv-333, 2025 WL 3546427 (W.D. Pa. Dec. 11, 2025) (Brown, M.J.) (same); *see also Calzado Diaz v. Noem, et al.*, Case No. 3:25-cv-0458, 2025 WL 3628480 (W.D. Pa. Dec. 15, 2025) (Haines, J.) (same); *Fanduiz-Martinez v. Oddo*, Case No. 3:25-cv-355; 2025 3704292 (Dec. 22, 2025) (Kelly, M.J.); *Genner Neftali Ico Coc v. Oddo*, Case No. 3:25-cv-381, 2025 WL 3753965 (W.D. Pa. Dec. 29, 2025) (Taylor, M.J.) (same).

10. Despite this Court's recent rulings rejecting the Respondents' position that 8 U.S.C. § 1225(b)(2)(A) applies to individuals such as Petitioner, Respondents continue to maintain that noncitizens who entered the United States without inspection are not eligible for bond redetermination hearings, because they are applicants for admission within the meaning of section 1225(b)(2)(A).

11. Any appeal to the Board of Immigration Appeals ("BIA") is futile. Petitioner is within the 30-day window to file appeal to the BIA but due to DHS's new policy being issued "in coordination with DOJ," which oversees the immigration courts, such appeal will be futile and take months of further detention.

Petitioner will be filing an appeal to preserve his rights, but it will not remedy the current harm of unlawful detention.

12. Petitioner seeks an order from this Court requiring immediate release, or in the alternative a bond hearing with extra safeguards, because ordering a bond hearing alone will not reliably remedy Petitioner's unlawful detention. Experience in recent cases demonstrates that, absent clear guidance or safeguards, bond determinations may fail to meaningfully engage with individualized assessments of flight risk or danger.[1]

13. To the extent this Court orders a bond hearing rather than release, Petitioner seeks that this Court's order include the following safeguards:

> (1) Make explicit that Respondents bear the burden to show flight risk or danger to society. *See, e.g., J.G. v. Warden, Irwin County Detention Center*, 501 F. Supp. 3d 1331, 1335 (M.D. Ga. 2020) (finding that the Government "must bear the burden of proof to justify a noncitizen's detention pending removal proceedings"); and
>
> (2) Order Respondents to give a status report to this Court within three (3) days of any ordered bond hearing, stating whether Petitioner has been granted bond, and, if his request for bond was denied, the reasons for that denial, to certify compliance with this Opinion.

[1] Counsel is aware, based on recent litigation experience and communications with other immigration practitioners, that many similarly situated noncitizens have faced bond denials following habeas relief on grounds that do not meaningfully address individualized risk, showing that an order requiring a bond hearing without also ordering safeguards does not reliably remedy unlawful detention. (*See e.g.*, Ex. 2, *Romero-Nolasco v. McDonald*, No. 25-cv-12492-MJJ, ECF No. 22 at 5n.2 (D. Mass. Jan. 14, 2025) ("[I]t is clear that the IJ simply did not apply the factors relevant to assessing whether a person is a flight risk to the evidence.")).

JURISDICTION AND VENUE

14. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq*.

15. 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).

16. 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.

17. "A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may . . . be brought in any judicial district in which a defendant in the action resides . . ." *See* 28 U.S.C. § 1391(e).

18. The Supreme Court articulated in *Rumsfeld v. Padilla* the standard for determining if a court has jurisdiction to consider a habeas corpus petition, which breaks down into two subquestions—(1) who is the proper respondent to the petition, and (2) does the Court have jurisdiction over that respondent. 542 U.S. 426, 434 (2004).

19. Under *Padilla*, the "immediate custodian" of the detained petitioner is

the proper respondent in such habeas actions, which is typically the warden of the facility in which the petitioner is being housed. *See id.* at 443 ("The plain language of the habeas statute thus confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.")

20. Here, under *Padilla*, the immediate custodian of the Petitioner, and thus the proper Respondent, is the Warden of the Moshannon Valley ICE Processing Center in Philipsburg, Pennsylvania, which sits in Clearfield County. *See id.* Because this Court has jurisdiction over actions arising in Clearfield County, the venue is proper in this case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

21. Exhaustion is not required in this case because no alternative forum exists in which Petitioner can obtain relief on the claims presented here, nor is there any statutory requirement that Petitioner exhaust remedies before seeking habeas relief under 28 U.S.C. § 2241. *See Callwood v. Enos*, 230 F.3d 627, 634 (3d Cir. 2000) ("[T]here is no statutory exhaustion requirement attached to § 2241[.]"). Petitioner's claims—that his ongoing custody by Respondents outside the scope of his bond order is unlawful and unconstitutional—are not subject to any statutory requirements of administrative exhaustion, and thus, exhaustion is not a jurisdictional prerequisite. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992).

22. Exhaustion is also not required before seeking judicial review of an agency decision when otherwise not required by the APA. *See Darby v. Cisneros*, 509 U.S. 137, 154 (1993) (holding that courts do not have the authority to require a plaintiff to exhaust available administrative remedies before seeking judicial review under the APA, where neither the relevant statute nor agency rules specifically mandate exhaustion as a prerequisite to judicial review); *Jie Fang v. Dir. U.S. Immigr. & Cust. Enfor.*, 935 F.3d 172, 181 (3d Cir. 2019) (reaffirming *Darby*).

23. With regard to prudential considerations, the Third Circuit has held that exhaustion is not required where the administrative remedy would be futile, there is a likelihood of irreparable injury absent immediate judicial relief, or the administrative remedy would not serve the requirement's underlying policy goals. *Brown v. Warden Canaan USP*, 763 F. App'x 296, 297 (3d Cir. 2019); *see also Cerverizzo v. Yost*, 380 F. App'x 115, 116 (3d Cir. 2010) ("[W]e have held that the administrative exhaustion requirement in this context may be excused if an attempt to obtain relief would be futile or where the purposes of exhaustion would not be served." (citing *Woodall v. Fed. Bureau of Prisons*, 432 F.3d 235, 236 n.2 (3d Cir. 2005)); *Lyons v. U.S. Marshals*, 840 F.2d 202, 205 (3d Cir. 1988) (explaining, even when exhaustion is required by law rather than judicial discretion, that "[e]xhaustion is not required if administrative remedies would be futile, if the

actions of the agency clearly and unambiguously violate statutory or constitutional rights, or if the administrative procedure is clearly shown to be inadequate to prevent irreparable injury"); *Carling v. Peters*, No. Civ. A. 00-CV-2958, 2000 WL 1022959, at *2 (E.D. Pa. July 10, 2000) (excusing a prisoner's failure to exhaust because he "would suffer irreparable injury if he is compelled to wait until an administrative petition is ruled upon").

24. Here, administrative exhaustion is excused because pursuing administrative remedies would be futile, unavailable, and unreasonable. Federal courts have routinely found that constitutional challenges in the immigration context, like Petitioner's claims, are exempt from exhaustion requirements. *See Sewak v. Immigration & Naturalization Serv.*, 900 F.2d 667, 670 (3d Cir. 1990) ("[T]he exhaustion of administrative remedies is not always required when the petitioner advances a due process claim." (citing *Vargas v. U.S. Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987))).

25. Further, the ongoing deprivation of Petitioner's liberty interest ultimately weighs against requiring administrative exhaustion. *See McCarthy*, 503 U.S. at 147 (finding that exhaustion might not be required if petitioner challenged an ongoing deprivation of her liberty interest). The Supreme Court has recognized that courts should not require exhaustion where there is an unreasonable or indefinite timeframe for administrative action. Exhaustion is thus not appropriate where the

plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *Id.* at 147. Petitioner has a constitutionally protected liberty interest in his freedom from government custody. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). And his unlawful, indefinite custody by Respondents constitutes irreparable harm. *See Seretse-Khama v. Ashcroft*, 215 F. Supp. 2d 37, 53 (D.D.C. 2002).

26. Additionally, the BIA is the improper venue to adjudicate constitutional issues, as it lacks the authority to rule that Respondents' actions violate the Constitution. Instead, constitutional claims are a matter for federal courts.

27. Accordingly, Petitioner has exhausted his administrative remedies to the extent required by law and his only remedy is by way of this judicial action.

REQUIREMENTS OF 28 U.S.C. § 2243

28. 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).

29. 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).

PARTIES

30. Petitioner is a noncitizen who is currently detained at the Moshannon Valley ICE Processing Center. He is in the custody, and under the direct control, of Respondents and their agents.

31. Respondent Warden of the Moshannon Valley ICE Processing Center is sued in their official capacity. Respondent Warden is the immediate custodian of the Petitioner.

32. Respondent Brian McShane is sued in his official capacity as the Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Philadelphia Field Office. Respondent McShane is a legal custodian of Petitioner and has authority to release him.

33. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the DHS. In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the INA, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner.

34. Respondent Todd Blanche is sued in his official capacity as the Acting

Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

35. Petitioner, a 26-year-old citizen and national of Guatemala, entered the U.S. as a minor without inspection on or around September 19, 2016. (*See* Ex. 3, Notice to Appear - GARCIA LOPEZ, Herminio Ivan - 3.20.2016 ("NTA")). He was detained by immigration authorities on or around September 20, 2016. (Ex. 4, I-213 - GARCIA LOPEZ, Herminio Ivan - 9.20.2016),

36. The same day, Respondents issued Petitioner a Notice to Appear ("NTA"). (*See* Ex. 3, NTA). The NTA charged Petitioner as removable under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), which states: "[Y]ou are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General." (*See id.* at 1).

37. Petitioner was ultimately released into the interior in November 2016. (*See* Ex. 5, Release Notice - GARCIA LOPEZ, Herminio Ivan - 11.18.2016).

38. Petitioner applied for asylum, withholding of removal, and protection under the Convention Against Torture in January 2020, premised on his fear of returning to Guatemala due to the threats of gang violence he had experienced while living there. (Ex. 6, Asylum Application - GARCIA LOPEZ, Herminio Ivan - 1.20.2020; *see also* Ex. 7, Notice of *Mendez-Rojas*[2] Class Membership - GARCIA LOPEZ, Herminio Ivan - 4.18.2022).

39. Six years ago, in August 2020, Petitioner was charged in Pennsylvania with driving under the influence, (*see* Ex. 8, Bail Bond Documentation - GARCIA LOPEZ, Herminio - 3.12.2026 at 6–7), and successfully completed an alcohol highway safety school in February 2021, (Ex. 9, Certificate of Completion (DUI) - GARCIA LOPEZ, Herminio - 4.15.2024). To counsel's knowledge, there is now no record of the incident on the Unified Judicial System of Pennsylvania website.

40. In April 2024, Petitioner also filed an application for T nonimmigrant status pursuant to 8 U.S.C. § 1101(a)(15)(T) with the United States Citizenship and Immigration Services ("USCIS"). (*See* Ex. 10, I-914 Receipt Notice - GARCIA LOPEZ, Herminio Ivan - 5.13.2024). That application remains pending with USCIS.

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[2] *Mendez Rojas v. Johnson*, 305 F. Supp. 3d 1176 (W.D. Wash. 2018).

41. Petitioner and Respondents jointly moved to administratively close his removal proceedings in June 2024. (Ex. 11, Joint Motion for Administrative Closure - 19-119 GARCIA LOPEZ Herminio Lopez - 3.25.2024 ("Closure Motion")).

42. On February 1, 2026, ICE arrested Petitioner after pulling him from his car in the driveway of his home. The I-213 states that while officers, who were in the area seeking a different noncitizen, ran a check on Petitioner's car and then his name, determined he was "an individual without any permissions to be present in the United States," conducted a vehicle stop after observing him enter his vehicle, and subsequently arrested him. (*See* Ex. 12, 2026 I-213 - GARCIA LOPEZ, Herminio Ivan - 2.1.2026 at 2). The I-213 indicated that Petitioner had no criminal history, but that in Petitioner's immigration history that he had been charged in 2016 as removable under INA § 212(a)(6)(A)(i)(I) and had previously been processed for standard removal proceedings under 8 U.S.C. § 1229. (*See id.* at 2–3).

43. Nearly three weeks after Petitioner's arrest and detention, Respondents moved to re-calendar his immigration proceedings after their earlier administrative closure in June 2024, in light of the Petitioner's subsequent arrest by ICE. (Ex. 13, DHS Motion to Recalendar & Change Venue - GARCIA LOPEZ, Herminio Ivan - 2.25.2026 ("Motion to Recalendar") (dated February 20, 2026)).

47. Respondents did not issue Petitioner a new NTA.

45. Petitioner moved for bond on March 12, 2026, pursuant to 8 U.S.C. § 1226(a). (Ex. 14, Bond Motion - GARCIA LOPEZ, Herminio - 3.12.2026). He argued that bond was appropriate because he was not a flight risk, with a stable residence and family to reunite with, or a danger to the community. *Id.* at 3–4.

46. Nevertheless, an immigration judge ("IJ") denied Petitioner's bond motion on March 16, 2026, on the grounds that it lacked jurisdiction due to *Matter of Hurtado*. (Ex. 15, IJ Order Denying Change in Custody Status - GARCIA LOPEZ, Herminio Ivan - 3.16.2026 ("Bond Denial")). Despite this conclusion, the IJ alternatively concluded that "Respondent has not shown that he is not a danger to the community." (*See id.*).

47. As a result of this decision, Petitioner remains in detention without the ability to seek bond.

LEGAL FRAMEWORK

48. U.S.C. § 2241(c)(3) authorizes federal courts to grant habeas relief to prisoners or detainees who are "in custody in violation of the Constitution or laws or treaties of the United States." Federal courts retain jurisdiction under § 2241 to review purely legal statutory and constitutional claims regarding the government's detention authority, but jurisdiction does not extend to "discretionary judgment," "action," or "decision" by the Attorney General with respect to either detention or

removal. *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (citing, *inter alia*, *Demore v. Kim*, 538 U.S. 510, 516–17 (2003)).

49. Under 8 U.S.C. § 1225(b)(2)(A), an applicant for admission seeking admission shall be detained for a removal proceeding. It is now the position of the EOIR, which houses both the BIA and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to *all* individuals who arrived in the United States without documents, regardless of how long they have lived in the United States and regardless of how far they were apprehended from the border.

50. In May 2025, the BIA decided *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). The BIA held that a noncitizen who entered the United States without inspection and was arrested without a warrant while "arriving" is an "applicant for admission" under INA § 235(b) and therefore is subject to mandatory detention under § 235(b) and ineligible for a bond hearing under INA § 236(a). *Id.* at 67–68, 70–71. The case involved a Chinese national who crossed the southern border without inspection, was arrested shortly thereafter, and then released on parole under INA § 212(d)(5)(A). *Id.* at 67. After her parole was later terminated, she was detained again and sought a bond hearing. *Id.* The BIA affirmed the immigration judge's denial, holding that because her detention was under § 235(b), immigration judges lack authority to grant bond under § 236(a). *Id.* at 71.

51. The BIA's reasoning turned on the statutory definition of "applicant for admission," which the BIA interpreted to cover someone who has not been formally admitted and was arrested upon arrival or shortly thereafter, regardless of whether the arrest occurred at a formal port of entry. *Id.* at 67–68.

52. On July 8, 2025, ICE issued an internal memo, the July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" (hereinafter "ICE Memo") that expanded the logic of *Q. Li.* (Ex. 1, ICE Memo). The ICE Memo directed officers to treat virtually all noncitizens in the United States who have not been formally admitted, including those present for years, as "applicants for admission" subject to mandatory detention under INA § 235(b), and thus to refrain from issuing custody-determination forms under § 236(a). (*See id.*)

53. The ICE Memo expanded the reasoning in *Q. Li* beyond individuals who were arrested immediately after entry and applied it broadly, including to people detained long after arrival, by classifying them as "applicants for admission" simply because they had not been formally admitted or paroled. (*See id.*)

54. The ICE Memo states as follows:

> Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a

> custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286.

(*Id.*)

55. In September 2025, the BIA again expanded this interpretation in *Matter of Hurtado* to cover all individuals who entered without inspection and admission at any point in the past, even if they had been present in the U.S. for years. 29 I&N Dec. 216.

56. As a result of these decisions, Petitioner is currently detained at the Moshannon Valley ICE Processing Center, located at: 555 Geo Drive, Philipsburg, PA 16866, and is the subject of a pending removal proceeding.

57. The Central District of California in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Dec. 18, 2025 C.D. Cal.), recently declared that the ICE memo violated the APA and vacated *Matter of Hurtado*. However, the Ninth Circuit stayed the district court's order pending its ruling on the government's appeal. (*See* Ex. 16, *Maldonado Bautista v. EOIR*, No. 26-1044 (9th Cir. Mar. 31, 2026) (order granting stay)). Thus, although that judgment will remain fully in effect in the Central District of California, *Matter of Hurtado* is otherwise still in effect and being relied on widely by immigration judges nationwide.

58. Notably, however, the vast majority of federal courts to consider this issue, including this Court, have agreed with Petitioner's stance. *See Nunez Ramos*

v. Noem, Case No. 3:25-cv-387, 2025 WL 3687335 (W.D. Pa. Dec. 19, 2025) (Brown, M.J.) (rejecting *Matter of Hurtado* decision); *Vasquez Mejia v. Noem, et al.*, Case No. 3:25-cv-333, 2025 WL 3546427 (W.D. Pa. Dec. 11, 2025) (Brown, M.J.) (same); *see also Calzado Diaz v. Noem, et al.*, Case No. 3:25-cv-0458, 2025 WL 3628480 (W.D. Pa. Dec. 15, 2025) (Haines, J.) (same); *Fanduiz-Martinez v. Oddo*, Case No. 3:25-cv-355; 2025 3704292 (Dec. 22, 2025) (Kelly, M.J.); *Genner Neftali Ico Coc v. Oddo*, Case No. 3:25-cv-381, 2025 WL 3753965 (W.D. Pa. Dec. 29, 2025) (Taylor, M.J.) (same).

59. Accordingly, Petitioner asserts that (1) his Fifth Amendment right to due process of law was violated when the Respondents subjected him to mandatory detention with no individualized hearing despite his living in the interior of the country for several years; (2) the Respondents' actions violated the INA when they detained him under 8 U.S.C. § 1225(b)(2)(A), rather than 8 U.S.C. § 1226(a); and (3) the Respondents' actions violated the APA when they detained him under 8 U.S.C. § 1225(b)(2)(A), rather than 8 U.S.C. § 1226(a).

A. Due Process

60. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, "[f]reedom 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*, 533 U.S. at 690.

61. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).

62. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, *id.* § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111–13 (W.D. Wash. 2019) (providing overview of INA's detention authorities).

63. To guarantee against arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

64. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 522, 528.

65. The government may not detain a noncitizen based on any other justification.

66. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

67. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

68. First, incarceration deprives noncitizens of a "profound" liberty interest—one that always requires some form of procedural protections. *Diouf v. Napolitano*, 634 F.3d 1081, 1091–92 (9th Cir. 2011); *see also Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted)).

69. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762–63 (1982)

(requiring clear and convincing evidence at parental termination proceedings because "numerous factors combine to magnify the risk of erroneous factfinding" including that "parents subject to termination proceedings are often poor, uneducated, or members of minority groups" and "[t]he State's attorney usually will be expert on the issues contested"). Moreover, Respondents detain noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.

70. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention.

71. In light of these considerations, "[t]he overwhelming majority of courts to consider the question . . . have concluded that imposing a clear and convincing standard would be most consistent with due process." *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).

72. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could

mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program ("ISAP")—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). It follows that alternatives to detention must be considered in determining whether further incarceration is warranted.

73. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: "the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 583 U.S. at 329 (Breyer, J., dissenting); *accord Chavez-Alvarez v. U.S. Att'y Gen.*, 783 F.3d 478 (3d Cir. 2015); *Ngo v. INS*, 192 F.3d 390, 397–98 (3d Cir. 1999); *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1218, 1221 (11th Cir. 2016). "And in some cases[,] the conditions of their confinement are inappropriately poor." *Jennings*, 583 U.S. at 329 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, *e.g.*, indiscriminate strip

searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

74. These conditions and obstacles only further underscore the serious due process concerns that immigration detention poses for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding further detention.

75. Ruling without jurisdiction is, by its very definition, an *ultra vires* act. *See Steel Co. v. Citizens for Better Env't*, 523 U.S. 83, 94, 101–02 (1998) (in the context of federal courts); *see also La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986) (noting that an agency "literally has no power to act . . . unless and until Congress confers power upon it"). "'Without jurisdiction the court cannot proceed at all in any cause'; it may not assume jurisdiction for the purpose of deciding the merits of the case." *Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 431 (2007) (quoting *Steel Co.*, 523 U.S. at 94).

B. INA

76. The Petitioner is not properly detained under 8 U.S.C. § 1225(b)(2)(A), but under 8 U.S.C. § 1226(a). Pursuant to 8 U.S.C. § 1225(b)(2)(A):

> 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 for a proceeding under section 1229a of this title [i.e., removal proceedings].

77. Petitioner maintains that he is detained under 8 U.S.C. § 1226(a), which 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. Except as provided in subsection (c) [mandating the detention of certain criminal aliens] and pending such decision, the Attorney General—
>
> (1) may continue to detain the arrested alien; and
>
> (2) may release the alien on—
>
> (A) bond of at least $1,500 with security approved by, and containing conditions described by, the Attorney General; or
>
> (B) conditional parole; but
>
> (3) may not provide the alien with work authorization . . . unless the alien is lawfully admitted for permanent residence or otherwise would . . . be provided such authorization.

78. "Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." *Park 'N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 194 (1985). Thus, the Court's "first step in interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that

language is used, and the broader context of the statute as a whole." *Id.* (citing, *inter alia*, *Estate of Cowart v. Nicklos Drilling Co.*, 505 U.S. 469, 477 (1992)).

79. Notably, the issue presented in this action is nearly identical to that this Court has recently decided, finding that the petitioner's detention was governed by 8 U.S.C. § 1226(a). *See Nunez Ramos v. Noem*, Case No. 3:25-cv-387, 2025 WL 3687335 (W.D. Pa. Dec. 19, 2025) (Brown, M.J.) (rejecting *Matter of Hurtado* decision); *Vasquez Mejia v. Noem, et al.*, Case No. 3:25-cv-333, 2025 WL 3546427 (W.D. Pa. Dec. 11, 2025) (Brown, M.J.) (same); *see also Calzado Diaz v. Noem, et al.*, Case No. 3:25-cv-0458, 2025 WL 3628480 (W.D. Pa. Dec. 15, 2025) (Haines, J.) (same); *Fanduiz-Martinez v. Oddo*, Case No. 3:25-cv-355; 2025 3704292 (Dec. 22, 2025) (Kelly, M.J.); *Genner Neftali Ico Coc v. Oddo*, Case No. 3:25-cv-381, 2025 WL 3753965 (W.D. Pa. Dec. 29, 2025) (Taylor, M.J.) (same).

C. APA

80. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

81. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007)

(quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

CLAIMS FOR RELIEF

COUNT ONE

Respondents Violated Petitioner's Fifth Amendment Right to Due Process

Procedural and Substantive Due Process

82. The allegations in the above paragraphs are realleged and incorporated herein.

83. The Due Process Clause of the Fifth Amendment to the U.S. 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*, 533 U.S. at 693.

84. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

85. Where detention has been found unlawful, habeas relief must be effective, not merely formal. A bare order for a bond hearing does not necessarily cure a constitutional violation where the adjudicator retains unbounded authority to

deny release without meaningful engagement with individualized flight risk or danger.

86. In such circumstances, District Courts have the authority to order release or in the alternative, a bond hearing with appropriate safeguards in place. (*See, e.g.*, Ex. 17, *Soto-Medina v. Lynch et al.*, No. 1:25-cv-1704, 2026 WL 161002, at *11 (W.D. Mich. Jan. 21, 2026) (ordering respondents "to provide Petitioner with an individualized bond hearing before an immigration judge, at which time the government will have the burden to demonstrate dangerousness or flight risk by clear and convincing evidence, or, in the alternative, immediately release Petitioner from custody" as well as "to file a status report within six business days of the date of this Court's Opinion and Judgment to certify compliance with this Opinion and the corresponding Judgment.")).

87. Here, Petitioner is entitled to due process protections under the Fifth Amendment of the U.S. Constitution. Respondents' refusal to provide Petitioner with an individualized bond hearing—and the IJ's reliance on *Matter of Hurtado* to conclude that no jurisdiction exists—violated Petitioner's rights under the Due Process Clause.

88. Under the three-part test of *Mathews*, 424 U.S. 319, the balance overwhelmingly favors Petitioner. His interest in liberty and family unity is paramount; the Government's blanket detention policy under *Matter of Hurtado*

creates an extreme risk of erroneous deprivation by denying him any opportunity to demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means.

89. The Respondents have shown neither that the continued detention of Petitioner following his initial detention is reasonably related to the original purpose nor that the *Mathews* tests are satisfied. And importantly, no procedural safeguards were provided to the Petitioner as the Immigration Judge found he had no right to a bond hearing.

90. Petitioner has been a resident of the United States for nearly ten years before being arrested in the interior, yet DHS asserts mandatory detention under INA § 235 without initiating expedited removal or processing him as an actual applicant for admission. *See Matter of Hurtado*, 29 I&N Dec. at 220 (making it clear that Respondents consider all individuals who entered without inspection and admission "applicants for admission" subject to mandatory detention under INA § 235(b)). The government's reclassification of Petitioner as an "applicant for admission," without statutory basis and without meaningful opportunity to contest that designation, deprives him of liberty without due process. Civil detention without an individualized determination of danger or flight risk is unconstitutional. *See Zadvydas*, 533 U.S. 678; *Demore*, 538 U.S. 510 (as limited by subsequent authority); U.S. Const. amend. V.

91. Notably, although the IJ purported to make an alternative finding that the Petitioner failed to show he was not a danger to the community, the IJ had no authority to reach the merits of the bond motion after concluding that she lacked jurisdiction. *See Sinochem Int'l Co.*, 549 U.S. at 431. Any such alternative finding must therefore be non-binding and cannot supply a lawful basis for continued detention.

92. Additionally, any constitutionally sufficient bond hearing ordered for the Petitioner means the burden of proof falls on the government to show by clear and convincing evidence that he is a flight risk or danger to society. *See, e.g.*, *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213 (3d Cir. 2020) (holding that "once detention under § 1226(c) has become unreasonable, the Government must put forth clear and convincing evidence that continued detention is necessary"); (*see also, e.g.*, Ex. 17, *Soto-Medina*, 2026 WL 161002, at *11 (granting habeas petition and ordering that the government would have the burden to demonstrate dangerousness or flight risk by clear and convincing evidence and must file a status report within six business days of the Court's order)).

93. Second, Petitioner's detention was unconstitutional at the outset. His removal proceedings were administratively closed in June 2024 at the parties' *joint* motion. (*See* Ex. 11, Closure Motion). The government only moved to re-calendar his immigration proceedings almost three weeks after his arrest, (*see* Ex. 13,

Motion to Recalendar), and they have not issued a new NTA. Thus, section 1226(a) did not authorize his detention because no decision on whether he was to be removed was pending at the time of his arrest. *See* 8 U.S.C. § 1226(a). DHS cannot detain first and decide later whether to initiate removal proceedings.

94. The Fifth Amendment prohibits arbitrary executive detention. Holding Petitioner for over two months without initiating removal proceedings or providing a mechanism to challenge custody violates fundamental due process principles. The motion to re-calendar cannot retroactively apply statutory authority that was absent at the time of arrest. Civil detention must be lawful at its inception, and Petitioner's arrest and detention were clearly arbitrary in this case. *See Zadvydas*, 533 U.S. at 690.

95. Accordingly, Petitioner should be released from custody immediately, or in the alternative, be afforded a constitutionally sufficient bond hearing under 8 U.S.C. § 1226(a).

COUNT TWO

Petitioner is Detained Under INA § 236, Not § 235

Statutory Violation

96. The allegations in the above paragraphs are realleged and incorporated herein.

97. Here, the Petitioner is clearly not an "applicant for admission." His NTA charged him as an "alien present in the United States without being admitted or paroled, or who has arrived in the United States at any time or place other than as designated by the Attorney General," (Ex. 3, NTA), and thus, he should be treated by law as someone who had already entered the U.S. Accordingly, his detention is governed exclusively by 8 U.S.C. § 1226(a).

98. Petitioner had been living in the interior for nearly ten years when ICE detained him outside his house.

99. Respondents did not process the Petitioner as an arriving alien, did not initiate expedited removal, and did not issue or reinstate a removal order—indeed, they did not even move to re-calendar his immigration proceedings until nearly three weeks after his arrest and detainment, (*see* Ex. 13, Motion to Recalendar). The Immigration Judge's finding that she lacked jurisdiction was thus contrary to the statutory framework, which mandates bond jurisdiction in 8 U.S.C. § 1226(a) cases.

100. Further, contrary to the language of § 1225(b), § 1226(a) does not specify a class or classes of aliens who should be detained under the provision, but governs more generally the "apprehension and detention of aliens." As opposed to the inspection regime for aliens entering the United States set forth in § 1225, the Supreme Court has characterized § 1226(a) as "authoriz[ing] the Government to

detain certain aliens already in the country pending the outcome of removal proceedings[.]" *Jennings*, 583 U.S. at 289 (emphasis added).

101. Because Respondents did not issue, reinstate, or execute any expedited removal order, detention is governed by 8 U.S.C. § 1226(a). The Immigration Judge's refusal to exercise bond jurisdiction contradicts the plain text of §§ 1225 and 1226, longstanding agency practice, and federal case law holding that DHS's charging decision determines the statutory detention authority. By treating Petitioner as subject to § 1225(b) detention without statutory authorization, Respondents acted *ultra vires* and contrary to law.

102. Noncitizens processed under INA § 236 retain a statutory right to a bond hearing. *Matter of Hurtado's* removal of bond jurisdiction whenever DHS claims § 235 authority essentially grants the agency unfettered power to eliminate bond hearings for any noncitizen arrested in the interior, simply by re-labeling them as an "applicant for admission" without following statutory procedures for expedited removal. *See* 29 I&N Dec. 216. Such a reading raises grave Due Process concerns and cannot reflect congressional intent.

103. Because Petitioner is detained under § 236(a), he is entitled to an individualized custody hearing, and the IJ's refusal to consider bond violated the INA.

104. Thus, Petitioner was entitled to a bond hearing "at the outset of detention" as established by existing federal regulations. *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.l(d)(l), 1236.l(d)(l)).

105. This Court came to the same conclusion in recent habeas decisions regarding the applicability of INA § 236 and § 235 to detained immigrants who had lived in the interior of the country for years before the arrest leading to their detention. *See Nunez Ramos v. Noem*, Case No. 3:25-cv-387, 2025 WL 3687335 (W.D. Pa. Dec. 19, 2025) (Brown, M.J.) (rejecting *Matter of Hurtado* decision); *Vasquez Mejia v. Noem, et al.*, Case No. 3:25-cv-333, 2025 WL 3546427 (W.D. Pa. Dec. 11, 2025) (Brown, M.J.) (same); *see also Calzado Diaz v. Noem, et al.*, Case No. 3:25-cv-0458, 2025 WL 3628480 (W.D. Pa. Dec. 15, 2025) (Haines, J.) (same); *Fanduiz-Martinez v. Oddo*, Case No. 3:25-cv-355; 2025 3704292 (Dec. 22, 2025) (Kelly, M.J.); *Genner Neftali Ico Coc v. Oddo*, Case No. 3:25-cv-381, 2025 WL 3753965 (W.D. Pa. Dec. 29, 2025) (Taylor, M.J.) (same).

106. Accordingly, Petitioner should be released from custody immediately, or in the alternative, be afforded a constitutionally sufficient bond hearing under 8 U.S.C. § 1226(a).

COUNT THREE

Respondents Violated of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law
and in Excess of Statutory Authority Unlawful Detention

107. The allegations in the above paragraphs are realleged and incorporated herein.

108. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Commerce v. New York*, 588 U.S. 752, 773 (2019) (citation omitted).

109. Here, by detaining the Petitioner without any consideration of his individualized facts and circumstances, Respondents have violated the APA.

110. The IJ only reached an alternative conclusion on the merits of Petitioner's bond request after determining she lacked jurisdiction to entertain his motion. *See Sinochem Int'l Co.*, 549 U.S. at 431; (Ex. 15, Bond Denial); *see also La. Pub. Serv. Comm'n*, 476 U.S. at 374. Respondents have therefore made no lawful finding on the merits that Petitioner is a danger to the community.

111. Respondents have made no finding that Petitioner is a flight risk.

112. The IJ's refusal to conduct a constitutionally sufficient bond hearing based on lack of jurisdiction due to *Matter of Hurtado* constitutes final agency action that is contrary to statutory text, unsupported by facts, and irrational. Applying *Matter of Hurtado* to Petitioner's facts is arbitrary, capricious, and legally erroneous. The resulting deprivation of bond eligibility is therefore unlawful under the APA.

113. Accordingly, Petitioner should be released from custody immediately, or in the alternative, be afforded a constitutionally sufficient bond hearing under 8 U.S.C. § 1226(a).

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
3. Declare that the Petitioner's detention violates the INA;
4. Declare that the Petitioner's detention violates the APA;
5. Issue a Writ of Habeas Corpus ordering Petitioner immediately released, or in the alternative, ordering Respondents to conduct a constitutionally sufficient bond hearing within seven (7) days, with the following safeguards in place:
    a. Declare that Respondents bear the burden to show flight risk or danger to society; and

b. Order Respondents to give a status report to this Court within three (3) days showing compliance with this Court's Opinion.

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.

Respectfully submitted,

/s/ Brittany S. Pierce

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Counsel for Petitioner

Dated: April 16, 2026

PETITIONER'S EXHIBITS

EXHIBIT 1 - **ICE Memo "Interim Guidance Regarding Detention Authority for Applicants for Admission," dated July 8, 2025**

EXHIBIT 2 - ***Romero-Nolasco v. McDonald*, No. 25-cv-12492-MJJ, ECF No. 22 (D. Mass. Jan. 14, 2025)**

EXHIBIT 3 - **Notice to Appear - GARCIA LOPEZ, Herminio Ivan - 3.20.2016**

EXHIBIT 4 - **I-213 - GARCIA LOPEZ, Herminio Ivan - 9.20.2016**

EXHIBIT 5 - **Release Notice - GARCIA LOPEZ, Herminio Ivan - 11.18.2016**

EXHIBIT 6 - **Asylum Application - GARCIA LOPEZ, Herminio - 1.20.2020**

EXHIBIT 7 - **Notice of Mendez-Rojas Class Membership - GARCIA LOPEZ, Herminio Ivan - 4.18.2022**

EXHIBIT 8 - **Bail Bond Documentation - GARCIA LOPEZ, Herminio - 3.12.2026**

EXHIBIT 9 - **Certificate of Completion (DUI) - GARCIA LOPEZ, Herminio - 4.15.2024**

EXHIBIT 10 - **I-914 Receipt Notice - GARCIA LOPEZ, Herminio Ivan - 5.13.2024**

EXHIBIT 11 - **Joint Motion for Administrative Closure - [redacted] GARCIA LOPEZ Herminio Lopez - 3.25.2024**

EXHIBIT 12 - **2026 I-213 - GARCIA LOPEZ, Herminio Ivan - 2.1.2026**

EXHIBIT 13 - **DHS Motion to Recalendar & Change Venue - GARCIA LOPEZ, Herminio Ivan - 2.25.2026**

EXHIBIT 14 - **Bond Motion - GARCIA LOPEZ, Herminio - 3.12.2026**

EXHIBIT 15 - **IJ Order Denying Change in Custody Status - GARCIA LOPEZ, Herminio Ivan - 3.16.2026**

EXHIBIT 16 - ***Maldonado Bautista v. EOIR*, No. 26-1044 (9th Cir. Mar. 31, 2026)**

EXHIBIT 17 - ***Soto-Medina v. Lynch et al.*, No. 1.25-cv-1704, 2026 WL 161002 (W.D. Mich. Jan. 21, 2026)**

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

I represent Herminio Ivan Garcia Lopez, 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 16th day of April, 2026.

/s/Brittany S. Pierce

Brittany S. Pierce