

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Victor NAVA GARCIA,

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Petitioner,

Case No.

v.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

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

FIELD OFFICE DIRECTOR, Field Office
Director of Enforcement and Removal
Operations, Atlanta Field Office;

MARKWAYNE MULLIN, Secretary, U.S.
Department of Homeland Security;
ATTORNEY GENERAL, U.S. Attorney
General;

WARDEN, Warden of Stewart Detention
Center; and

**EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW**

Respondents.

I. INTRODUCTION

1. Petitioner VICTOR NAVA GARCIA (“Petitioner”) brings this petition for a writ of habeas corpus. He is a non-citizen who has been residing in the United States since He entered the United States and has resided continuously within the borders of the United States since approximately 2013. Petitioner was apprehended by immigration officials in the interior after his entry and removal proceedings were initiated. (**Exhibit A, Notice to Appear**) He has not engaged in any disqualifying criminal activity.

2. Under the Immigration and Nationality Act (“INA”), individuals arrested in the interior and placed in § 240 removal proceedings are detained, if at all, under 8 U.S.C. § 1226(a), with a right to a custody redetermination by an Immigration Judge (“IJ”).

3. DHS and the BIA assert that because Petitioner was never formally admitted, he is an “applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for bond. That position contravenes the statute, the implementing regulations, decades of pattern & practice, and a judge of this Court rejected the same theory recently in ordering a § 1226(a) bond hearing for another Folkston detainee. *J.A.M. v. Streeval et al*, No. 4:25-cv-342 (M.D. Ga. Nov. 1, 2025).

4. Courts have also rejected the Government’s position on a class-wide basis as well. In *Maldonado Bautista v. Santacruz*, the Central District of California granted partial summary judgment declaring that 8 U.S.C. § 1226(a)—not § 1225(b)(2)—governs detention for long-present interior arrestees placed directly into § 240 proceedings, and days later certified a nationwide Bond-Eligible Class and ordered access to § 236(a) bond hearings for class members. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification and injunctive

1 relief). Despite the federal court order, DIIS counsel and immigration judges at Stewart
2 Immigration Court continue to follow *Yajure*. On February 18, 2026, the *Maldonado Bautista v.*
3 *Santacruz* court struck down *Yajure Hurtado*.

4 5. Petitioner seeks a writ of habeas corpus directing Respondents to provide
5 Petitioner a prompt, individualized bond hearing before a neutral adjudicator under § 1226(a)
6 (within 7 days), at which the Government bears the burden to show by clear and convincing
7 evidence that he is a danger or flight risk, or, in the alternative, an order for his immediate
8 release under reasonable conditions. He also seeks an order prohibiting transfer outside this
9 District during the pendency of these proceedings.

10 II. JURISDICTION

11 6. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
12 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
13 Constitution (the Suspension Clause).

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

16 III. VENUE

17 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
18 500 (1973), venue lies in the United States District Court for the Middle District of Georgia, the
19 judicial district in which Petitioner currently is detained. **(Exhibit B, ICE Detainee Locator)**

20 9. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
21 Respondents are employees, officers, and agencies of the United States, and because a
22 substantial part of the events or omissions giving rise to the claims occurred in the MIDDLE
23 DISTRICT of Georgia.

1 **IV. REQUIREMENTS OF 28 U.S.C. § 2243**

2 10. The Court should grant the petition for writ of habeas corpus “forthwith,” as the
3 legal issues have already been resolved by this Court in *J.A.M. v. Streeval et al*, No. 4:25-cv-342
4 (M.D. Ga. Nov. 1, 2025).

5 11. The Central District of California in *Maldonado Bautista v. Santacruz* has
6 additionally issued a nationwide class certification declaring that class members, including
7 Petitioner, are for all eligible class-members, including Petitioner, are eligible to have an
8 individualized bond hearing. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025).

9 12. Habeas corpus is “perhaps the most important writ known to the constitutional
10 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
11 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
12 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
13 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
14 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

15 **V. PARTIES**

16 13. Petitioner VICTOR NAVA GARCIA is a citizen of Mexico who has been in
17 immigration detention since April 11, 2026. Petitioner was arrested in Dekalb County, Georgia
18 for driving without a valid license on April 10, 2026. Upon his release from criminal custody the
19 following day, ICE detained him. ICE did not set bond. Petitioner has resided in the United
20 States since 2013. He has been detained at the Stewart Detention Center since April 11, 2026.
21 To date Petitioner remains detained at the Stewart Detention Center.

22 14. Respondent TODD LYONS is the Acting Director of Immigration and Customs
23 Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE
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1 operations and the head of the federal agency responsible for all immigration enforcement in the
2 United States. Respondent Lyons is named in his official capacity.

3 15. Respondent FIELD OFFICE DIRECTOR is the Director of the Atlanta Field
4 Office of ICE's Enforcement and Removal Operations division. As such, the Field Office
5 Director is Petitioner's immediate custodian and is responsible for Petitioner's detention and
6 removal. He or she is named in his or her official capacity.

7 16. Respondent MARKWAYNE MULLIN is the Secretary of the Department of
8 Homeland Security. She is responsible for the implementation and enforcement of the
9 Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's
10 detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in her official
11 capacity.

12 17. Respondent DEPARTMENT OF HOMELAND SECURITY (DHS) is the federal
13 agency responsible for implementing and enforcing the INA, including the detention and
14 removal of noncitizens.

15 18. Respondent ATTORNEY GENERAL is the Attorney General of the United
16 States. He or she is responsible for the Department of Justice, of which the Executive Office for
17 Immigration Review and the immigration court system it operates is a component agency. He or
18 she is sued in his or her official capacity.

19 19. Respondent WARDEN of Stewart Detention Center is employed by CoreCivic as
20 Warden of the Stewart Detention Center, where Petitioner is detained. He or she has immediate
21 physical custody of Petitioner. He or she is sued in his or her official capacity.

20. Respondent EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

VI. EXHAUSTION AND FUTILITY

21. No statute imposes an exhaustion requirement for habeas petitions under 28 U.S.C. § 2241 in this context. Any prudential exhaustion is excused because Immigration Judges are bound by *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and have been declining bond jurisdiction for entrants without inspection, rendering any motion futile.

22. On January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: “*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*.” (**Exhibit C, January 13, 2026 Email from Chief Immigration Judge Teresa Riley**). In the January 13, 2026 email, Immigration judges are instructed to follow the BIA’s decision in *Matter of Yajure Hurtado* as binding precedent. Accordingly, guidance from the Chief Immigration Judge states that the *Maldonado Bautista v. Santacruz* “declaratory judgment” is not binding and does not have the authority to compel specific action.

23. On March 6, 2026, the Ninth Circuit Court of Appeals issued an Emergency Stay, holding that the *Maldonado Bautista v. Santacruz* holding is stayed. (**Exhibit D, Emergency Stay Order 3/6/2026**).

24. The question presented is purely legal and urgent, and Petitioner faces ongoing deprivation of physical liberty absent judicial intervention. It is Petitioner’s position that *Maldonado Bautista v. Santacruz* is binding and that futility is further underscored. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025). *Maldonado Bautista v. Santacruz* has

1 already required § 236(a) bond access for similarly situated interior arrestees nationwide,
2 reinforcing that the Government's § 1225(b)(2) position is unlawful and is currently being
3 ignored by DHS counsel and immigration judges. *Id.*

4 VII. STATEMENT OF FACTS

5
6 25. Petitioner is a Mexican national born on  Petitioner entered the
7 United States undetected in 2013.. He has resided continuously in the interior of the United
8 States since that date. He was first encountered by ICE on April 11, 2026.

9 26. Prior to Petitioner's detention, Petitioner resided in Atlanta, Georgia, and has had
10 stable employment. Petitioner resided with his wife of 24 years, Gladys Alcocer Ramirez, and
11 their two children. Mrs. Alcocer Ramirez and the children entered the United States via a lawful
12 parole process in 2024 in order to seek asylum and timely submitted their applications to the
13 immigration court. As the Petitioner is now in removal proceedings as a result of his recent
14 detention, he can be included in the family's application for asylum, which will provide him an
15 avenue for relief from removal.

16 27. Petitioner has no disqualifying criminal convictions and is not a danger to the
17 community.

18 28. On or about April 14, 2026, DHS placed petitioner in removal proceedings
19 under 8 U.S.C. § 1228 (INA § 240) by filing a Notice to Appear (NTA) charging Petitioner as
20 removable under 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)) and 8 U.S.C. §
21 1182(a)(7)(A)(i)(I) (INA § 212(a)(7)(A)(i)(I)) **Exhibit A (Notice to Appear)**

22 29. Petitioner is not a flight risk, given his community ties and eligibility for relief
23 under the jurisdiction of the immigration court.
24

1 30. DIIS has never processed Petitioner for § 235 admission or expedited removal
2 under § 235(b)(1).

3 31. Petitioner has not requested a custody redetermination, because DHS and
4 the BIA have taken the position that he is categorically ineligible for bond because he is an
5 “applicant for admission” under § 235(b)(2)(A). Requesting a custody redetermination would be
6 futile. Upon information and belief, if an IJ hearing occurred, the IJ would invoke *Yajure* and
7 ignore *Maldonado Bautista*.

8 VIII. LEGAL FRAMEWORK

9 32. Section 236(a) of the INA, 8 U.S.C. § 1226(a), governs discretionary civil
10 immigration detention for “any alien” arrested and detained pending a decision on removal,
11 unless § 236(c) applies. It authorizes release on bond and gives Immigration Judges custody
12 redetermination authority by regulation. See 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a).

13 33. Section 235(b)(2) of the INA, 8 U.S.C. § 1225(b)(2), governs detention in the
14 inspection context and the classes designated for expedited removal—settings that occur at or
15 near the border and, by regulation, only for individuals described in published Federal Register
16 notices. See 8 C.F.R. § 235.3(b)(1)–(2). Interior expedited removal is limited to certain
17 encounters and, at most, to those who cannot show two years’ continuous presence. 84 Fed. Reg.
18 35,409 (July 23, 2019). Individuals—like Petitioner—who were arrested in the interior after
19 entry and placed in § 240 proceedings are detained, if at all, under § 1226(a).

20 34. In *J.A.M. v. Streeval et al*, No. 4:25 cv 342 (M.D. Ga. Nov. 1, 2025), the court
21 rejected the government’s *Yajure* theory and held that § 1226(a) governs interior arrests charged
22 into § 240, not § 1225(b)(2). The court concluded that “aliens who are found in the country
23 unlawfully and are arrested, an immigration officer or immigration judge has the discretion, after
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1 considering all the circumstances, not to detain such aliens and instead grant them release on
2 bond” subject to exceptions for mandatory detainees delineated in 8 U.S.C. § 1226(c). *Id.* at 10.
3 The court found *Matter of Yajure Hurtado* “unpersuasive,” aligned with the already large and
4 still growing district-court consensus, and concluded the petitioner is entitled to discretionary
5 bond under § 1226(a).

6 35. The same statutory reading has now been adopted in class-wide relief.
7 In *Maldonado Bautista v. Santacruz*, the court held that detention for interior arrests charged into
8 § 240 is governed by § 1226(a) and not § 1225(b)(2), and it directed that class members be
9 afforded individualized bond hearings before an immigration judge under § 236(a) on a prompt
10 timeline. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary
11 judgment); *id.* (Nov. 25, 2025) (class certification). That class relief confirms the statute’s two-
12 track structure: § 235 governs the inspection/expedited-removal track; § 236(a) governs
13 detention during § 240 removal proceedings for long-present interior arrestees.

14 General Principles

15 36. The “equitable and flexible nature of habeas relief” affords district courts
16 significant discretion over the appropriate remedies for violations of law and the Constitution.
17 *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *see also Schlup v. Delo*, 513 U.S.
18 298, 319 (1995) (“[H]abeas corpus is, at its core, an equitable remedy”). This Court should order
19 a remedy that fully addresses the statutory and constitutional violations in this case and is
20 efficient to administer. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (the habeas statute “does
21 not limit the relief that may be granted to discharge of the applicant from physical custody. Its
22 mandate is broad with respect to the relief that may be granted”).

23 Immediate Release

1 37. Release is the customary remedy in habeas proceedings. *See* 28 U.S.C. § 2243
2 (the habeas should shall “dispose of the matter as law and justice require.”); *Preiser v.*
3 *Rodriguez*, 411 U.S. 475, 484 (1973) (finding “that the traditional function of the writ is to
4 secure release from illegal custody”). The most appropriate remedy in a case like this, where
5 Petitioner was has been detained in violation of both the INA and due process, is release on
6 recognizance without further conditions of release. *See Ambroladze v. Maldonado*, No. 26-CV-
7 00474 (HG), 2026 WL 280182, at *3 (E.D.N.Y. Feb. 3, 2026) (given that the typical remedy for
8 unlawful detention is release, “the government's ongoing detention of Petitioner, in the face of
9 yet another complete failure of process, entitles him to immediate release.”)

10 38. Dozens of courts across the country have agreed. *See, e.g., Munoz Materano v.*
11 *Arteta*, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release);
12 *Chipantiza-Sisalema v. Francis*, 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (same);
13 *Rueda Torres v. Francis*, No. 25-cv-8408, 2025 WL 3168759, at *6 (S.D.N.Y. Nov. 13, 2025)
14 (same); *Cifuentes v. Soto*, No. 25-cv-18029, 2025 WL 3771380, at *4 (D.N.J. Dec. 31, 2025)
15 (same); *Gonzalez Centeno v. Lowe*, No. 3:25-cv-2518, 2026 WL 94642, at *4 (M.D. Pa. Jan. 13,
16 2026) (same); *Feisal O. v. Noem*, No. 26-cv-81, 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026)
17 (same); *Garcia Covarrubias v. Holston*, No. 2:25-cv-02445, 2026 WL 25970, at *4 (D. Nev.
18 Jan. 5, 2026) (same) *Kenzhebaev v. Noem*, No. 1:25-cv-1786, 2025 WL 3737975, at *9 (W.D.
19 Mich. Dec. 29, 2025) (same); *Kobilov v. O’Neill*, No. 26-cv-0058, 2026 WL 73475, at *3 (E.D.
20 Pa. Jan. 8, 2026) (same, finding a bond hearing unnecessary where there was no indication
21 petitioner was a danger or flight risk); *Ortega-Aguirre v. Noem*, No. 4:25-cv-04332, 2025 WL
22 3684697, at *4 (S.D. Tex. Oct. 10, 2025) (same); *Bumbila Iza v. Arnott*, No. 6:25-cv-3392, 2026
23 WL 67152, at *5 (W.D. Mo. Jan. 8, 2026) (same); *see also Mata Velasquez v. Kurzdorfer*, 794 F.

1 Supp. 3d 128, 154 (W.D.N.Y. 2025) (ordering release and that petitioner could not be detained
2 without a pre-deprivation hearing); *Gil v. Warden, Otay Mesa Det. Ctr.*, No. 3:25-cv-03219,
3 2025 WL 3675153, at *4 (S.D. Cal. Dec. 17, 2025) (same); *Sekhon v. Warden of Golden State*
4 *Annex Det. Facility*, No. 1:25-cv-1692, 2026 WL 74151, at *4 (E.D. Cal. Jan. 9, 2026) (same).

5 39. Release is the only appropriate remedy for the constitutional violations in this
6 case, including the lack of pre-deprivation notice or individualized review before Petitioner's
7 arrest, which cannot be remedied by a post-deprivation hearing. *See Alfaro Herrera v. Baltazar*,
8 No. 1:25-cv-04014, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner had
9 been previously released by ICE and holding a bond hearing would prolong his unlawful
10 detention, "[r]espondents' violations of Petitioner's rights are best remedied by ordering
11 Petitioner's immediate release from immigration detention."); *Qasemi v. Francis*, No. 25-cv-
12 10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an
13 adequate remedy for the due process violations in petitioner's sudden arrest and detention);
14 *Noyola v. Bondi*, --- F.Supp.3d ---, No. 1:26-CV-405-RP, 2026 WL 607266, at *5 (W.D. Tex.
15 Mar. 4, 2026) (same); *Bethancourth v. Tate*, --- F.Supp.3d ---, No. 4:26-CV-01169, 2026 WL
16 638482, at *5 (S.D. Tex. Mar. 6, 2026) (same, where the government alleged no changed
17 circumstances justifying re-detention); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL
18 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (finding that post-deprivation review cannot remedy the
19 due process violation of detaining petitioner with no process or individualized assessment);
20 *Diallo v. Trump*, 25 cv 2012 JE JMP (W.D.L.A. Mar. 5, 2026) (granting immediate release as
21 the appropriate remedy for illegal re-detention, and in light of medical hardship petitioner was
22 suffering in detention); *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL
23 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government's repeated use of unlawful
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1 detention policies across the country, causing petitioners to “sit in jail waiting for a judicial
2 decision,” the court would order immediate release instead of causing additional delay through a
3 bond hearing); *see also Garrison G. v. Bondi*, No. 26 CV 172, 2026 WL 157677, at *4 (D.
4 Minn. Jan. 17, 2026) (finding that ICE’s violation of the Fourth Amendment by entering
5 petitioner’s home without a warrant or consent alone also warranted immediate release).

6 **Bail Hearing by the Habeas Court**

7 40. In the alternative, the habeas court can hold its own custody hearing and
8 determine whether ICE can prove by clear and convincing evidence that Petitioner must remain
9 in custody, or whether he may be released on recognizance, an appropriate bond in light of his
10 ability to pay, or supervised release. This is a more efficient and effective remedy than ordering
11 an immigration judge to conduct a hearing, which may lead to additional enforcement
12 proceedings and delays before the unlawful detention in this case is remedied. *See L.G.M. v.*
13 *LaRocco*, 788 F.Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the
14 habeas court, as this would be more efficient than delegating the task to the agency and ensure
15 proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D. Mass
16 2010) (granting petition and discussing at length habeas court’s equitable power, which includes
17 power to hold its own bail hearing); *see also Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL
18 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court-ordered bond hearing was not
19 individualized and did not comport with due process, and granting motion to enforce to hold the
20 court’s own bond determination); *Ramirez v. Watkins*, No. 10-cv-126, 2010 WL 6269226, at
21 *19-20 (S.D. Tex. Nov. 3, 2010), *rep. and rec not reached*, (S.D. Tex. Dec. 8, 2010) (dismissing
22 case as moot) (recommending the habeas court conduct its own bail inquiry, as it would be more
23 efficient, ensure supervision over any compliance issues, and avoid further proceedings).
24

Enforcement Problems in Court-Ordered Bond Hearings

41. A bond hearing by an immigration judge (IJ) is not the most appropriate or efficient use of this court's equitable authority. Recent actions by ICE attorneys and immigration judges during and after habeas court-ordered bond hearings have necessitated enforcement proceedings across the country, creating significant extra work for the court and the parties while petitioners' unlawful detention continues.

A. ICE's Use of the "Automatic Stay" of an IJ Bond Grant

42. In the last year, ICE has frequently appealed the IJ's grant of bond to the Board of Immigration Appeals (BIA) and invoked the "automatic stay" regulation, 8 C.F.R. § 1003.19(i)(2). This stay, which keeps the petitioner detained despite an IJ bond grant, was rarely invoked in prior years but has now become common. Dozens of habeas courts have ruled that the automatic stay violates due process and have ordered Respondents to allow a petitioner to post his bond. *See, e.g., Merchan-Pacheo v. Noem*, No. 1:25-cv-03860, 2026 WL 88526, at *16 (D. Colo. Jan. 12, 2026) (finding automatic stay violates due process); *M.P.L. v. Arteta*, No. 25-cv-5307, 2025 WL 3288354, at *7 (S.D.N.Y. Nov. 25, 2025) (same, noting that "at least 50 district court decisions across the United States in the last 6 months alone" have found that DHS's use of the automatic stay provision violates or likely violates due process, and collecting cases at n.6); *see also Garvey v. Noem*, No. 6:26-CV-3109-MDH, 2026 WL 612302, at *3 (W.D. Mo. Mar. 4, 2026) (granting TRO and ordering immediate release given the "blatant absence of procedural due process" in ICE's use of automatic stay); *Otilio B.F. v. Andrews*, No. 1:25-cv-01398, 2025 WL 3152480, at *11 (E.D. Cal. Nov. 11, 2025) (finding the automatic stay likely violates due process and granting preliminary injunction); *Guasco v. McShane*, No. 1:25-cv-1650, 2025 WL 3270201, at *2 (M.D. Pa. Nov. 24, 2025) (noting that other habeas courts have

1 “assailed the Government’s practice of acting both as the prosecution and the judge in making a
2 unilateral and unreviewed decision as to detention”) (internal citation omitted).

3 **B. ICE Unilaterally Imposing GPS Ankle Monitors and Conditions of Release Ordered**
4 **By No Judge**

5 43. In other cases, ICE has applied onerous electronic GPS ankle monitors or other
6 unnecessary conditions of release that neither the habeas court nor the immigration court
7 ordered, requiring additional litigation. *See Gonzalez Centeno v. Lowe*, No. 3:25-cv-2518, 2026
8 WL 196513, at *2 (M.D. Pa. Jan. 26, 2026) (ordering ICE to remove ankle monitor it imposed
9 after habeas court had ordered immediate release, noting “the government continues to provide
10 unsupported or even Kafkaesque arguments to justify DHS’s noncompliance with court orders”);
11 *Diahn v. Lowe*, No. 1:24-cv-1936, 2026 WL 84576, at *5 (M.D. Pa. Jan. 12, 2026) (ordering ICE
12 to remove ankle monitor it had unilaterally imposed after IJ granted bond without further
13 conditions); *Montes Aguillon v. Bondi*, No. EP-26-CV-71-KC, 2026 WL 531899, at *2 (W.D.
14 Tex. Feb. 25, 2026) (same, and collecting cases); *Batz Barreno v. Baltasar*, --- F.Supp.3d. ---,
15 No. 25-CV-03017, 2026 WL 120253, at *3 (D. Colo. Jan. 15, 2026) (same, noting that removal
16 of the ankle monitor was required by “[f]undamental fairness and compliance with the rule of
17 law” and the general notion of “fairness and fairplay”); *Orellana Juarez v. Moniz*, 788 F. Supp.
18 3d 61, 70 (D. Mass. 2025) (same, finding this presented a “real constitutional risk” and defeated
19 the purpose of neutral third-party review of custody); *Menjivar Sanchez v. Wofford*, No. 1:25-
20 CV-01187, 2025 WL 3089712, at *9 (E.D. Cal. Nov. 5, 2025) (same, in preliminary injunction
21 context); *N- N- v. McShane*, No. 25-cv-5494, 2025 WL 3143594, at *4 (E.D. Pa. Nov. 10, 2025)
22 (finding ICE’s imposition of an ankle monitor, check-ins, and travel restrictions, which the IJ did
23 not order in setting bond, violated due process and the *Accardi* doctrine); *da Silva v. LaForge*,
24 No. 25-cv-17095, 2026 WL 45165, at *4 (D.N.J. Jan. 7, 2026) (requiring ICE to vacate its

1 imposed conditions including electronic monitoring, home confinement days, unscheduled ICE
 2 home visits, and travel restrictions, as their imposition violated the bond regulations and
 3 substantially prejudiced petitioner).

4 **C. Widespread Noncompliance with Federal Habeas Court Orders**

5 44. Hundreds of other cases have involved Respondents' outright refusal, inability, or
 6 failure to hold a timely bond hearing after being ordered to do so. *See Bautista v. Santacruz*, No.
 7 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *4 (C.D. Cal. Feb. 18, 2026) (granting motion
 8 to enforce class wide declaratory judgment that thousands of noncitizens are eligible for bond,
 9 noting that "Respondents' noncompliance with the Final Judgment has taken a toll on wrongfully
 10 detained noncitizens, courts, and government and Petitioners' attorneys," and noting over 400
 11 individual habeas petitions that were granted for individuals who should have benefited from
 12 class membership); *Rodriguez Vazquez v. Hermosillo*, No. 3:25-CV-05240-TMC, 2026 WL
 13 102461, at *1 (W.D. Wash. Jan. 14, 2026) (granting in part motion for further relief in similar
 14 class action concerning a single ICE facility and noting that "more than 100 unlawfully detained
 15 noncitizens—left with no other recourse due to Defendants' noncompliance"—had to file
 16 habeas petitions to access the bond hearings the court had already ordered for the class); *Juan*
 17 *T.R. v. Noem*, No. 26-CV-0107 (PJS/DLM), 2026 WL 555601, at *1 (D. Minn. Feb. 26, 2026)
 18 (habeas court attaching appendices cataloging 210 court orders the Department of Justice had
 19 violated in 143 habeas cases, which included over 15 instances of failing to provide a court-
 20 ordered bond hearing);¹ *Kumar v. Soto*, No. 26-cv-777, Dkt. No. 21. (D.N.J. Feb. 13, 2026)

21
 22 ¹ The other violations in *Juan T.R.* and other cases around the country include failure, after being ordered
 23 to: prevent transfer of a petitioner out of state; return a petitioner to his or her home state; timely release a
 24 petitioner; return a petitioner's personal ID cards and property; and file status updates to the Court
 showing compliance. *See also* Kyle Cheney, *How ICE defies judges' orders to release detainees, step by*
step, Politico, Feb. 10, 2026, available at <https://www.politico.com/news/2026/02/10/ice-immigration->

(filing from the New Jersey U.S. Attorney’s Office admitting to violating 56 orders in habeas cases, including holding bond hearings in the required time period, and failing to file 16 required status updates), *Fernandez Alvarez v. Noem*, No. 2:26-CV-00313-SPC-DNF, 2026 WL 598614, at *1 (M.D. Fla. Mar. 4, 2026) (ordering immediate release after immigration judge found petitioner was detained under 8 U.S.C. 1225(b)(2) and ineligible for bond even after habeas court had explicitly ordered otherwise); *Cartagena Hueso v. Soto*, No. 26-cv-1455 (ZNQ), 2026 WL 539271, at *3 (D.N.J. Feb. 26, 2026) (granting immediate release after Respondents failed to comply with two court orders to hold a bond hearing within 10 days and to prevent petitioner’s transfer out of state).

45. Government attorneys have also tried to disavow responsibility for ensuring their clients will comply with future court orders. *See, e.g., Gomez Rodriguez v. Noem*, No. 2:25-cv-01115, 2025 WL 3771268, at *2 (M.D. Fla. Dec. 31, 2025) (noting that “[i]n other cases before this Court, the respondents have claimed they cannot direct the EOIR when to conduct a bond hearing,” and ordering release if the government does not comply); *Khogiani v. Raycraft*, No. 25-cv-13744, 2025 WL 3753532, at *4 (E.D. Mich. Dec. 29, 2025) (noting the government’s argument that given the “overwhelming caseload” in the immigration courts, it likely could not comply with an order to hold a bond hearing within five days, but re-setting a short deadline anyway given the petitioner’s five months of unlawful detention); *Vargas v. Bondi*, No. 25-cv-1023, 2025 WL 3300446, at *5 (W.D. Tex. Nov. 12, 2025), *report and recommendation adopted*, No. 25-cv-1023, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025) (recommending

[detention-court-orders-00771727](https://www.washingtonpost.com/immigration/2026/03/10/trump-immigration-detention-minneapolis-courts/); Maria Sacchetti, *How ICE officers defied court orders as immigrant arrests soared in Minneapolis*, Washington Post, March 9, 2026, available at <https://www.washingtonpost.com/immigration/2026/03/10/trump-immigration-detention-minneapolis-courts/>.

1 immediate release, in part because respondents argued that “if this Court ordered a hearing, it
2 would require the immigration judge to do that which, in light of BIA precedent, the judge would
3 not believe he had any authority to do”); *O.F.C. v. Almodovar*, No. 25-cv-9816, 2026 WL 74262,
4 at *16 (S.D.N.Y. Jan. 9, 2026) (expressing concern that at oral argument, government counsel
5 refused to guarantee that in a court-ordered bond hearing, ICE would not invoke the automatic
6 stay or argue that the IJ lacked jurisdiction to set bond; either action “would render the Court’s
7 intended relief illusory”).

8 46. As one example, government counsel in the Southern District of New York have
9 often asserted that an immigration court bond hearing is an appropriate remedy, citing *Romero*
10 *Perez v. Francis*, No. 25-cv-8112, 2025 WL 3110459 (S.D.N.Y. Nov. 6, 2025). However, that
11 case alone demonstrates why such bond hearings are often futile. In *Romero Perez*,
12 notwithstanding the court’s order that a burden-shifted bond hearing be held within seven days,
13 the immigration judge refused to hold a hearing on the merits, denying bond on a lack of
14 jurisdiction. *See* No. 25-cv-8112, ECF No. 31 (Nov. 10, 2025) (first motion to enforce). After
15 petitioner filed an emergency motion to enforce, the immigration judge held a second hearing
16 and granted bond.

17 47. ICE then immediately invoked the automatic stay provision to bar the Petitioner’s
18 release. *Id.*, ECF No. 33 (Nov. 13, 2025) (second motion to enforce). Only after the second
19 emergency motion was filed did ICE withdraw the automatic stay and permit release. *Id.*, ECF
20 No. 34 (status update).

21 48. This is not an isolated incident, as many cases have presented the same ICE
22 actions frustrating the court’s orders. *See Diahn*, 2026 WL 84576, at *2 (explaining that
23 petitioners had filed two motions to enforce, first when ICE invoked the automatic stay after the
24

1 IJ granted bond, and second when ICE withdrew the stay but placed a painful ankle monitor on
2 the petitioner that the IJ had not ordered); *M.P.L.*, 2025 WL 3288354, at *1 (granting motion to
3 enforce where DHS invoked automatic stay after habeas court-ordered bond hearing); *J.M.P. v.*
4 *Arteta*, No. 25-cv-4981, 2025 WL 2984913, at *2 (S.D.N.Y. Oct. 23, 2025) (finding DHS's use
5 of multiple "one-sided" stay mechanisms to prevent release after habeas-court ordered bond
6 hearing violated due process, and granting motion to enforce).²

7 **D. Immigration Judge Failures to Conduct a Bond Hearing As Ordered**

8 49. Finally, in some cases, Immigration Judges have failed to conduct a neutral,
9 individualized bond hearing or to place the burden of proof as ordered by the habeas court. *See*
10 *Ulloa Bueno v. Soto*, No. 26-CV-896, 2026 WL 509102, at *2 (D.N.J. Feb. 24, 2026) (granting
11 immediate release after immigration judges *twice* failed to conduct a neutral bond hearing with
12 the burden on DHS: "Continued detention in the face of repeated noncompliance with explicit
13 judicial directives constitutes an ongoing deprivation of liberty without constitutionally sufficient
14 process."); *Pedroso de Oliveira v. Freden*, No. 6:25-CV-6663 2025 WL 3554686, at *1
15 (W.D.N.Y. Dec. 11, 2025) (granting motion to enforce where "the IJ wholly failed to follow the
16 Court's directions to require Respondents to bear the clear and convincing evidence burden of
17 proof at the bond hearing, nor did the IJ even attempt to consider alternatives to detention.");
18 *Mathon v. Searls*, 623 F. Supp. 3d 203, 208 (W.D.N.Y. 2022) (granting motion to enforce and
19 ordering immediate release after the IJ did not hold DHS to his habeas court-ordered burden of
20 proof or properly consider alternatives to detention, and thus "failed to provide him with the
21 bond hearing to which he was constitutionally entitled"); *Akhemedov v. Pittman*, No. CV 25-
22 13734 (MCA), 2026 WL 323404, at *4 (D.N.J. Feb. 6, 2026) (ordering second bond hearing

23 _____
24 ² In *J.M.P.*, the DHS attorney at the habeas-ordered bond hearing continued to insist the IJ lacked
jurisdiction to consider bond in the face of the habeas court's order. 2025 WL 2984913, at *5.

1 because at the first court-ordered hearing, the IJ did not clearly put the burden of proof on DHS
2 as the habeas court had required); *A.D. v. Oddo*, 3:25-cv-460-SLH-MPK, Dkt. No. 40 (W.D.P.A.
3 Feb. 12, 2026) (granting motion to enforce and ordering immediate release where IJ did not
4 provide correct interpreter, then incorrectly called the petitioner “evasive” in denying bond),
5 *Said v. Noem*, 3:25-cv-938-MOC (W.D.N.C, Feb. 4, 2026) (granting TRO where immigration
6 judge’s refusal to consider testimony and declarations, or let petitioner defend himself against
7 unauthenticated assertion he had not complied with a prior condition of release, likely violated
8 due process).

9 50. These failures include immigration judges denying bond in numerous cases
10 without explanation or based on generic factors common to millions of people, such as merely
11 being undocumented or having had any criminal contact, regardless of severity or proof of
12 guilt.³ *See, e.g., Aguilon Fuentes v. Bondi*, No 1:26-cv-167-AJT-WEF (E.D.V.A. Feb. 24, 2026)
13 (granting motion to enforce after immigration judge denied bond based on “flight risk” factors
14 that were “so lacking in probative value” that they violated due process and would result in
15 denying bond to most undocumented persons); *Lozhkina v. Noem*, 6:26-cv-3001-MDH
16 (W.D.Mo. Feb. 10, 2026) (granting motion to enforce where immigration judge’s denial of bond
17 based on flight risk lacked any record support and had “indications of predetermined outcome
18 based on disagreement over [habeas court’s] previous order”); *Picado v. Hyde*, 26-cv-65-JJM-
19 PAS (D.R.I. Feb. 9, 2026) (granting immediate release where Picado had “two bond hearings
20 that two separate judges have found to be deficient,” including an immigration judge finding
21 that an uncorroborated police report that Picado was speeding constituted clear and convincing
22 evidence he was a danger to the community); *Santos v. Lowe*, No. 1:18-cv-1553, No. 2020 WL

23 ³ See Kyle Cheney, *Judges keep ordering immigration hearings – but say the results are a sham*, Politico, Mar. 6,
24 2016, available at <https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660>.

1 4530728, at *3 (M.D. Pa. Aug. 6, 2020) (after court-ordered bond hearing for § 1226(c)
2 prolonged detention claim, finding that “[m]echanistic reliance on factors that are common to all
3 1226(c) detainees will not suffice”); *Luciano-Jimenez v. Doll*, 543 F. Supp. 3d 69, 72 (M.D. Pa.
4 2021) (finding court-ordered bond hearing was not individualized and granting federal court
5 hearing); *see also Chi Thom Ngo v. I.N.S.*, 192 F.3d 390, 398 (3d Cir. 1999) (“The fact that
6 some aliens posed a risk of flight in the past does not mean that they will forever fall into that
7 category. Similarly, presenting danger to the community at one point by committing crime does
8 not place them forever beyond redemption. Measures must be taken to assess the risk of flight
9 and danger to the community on a current basis.”).

10 51. To avoid a wasteful round of enforcement proceedings – or even two – while
11 unlawful detention continues, this court should grant release or hold any bail hearing itself.

12 **E. Strong Procedural Protections If the Court Orders an Immigration Court Bond**
13 **Hearing**

14 52. As a final option, this court could grant an immigration court bond hearing that
15 follows clear guidelines and keep jurisdiction over this case to until satisfied that an
16 individualized, constitutionally adequate review was held. *See Hernandez-Fernandez v. Lyons*,
17 No. 5:25-CV-00113, 2025 WL 2976923, at *10 (W.D. Tex. Oct. 21, 2025) (holding that the
18 proper remedy given the due process concerns is a bond hearing where the government bears the
19 burden of proof); *Gomez v. Olson*, No. 25-cv-15300, 2025 WL 3768242, at *6 (N.D. Ill. Dec.
20 31, 2025) (noting the “overwhelming consensus” that the burden in a court-ordered bond
21 hearing should be placed on the government).

22 53. The court should order that in that hearing, DHS bears the burden of proof to
23 justify continued detention by clear and convincing evidence, and DHS is barred from invoking
24 the automatic stay regulation if the immigration judge grants bond. *See, e.g., O.F.C.*, 2026 WL

1 74262, at *16 (to ensure due process, ordering DHS to justify detention by clear and convincing
2 evidence, and enjoining DHS from invoking the automatic stay on a bond grant or arguing that
3 the IJ lacked jurisdiction); *Lopez-Romero v. Lyons*, No. 2:25-cv-01113, 2026 WL 92873, at *7
4 (D.N.M. Jan. 13, 2026) (to ensure due process, requiring the government justify detention by
5 clear and convincing evidence, and that the immigration judge consider petitioner's ability to
6 pay bond); *Perez-Regalado v. Feeley*, No. 2:25-cv-02409, 2026 WL 36112, at *6 (D. Nev. Jan.
7 6, 2026) (enjoining ICE from invoking an automatic stay after a bond grant); *Rueda Torres*,
8 2025 WL 3168759, at *6 (same); *Garay v. Perry*, No. 1:25-CV-2215, 2025 WL 3540070, at *4
9 (E.D. Va. Dec. 10, 2025) (releasing petitioner immediately, ordering a bond hearing within 14
10 days, and enjoining ICE from arguing the IJ lacks jurisdiction or from invoking the automatic
11 stay).

12 54. The parties should submit a status update to the Court promptly after any hearing.
13 *See Dominguez v. Noem*, 25-cv-0074, 2026 WL 67200, at *4 (W.D. Tex. Jan. 8, 2026) (ordering
14 bond hearing with burden on the government by clear and convincing evidence, and ordering "an
15 expedited timeline for compliance" given multiple past cases where the government had violated
16 the court's orders). However, because this may still be inefficient and result in additional
17 litigation, release or a detention hearing held by this court are the most appropriate and efficient
18 remedies.

19
20 **COUNT ONE**
21 **STATUTORY CLAIM (Detention Governed by INA § 236(a))**

22 55. Petitioner incorporates paragraphs 1 through 54 as if fully set out herein.

23 56. Section 235(b)(2)(A) does not govern Petitioner's detention because he was
24 not encountered during inspection and is not within any class designated for expedited removal

1 by published notice. Reading § 1225(b)(2)(A) to govern all never admitted noncitizens
2 regardless of when and where they were arrested would nullify Congress's express two-
3 year limit on interior expedited removal and collapse the statute's two-track scheme. Under §
4 1226(a) and its implementing regulations, Petitioner is entitled to a prompt bond hearing before a
5 neutral adjudicator.

6 **COUNT TWO**
7 **PROCEDURAL DUE PROCESS (U.S. Const. amend. V)**

8 57. Petitioner incorporates paragraphs 1 through 54 as if fully set out herein.

9 58. Prolonged civil detention without a neutral bond hearing violates procedural due
10 process. If Respondents' position categorically forecloses any IJ bond review for interior
11 arrestees like Petitioner, it denies a meaningful opportunity to be heard and invites arbitrary
12 confinement. At minimum, due process requires a prompt bond hearing at which the
13 Government bears the burden to justify detention by clear and convincing evidence.

14 **COUNT THREE**
15 **SUBSTANTIVE DUE PROCESS (U.S. Const. amend. V)**

16 59. Petitioner incorporates paragraphs 1 through 54 as if fully set out herein.

17 60. Civil detention must remain reasonably related to its purposes of ensuring
18 appearance and protecting the community. Detaining Petitioner without any individualized
19 assessment, solely on a categorical theory rejected by this Court days ago, bears no reasonable
20 relation to any legitimate aim and is excessive in relation to its purposes.

21 **PRAYER FOR RELIEF**

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

- 23 1.) Assume jurisdiction over this matter;
24 2.) Issue a writ of habeas corpus directing Respondents to release Petitioner immediately.

- 3.) Alternatively, issue a writ of habeas corpus directing Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) before an Immigration Judge within 7 days of the Court's order, with the Government bearing the burden to establish that Petitioner is a danger to the community or a flight risk, and to consider alternatives to detention (consistent with *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025));
- 4.) Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of these proceedings;
- 5.) Order Respondents to answer the petition within 3 business days; and
- 6.) Grant such other relief as the Court deems just and proper.

Respectfully submitted this 29th day of April, 2026.

//Sarah W. H. Owings//

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the
Petitioner's attorney. I have discussed with Petitioner's family members and have
reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that
I have reviewed the foregoing Petition and that the facts and statements made in this Petition and
Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242

Respectfully submitted this 29th day of April, 2026.

//Sarah W. H. Owings//

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CERTIFICATE OF COMPLIANCE

I hereby certify that the document to which this certificate is attached has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

Respectfully submitted this 29th day of April, 2026.

//Sarah W. H. Owings//

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