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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Luis Armando	)	
GOMEZ CASTRO	)	
	)	
Petitioner,	)	Civil Action No. 2:26-cv-5366
	)	
v.	)	
	)	
JASON BENZEL,	)	EMERGENT PETITION FOR WRIT OF
Warden	)	HABEAS CORPUS
Elizabeth Detention Facility,	)	
	)	
JOHN TSOUKARIS	)	
Field Office Director	)	
U.S. Immigration and	)	
Customs Enforcement (ICE)	)	
New Jersey	)	
	)	
TODD LYONS,	)	
Acting Director,	)	
U.S. Immigration and	)	
Customs Enforcement (ICE)	)	
	)	
MARKWAYNE MULLIN,	)	
Secretary of the Department of	)	
Homeland Security, (DHS)	)	
	)	
TODD BLANCHE,	)	
Acting Attorney General of the	)	
United States of America	)	
	)	
Respondents.	)	

INTRODUCTION

1. Petitioner Luis Armando Gomez Castro, a thirty-seven citizen of Guatemala, married, father of two U.S. citizen children and present in the United States United States for more than twenty years, petitions this Court to grant *habeas corpus* and release him from being unlawfully detained by the Respondents.
2. Respondents have been released on a \$3,000 ICE bond in 2013. Today, Respondents unlawfully redetained Mr. Gomez Castro under 8 U.S.C. § 1225(b)(2)(A), a statutory provision that allows Respondents to subject a large swath of noncitizens currently present in the United States to mandatory detention. The Board of Immigration Appeals decided, in *Matter of Yajure Hurtado* that noncitizens who have entered the United States without inspection are mandatorily detained without a bond hearing under Section 1225(b)(2)(A). *See* 29 I. & N. Dec. 216, 228 (BIA 2025). The BIA's interpretation conflicts with the plain language and structure of the statute, as well as decades of uncontroverted agency practice, and it was also rejected by district courts all around the country, this Court included. The New Jersey District Court have consistently rejected the government's interpretation that noncitizens arrested within the United States are subject to mandatory detention under § 1225(b)(2), holding instead that such individuals may only be detained under the discretionary framework of § 1226(a). *See, e.g., Contreras Maldonado v. Cabezas*, No. 2:25-cv-13004 (D.N.J. Oct. 23, 2025) (holding that detention under § 1225(b)(2) was unlawful where petitioner had been living in the United States and ordering release); *Ayala Amaya v. Bondi*, No. 1:25-cv-16428 (D.N.J. Oct. 30, 2025) (rejecting government's

interpretation of § 1225 and ordering individualized bond hearing under § 1226(a)); *Lomeu v. Soto*, No. 2:25-cv-16589 (D.N.J. Oct. 23, 2025) (finding petitioner unlawfully detained under § 1225(b)(2) and requiring release or a bond hearing); *Fuentes Velasquez v. Noem*, No. 2:25-cv-16797 (D.N.J. Dec. 17, 2025) (holding that § 1226(a), not § 1225(b)(2), governs detention of noncitizens arrested within the United States after long residence); *Mejia v. Cabezas*, No. 3:25-cv-17094 (D.N.J. Nov. 26, 2025) (granting habeas petition and ordering bond hearing where petitioner was arrested in the interior of the United States); *Lin v. Soto*, No. 1:25-cv-18471 (D.N.J. Jan. 6, 2026) (granting temporary restraining order and directing that petitioner be treated as detained under § 1226(a) with an individualized bond hearing).

3. In the alternative, if the statute does authorize Petitioner's detention without a bond hearing, it violates his rights to substantive and procedural due process. Detention of all noncitizens who are subject to inadmissibility grounds, like Petitioner, without any individualized hearing does not "bear a reasonable relation to the purpose for which the individual was committed." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
4. Mr. Gomez Castro therefore respectfully requests that this Court issue a writ of habeas corpus and order Petitioner's release from custody. Immediate release is the appropriate remedy because Petitioner is unlawfully detained under a provision of the Immigration and Nationality Act that is not applicable in his case. Where DHS detains a noncitizen under an inapplicable statutory provision, the detention is not merely procedurally defective—it is unauthorized by law. In such circumstances, the role of a habeas court is not to adjust the manner of detention, but to terminate it.
5. In the alternative, Petitioner requests that this Court conduct or order an Immigration

Judge (“IJ”) to conduct a bond hearing at which (1) Respondents bear the burden of proving flight risk and/or dangerousness by clear and convincing evidence; and (2) the reviewing court considers alternatives to detention that could mitigate risk of flight and ability to pay in setting any bond. *See German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213-214 (3d Cir. 2020).

JURISDICTION

6. Petitioner is in the physical custody of the Respondents at the Elizabeth Detention Facility, in Elizabeth, New Jersey.
7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the U.S. Constitution (the Suspension Clause).
8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and 28 U.S.C. § 1651, the All-Writs Act.
9. 8 U.S.C. § 1252(b)(9) does not strip the Court of jurisdiction over Petitioner’s challenge to his continued detention because the challenge is collateral to “the removal process,” and is not “inextricably linked” to any removal action. *See Khalil v. President, United States*, No. 25-2162, 2026 WL 111933, at *9 (3d Cir. Jan. 15, 2026); *Kourouma v. Jamison*, No. 26-0182, 2026 WL 120208, at *3 (E.D. Pa. Jan. 15, 2026) (“[W]hether a bond hearing is required prior to detention . . . is collateral to the removal process.” (*Cantu-Cortes v. O’Neill*, No. 25-6338, 2025 WL 3171639, at *1 (E.D. Pa. Nov. 13, 2025) (same); *see also Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018)

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
11. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

VENUE

12. Venue lies in the U.S. District Court for the District of New Jersey, the judicial district in which Petitioner is currently detained. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973) (finding proper venue lies in the judicial district in which Petitioner is currently detained).
13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of New Jersey.

PARTIES

14. Petitioner is Luis Armando Gomez Castro, a thirty-seven-old native of Guatemala who is currently detained at Elizabeth Detention Center, New Jersey. He seeks issuance of a writ of *habeas corpus*.
15. Respondent Jason Benzel, the warden of the Eizabeth, New Jersey, Detention Facility, is sued in his official capacity, as he is the Petitioner's actual physical custodian and has direct control over Petitioner.
16. Respondent John Tsoukaris is sued in his official capacity as the Field Office Director of U.S. Department of Homeland Security, Immigration and Customs Enforcement for New Jersey. He is responsible for the administration and management of ICE Enforcement Removal Operations in New Jersey and exercises administrative control over Petitioner's custody.
17. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), a component of the Department of Homeland Security. In this capacity, he is responsible for administering and enforcing the immigration laws in New Jersey and is Petitioner's legal custodian.
18. Respondent Markwayne Mullin is sued in his official capacity as Secretary of the Department of Homeland Security the agency in charge of administering and enforcing the immigration laws in New Jersey and is the Petitioner's legal custodian.
19. Respondent Todd Vanche is sued in his official capacity as the acting Attorney General of the United States. In this capacity he is responsible for administering and enforcing the immigration laws pursuant to 8 U.S.C. § 1103 and is the Petitioner's legal custodian.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. Immigr. And Naturalization Svc.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. *See Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *2 (M.D. Pa. Aug. 2020) (“[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.”).
21. In making that decision, the Court should consider the urgency of the need for immediate review. “Where a person is detained by executive order . . . the need for collateral review is most pressing . . . In this context the need for habeas corpus is more urgent.” *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).
22. Moreover, the exhaustion “doctrine is not without exception.” *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). “Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question.” *Id.* at 666-67.
23. Exhaustion before the EOIR would be futile because requiring exhaustion “would almost certainly result in the BIA persisting in its earlier rulings and applying those rulings to [Petitioner], all while he remains in detention[.]” *Del Cid v. Bondi*, No. 3:25-cv-00304, 2025 WL 2985150, at *13 (W.D. Pa. Oct. 23, 2025).
24. Further, the BIA does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att’y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d

at 667 (internal citations omitted). Therefore, any administrative proceedings would be futile because petitioner raises a constitutional due process claim. *Id.*

FACTS

25. Petitioner is a native and citizen of Guatemala who last entered the United States two decades ago. Since his entry, he has built a stable life in this country. He works in construction and is the father of two U.S. citizen children, ages twenty and one. His only contact with law enforcement occurred approximately ten years ago, when he was charged with driving under the influence.
26. Petitioner was first detained by ICE on January 7, 2013, after a criminal arrest for driving on a revoked license. The next day, on January 8, he was released on a \$3,000 bond. He was also issued a putative Notice to Appear that inadvertently charges him as a citizen of Mexico instead of Guatemala and does not contain a date or a place of his immigration court hearing. It is apparent that the Notice to Appear was never filed with the Court and therefore the immigration proceedings were never initiated against Petitioner.
27. Other than the known 2013 violation, Petitioner had one more contact with the law enforcement from 2018, when he was fined a de minimis amount for violating a municipal ordinance.
28. Petitioner is married and the father of two U.S. citizen children. He is the beneficiary of a pending T Visa as a derivative of his spouse, who is a victim of human trafficking.
29. Petitioner was encountered by ICE and taken into custody for the second time on May 12, 2026, at Home Depot in New Jersey. There is no indication that ICE revoked the bond from 2013 or was specifically looking for Petitioner, but that he was targeted because of his appearance and the location where he was encountered.

30. Petitioner was later transferred to Elizabeth Detention Center, where he is detained without the possibility of a prompt individualized custody determination or bond hearing.
31. Petitioner's ongoing detention under restrictive, penal-like conditions inflicts serious harms on his liberty and raises significant constitutional concerns.

LEGAL FRAMEWORK

I. Section 1226(a) Governs the Detention of People Like Petitioner

32. The Immigration and Nationality Act contains several provisions authorizing detention of noncitizens. Section 1226(a) entitles most noncitizens with pending removal proceedings to a hearing before an Immigration Judge to determine whether they should be released on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d). Section 1226(c) creates an exception to section 1226(a) and provides that noncitizens who are removable by virtue of certain criminal convictions must be detained without a bond hearing. Section 1225(b) provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" under (b)(2). Finally, section 1231 governs the detention of noncitizens with a final order of removal.
33. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). "Upon passing IIRIRA, Congress declared that the new Section 1226(a) 'restates the current provisions in the predecessor statute,'" which allowed noncitizens who entered without inspection to be released on bond. *Rodriguez v.*

Bostock, 779 F. Supp. 3d 1239, 1258, 1260 (W.D. Wash. 2025) (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

34. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.”).
35. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were eligible for and received bond hearings before an IJ, unless they have committed certain crimes. *Diaz Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *4 (D. Mass. July 24, 2025).
36. In recent months, Respondents have abruptly changed course. On May 15, 2025, the BIA issued a decision holding that a *noncitizen* who entered without inspection and was apprehended and paroled near the border was subject to mandatory detention under § 1225(b)(2)(A) when her parole was terminated and she was re-detained. *Matter of Q. Li*, 29 I&N Dec. 66, 70 (BIA 2025).
37. On July 8, 2025, Respondent Todd M. Lyons issued an internal memorandum stating that, “in coordination with the Department of Justice (DOJ),” DHS had “revisited” its legal position and believed that § 1225, not § 1226, governs the detention of noncitizens who

are present in the United States without having been admitted. *Diaz Martinez*, 2025 WL 2084238, at *4.

38. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In that decision, the BIA held that noncitizens “who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.” 29 I&N Dec. at 220.
39. The BIA adopted this position notwithstanding hundreds of recent federal court decisions rejecting DHS’s position and holding that individuals who are present without having been admitted remain eligible for bond pursuant to § 1226(a).
40. As those decisions explain, the BIA’s position in *Matter of Yajure Hurtado* contravenes the INA. The plain text of the statute demonstrates that § 1226(a)—not § 1225(b)—governs individuals such as Petitioner.
41. Section 1226(a) applies to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” See *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (describing 1226(a) as the “default rule” for detention of noncitizens pending removal).
42. Section 1226 covers all individuals charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). This year, Congress enacted the Laken Riley Act to add a subparagraph (E) to the section with the purpose of excluding certain noncitizens who entered without inspection and committed certain crimes from § 1226(a)’s default bond provision. As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates “specific exceptions” to a statute’s applicability, it

“proves” that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

43. Under the BIA’s interpretation, all noncitizens subject to inadmissibility grounds are detained without the opportunity for a bond hearing under 8 U.S.C. § 1225(b). *Matter of Yajure Hurtado*, 29 I&N Dec. at 220; see 8 U.S.C. § 1182(a)(6) (making people who are present without having been admitted inadmissible); 8 U.S.C. § 1101(a)(14) (defining an admission). Therefore, this interpretation would render all the grounds of mandatory detention in § 1226(c) applying to inadmissible noncitizens, including the recently passed Laken Riley Act, superfluous. *Gomes*, 2025 WL 1869299, at *7; *Rodriguez*, 779 F. Supp. 3d at 1258; see *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013) (“[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme.”). This statutory structure demonstrates that Congress did not intend to make § 1226(a) inapplicable to all inadmissible noncitizens but rather viewed it as the default bond provision for people arrested within the United States.
44. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A); see also *Diaz Martinez*, 2025 WL 2084238, at *8 (“[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.” (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory

detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a [] [noncitizen] seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 287.

45. The BIA’s interpretation “would render the phrase ‘seeking admission’ in 8 U.S.C. § 1225(b)(2)(A) mere surplusage.” *Lopez Benitez*, 2025 WL 2371588, at *6. That section applies to people who are (1) applicants for admission; (2) seeking admission; and (3) not clearly and beyond a doubt entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A); *Lopez Benitez*, 2025 WL 2371588, at *6; *Diaz Martinez*, 2025 WL 2084238, at *2. The BIA’s interpretation makes all applicants for admission subject to mandatory detention, leaving the “seeking admission” criterion unnecessary and violating the rule against surplusage. *Lopez Benitez*, 2025 WL 2371588, at *6; *Diaz Martinez*, 2025 WL 2084238, at *6.
46. Instead, the phrase “seeking admission” indicates that § 1225(b)(2)(A) applies to people who are taking “some sort of present-tense action,” in other words, coming or attempting to come into the United States. *Diaz Martinez*, 2025 WL 2084238, at *6; *see also Matter of M-C-D-V-*, 28 I&N Dec. 18, 23 (BIA 2020) (stating that “the use of the present progressive tense . . . denotes an ongoing process”). Therefore, § 1226(a), not § 1225(b)(2)(A), governs the detention of people detained within the United States who are not actively seeking admission, as required by the statute.
47. Applying § 1226(a), rather than § 1225(b), to people detained in the interior who had previously entered without inspection is consistent with the government’s longstanding practice, which “can inform a court’s determination of what the law is.” *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024). This longstanding practice further

counsels against the BIA's abrupt change in policy. *Maldonado*, 2025 WL 2374411, at *11.

48. Finally, as discussed below, the BIA's interpretation of § 1225(b)(2)(A) to mandate detention without a bond hearing for all noncitizens present in the United States without having been admitted presents serious constitutional concerns. Therefore, to the degree that the statute remains ambiguous, the Court should presume that Congress "did not intend the alternative which raises serious constitutional doubts" and reject that construction. *Clark v. Martinez*, 543 U.S. 371, 381-82 (2005). Therefore, § 1226(a), which permits bond hearings, not § 1225(b)(2)(A), which does not, governs the detention of people like Petitioner.

FIRST CLAIM FOR RELIEF

Violation of the Administrative Procedure Act

Contrary to Law and Arbitrary and Capricious Agency Policy

49. Petitioner re-alleges and incorporates by reference the above paragraphs.
50. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).⁵⁹
51. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility. It does not apply to Petitioner, who entered the United States twenty years ago undetected. Significantly, he was previously released on bond and now rearrested without notice or without bond cancellation.

52. In taking a contrary position, the BIA has reversed decades of prior practice, and “would expand § 1225(b) face beyond how it has been enforced historically, potentially subjecting millions more undocumented immigrants to mandatory detention, while simultaneously narrowing § 1226(a) such that it would have extremely limited (if any) application.” *Lopez Benitez*, 2025 WL 2371588, at *8. Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies’ policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.
53. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause

Substantive Due Process

54. Petitioner re-alleges and incorporates by reference the above paragraphs.
55. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. Substantive due process requires that immigration detention without a bond hearing be reasonably related to the goals of ensuring the appearance of noncitizens at future proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.
56. The BIA’s application of mandatory detention under § 1225(b)(2) is not reasonably related to those goals and thus violates substantive due process. Petitioner is not a danger

to the community. He is a law-abiding citizen, lawfully employed, and has family ties in New Jersey, including his two U.S. citizen children.

THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause

Procedural Due Process

57. Petitioner re-alleges and incorporates by reference the above paragraphs.
58. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. Courts apply the *Mathews v. Eldridge* balancing test to determine what procedures the due process clause requires. *Gayle*, 12 F.4th at 331.
59. The first factor is the private interest that will be affected by the official action. *Id.* Here, the Petitioner has been unlawfully detained, and he is held without bond. His deprivation of liberty is a particularly weighty interest.
60. The second factor is the risk of erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional safeguards. *Id.* Here, there is a great risk of unnecessary detention because the BIA’s interpretation of the statute does not permit any individualized determination of whether detention during removal proceedings is necessary. *See Ashley*, 288 F. Supp. 2d at 670. Petitioner is an individual who, during his time in the United States, has demonstrated a commitment to becoming part of American society.
61. The final factor is the Government’s interest. *Gayle*, 12 F.4th at 331. The government has no legitimate interest in detaining Petitioner when detention is not necessary to ensure

appearance at future hearings or protect the community. *Hernandez-Lara*, 10 F.4th at 32-33; see *Ousman D. v. Decker*, No. 20-9646, 2020 WL 5587441, at *4 (holding that due process requires consideration of less restrictive alternatives to detention that would address the government's legitimate purpose); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241-42 (W.D.N.Y. 2019) (same). Therefore, the government does not have an interest in detaining Petitioner without a bond hearing that outweighs his substantial liberty interest in such an individualized determination.

62. Therefore, Respondents' detention of Petitioner without any hearing to determine whether that detention is necessary violates procedural due process.

REMEDY

A. Because Petitioner is Detained Under the Wrong INA Provision, his Custody is Ultra Vires and Must End

63. Where DHS detains a noncitizen under an inapplicable statutory provision, the detention is not merely procedurally defective—it is unauthorized by law. In such instances, the role of a habeas court is not to adjust the manner of detention, but to terminate it. A habeas court has “the power to order the conditional release of an individual unlawfully detained—though release need not be the exclusive remedy and is not the appropriate one in every case in which the writ is granted.” *Boumediene v. Bush*, 553 U.S. 723, 779 (2008). A federal district court is authorized to grant a writ of habeas corpus ... where the petitioner is “in custody under or by color of the authority of the United States ... in violation of the Constitution or laws or treaties of the United States. *Patel v. McShane*, No. CV 25-5975, 2025 WL 3241212 (E.D. Pa. Nov. 20, 2025) (citing 28 U.S.C. §§

2241(c)(1), (3)); *see also Kashranov v. Jamison*, No. 2:25-CV-05555-JDW, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025).

64. The Third Circuit has made clear that immigration detention authority is implicitly limited, and once those limits are exceeded—or where detention lacks statutory footing altogether—continued custody is unlawful. *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 232–33 (3d Cir. 2011). Detention that is not authorized by statute cannot be cured by further administrative process because “the statute no longer permits it.” *Id.*
65. Mr. Gomez Castro is detained under the wrong provision of the INA, which makes his detention unlawful. As a matter of law, DHS therefore lacks authority to continue holding him. The only remedy that restores Petitioner to the position he would have occupied absent the statutory violation is release from custody. *See Leslie v. Att’y Gen.*, 678 F.3d 265, 271–72 (3d Cir. 2012) (habeas relief must be effective and restore the petitioner’s liberty interest). *See also Patel v. McShane, supra; Kashranov v. Jamison, supra, Morocho v. Jamison*, No. 5:25-CV-05930-JMG, 2025 WL 3296300 (E.D. Pa. Nov. 26, 2025); *Lopez Yepes v. Bondi*, No. CV 26-0002, 2026 WL 130774 (E.D. Pa. Jan. 16, 2026), *Kumar v. Jameson*, No. CV 26-470, 2026 WL 244309 (E.D. Pa. Jan. 29, 2026).

B. An Immigration Judge Bond Hearing is not a Legally Adequate Habeas Remedy

66. The Government may argue that any defect can be remedied by ordering an Immigration Judge to conduct a bond hearing. That argument fails for three independent reasons.
67. First, Immigration Judges lack authority to cure statutory misclassification. Bond proceedings presuppose lawful detention under a bond-eligible statute. Immigration Judges have no authority to reclassify DHS’s custody determination or to declare

detention *ultra vires*. They accept DHS's asserted detention authority as a given and merely assess discretionary release within that framework. Accordingly, where detention itself is unauthorized, a bond hearing cannot cure the violation. Habeas relief cannot consist of referring a petitioner back to an adjudicator who lacks jurisdiction to address the legal defect. See *Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 224–25 (3d Cir. 2018) (habeas courts retain authority to define the remedy necessary to cure unlawful detention).

68. Second, Article III courts may not delegate their habeas function to EOIR. The writ of habeas corpus requires a court to order relief that ends unlawful custody, not one that merely initiates another administrative proceeding. The Third Circuit has repeatedly emphasized that habeas relief must be meaningful and effective, not theoretical. *Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 475–78 (3d Cir. 2015).
69. Ordering an Immigration Judge to hold a bond hearing improperly delegates the Court's core Article III function to an Executive Branch tribunal that is institutionally subordinate to the Attorney General; lacks authority to correct DHS's statutory error; and cannot guarantee release even where detention is unlawful. Such delegation is incompatible with the habeas court's duty to independently remedy unlawful executive detention. *Guerrero-Sanchez*, 905 F.3d at 224.
70. Last, bond hearings in Immigration Court are illusory. Immigration Judge bond hearings—particularly in post-habeas cases—have become systematically predetermined exercises designed to maintain detention regardless of individual circumstances.
71. Immigration practitioners have witnessed a corresponding and unprecedented surge in fundamentally unfair bond denials that seems to follow the same pattern.

72. The Immigration Judges who meaningfully questioned DHS detention positions were abruptly reassigned from detained dockets. Bond has been categorically denied in cases that previously warranted release. Judges rely on pretextual rationales that would make bond impossible for virtually any detained noncitizen. The pattern is uniform, coordinated, and temporally linked to federal habeas grants. This evidence establishes that remand to EOIR would be **futile** and would render this Court's habeas jurisdiction meaningless. Habeas relief cannot consist of an "illusory remedy" that predictably fails to secure liberty. See *Chavez-Alvarez*, 783 F.3d at 475.
73. Where detention is unauthorized and administrative remedies are ineffective, the habeas court must order immediate release, subject only to reasonable conditions of supervision if necessary. See *Leslie*, 678 F.3d at 271–72.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this habeas corpus action pursuant to 28 U.S.C. §§ 2241 and 1331;
2. Issue a Writ of *Habeas Corpus* and order Petitioner's immediate release from custody;
3. In the alternative, hold a bond hearing at which the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;

4. Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
5. Grant such further relief as the Court deems just and proper.

Dated: May 12, 2026

/s/Adriana Mitchell
Adriana Mitchell, Esq.
PA Bar # 323243
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Philadelphia, PA 19102
Attorney for Petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

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

DATED: MAY 12, 2026

/s/Adriana Mitchell

Adriana Mitchell
Attorney for Petitioner