UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

PEREZ MEJIA, PAUL, Petitioner, v. WARDEN of Stewart Detention Center, Respondent.	Case No. **PETITION FOR WRIT OF HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. On or about January 19, 2023, Petitioner, Paul Perez Mejia, a native and citizen of Peru, entered the United States at or near Calexico, California.

2. In May 2026, ICE[1] detained Petitioner as he attended a check-in appointment with that U.S. governmental agency. Petitioner is now detained at Stewart Detention Center in Lumpkin, Georgia.

3. On June 2, 2026, Petitioner applied for a bond out of his immigration detention, including various evidence in support of his bond motion such as letters from his church, his friends, his family, etc., and argued the immigration court had jurisdiction to consider his bond motion under Alvarez v. Warden.2

4. On June 11, 2026, immigration judge Jerrica Harness of the Stewart Immigration Court denied Petitioner's request for bond based solely on a supposed lack of jurisdiction. The order of that judge denying bond does expressly reference Alvarez v. Warden but insists the order complies with that case, describing "the record in this case reflects that Respondent [here the "Petitioner"] was originally encountered and arrested by border patrol shortly after entering the U.S. from Mexico in the El Centro Sector approximately half a mile west of the Calexico Port of Entry on January 19, 2023, and that he was processed for expedited removal. As such, the Court finds it does not have jurisdiction to determine bond in this matter."

5. The order of Immigration Judge Harness furthermore does not provide any rationale beyond a supposed lack of jurisdiction in explaining why the immigration court denied Petitioner's bond motion. That order does not indicate whether the judge considered whether Petitioner is a flight risk, or danger to the community, or any other factor relevant to the issue of bond eligibility.

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[1] ICE means "Immigration and Customs Enforcement", a component agency under the Department of Homeland Security (DHS).

[2] Alvarez v. Warden, Fed. Det. Ctr. Miami, No. 25-14065 (11th Cir. May 6, 2026)

6. Petitioner files this habeas corpus lawsuit because that June 11, 2026 decision of immigration judge Jerrica Harness was an unlawful one because it violated the due process clause, it defied the binding federal court precedent of Alvarez v. Warden, and it failed to comply with the plain text of the Immigration Nationality Act (INA) at 8 U.S.C. § 1226(a).

7. **As such, Petitioner seeks an order granting his immediate release.**

8 **Alternatively, Petitioner seeks a bond hearing overseen by this Court.**

9. **Alternatively, Petitioner seeks a Section 1226(a) bond hearing overseen by the immigration court.** Frankly, Petitioner believes the immigration courts are unable to provide him with reliable access to due process of law, as he argues below, and he seeks this remedy as a last resort. [3] [4] [5] [6] [7] [8]

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[3] In 2025, the current administration has fired "nearly 100 [immigration] judges", leaving a total of 557 IJs as of February 20, 2026. See *Anusha Mathur, Ximena Bustillo, U.S. has a quarter fewer immigration judges than it did a year ago. Here's why*, NPR, published February 23, 2026 (https://www.npr.org/2026/02/23/g-s1-110911/trump-immigration-judges-dismissals-numbers).

[4] There has been a decline in asylum grant rates in 2025 to less than 20% grants as of August 2025. *See* George Fishman, *Why Have Asylum Grant Rates Been Plummiting?*, Published December 1, 2025 (https://cis.org/Report/Why-Have-Asylum-Grant-Rates-Been-Plummeting#:~:text=If%20so%2C%20this%20is%20a,in%20the%20shifting%20approval%20rates).

[5] See also TRAC Immigration, *Asylum Outcome Increasingly Depends on Judge Assigned* (available at https://tracreports.org/immigration/reports/447/ (Published December 2, 2016) ("the typical asylum seeker might have only a 15 percent chance of being granted asylum all the way up to a 71 percent chance *depending on the particular judge to whom their case is assigned.*" Explaining the role of IJ judge assignment and regional variation in asylum outcomes, along with arguing "judge denial rates have significantly increased during the last six years.").

[6] See also Working Immigrants, *Chances a judge will grant you asylum*, published December 2024 (available at https://www.workingimmigrants.com/2024/12/chances-a-judge-will-grant-you-asylum/) ("Some judges deny 90% of cases; others deny 30%... The high variances within and between courts cast doubt on the trustworthiness of the courts.")

[7] *See* Radley Balko, *"The courts are dead." An interview with a fired immigration judge*, The Watch (Jan. 8, 2026), https://radleybalko.substack.com/p/the-courts-are-dead-an-interview ("*I can tell you that today, the immigration courts are substantively dead. They are completely absent of due process. Of fair hearings. They exist only for show, and in name only. Period. The courts are dead. If you're concerned about doing due process of fair hearings, they're gone. So we can start from that position.*" - George Pappas, former New York Immigration Judge).

[8] Pursuing bond in immigration court is futile because the agency has pre-decided the issues against bond applicants in apparent defiance or disregard of BIA case law and the due process clause. *See U.S. Const. Amend. V; 8 U.S.C. §*1226(a); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (non-exhaustive list of factors to consider in deciding whether to grant bond, but noting the weight the immigration judge gives to the set of factors must be "reasonable"); *Citing Carlson v. Landon*, at 534 (denial of bail to an alien is within the Attorney General's lawful discretion as long as it has a "reasonable foundation.")). Per the experience of Counsel, the outcomes of bond hearings under Section 1226(a) are inconsi tent and vary primarily based on whether the detainee gets a judge that denies fewer bond motions. Some Immigration Judge's routinely deny what seem to be apparent meritorious bond motions under dubious reasoning as to bond ineligibility based on "flight risk" or "danger to the community", while outright refusing to consider whether flight risk could be ameliorated by the setting of a bond.

II. JURISDICTION

10. Petitioner is in the physical and legal custody of Respondents because he is detained at "Stewart Detention Center" in Lumpkin, Georgia.

11. This Court has jurisdiction over this lawsuit. Article I, Section 9, Clause 2, of the United States Constitution (the Suspension Clause), 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction). The Court may furthermore grant relief pursuant to 28 U.S.C. § 2201, et. seq. (the Declaratory Judgment Act) and 28 U.S.C. § 1651 (the All Writs Act).

III. VENUE

12. Petitioner is in the physical and legal custody of Respondents by being detained at Stewart Detention Center in Lumpkin, Georgia.

13. This Court is a proper venue for this lawsuit. 28 U.S.C. § 1391(e) (Venue is proper because Respondents are employees, officers, and agencies of the United States, and a substantial part of the events or omissions giving rise to this claim arise in the Middle District of Georgia); Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 493- 500 (1973) (Venue exists in the judicial district in which Petitioner is currently detained).

14. If venue is proper at the time of filing, the district court ordinarily retains jurisdiction even if the detainee is transferred to another district. Ex Parte Endo, 323 U.S. 283, 304-305 (1944).

IV. REQUIREMENTS OF 28 U.S.C. § 2243

15. Petitioner is "in custody" under 28 U.S.C. § 2243, because he is detained at Stewart Detention Center. 28 U.S.C. § 2243; see also Rumsfeld v. Padilla9, 542 U.S. 426, 437 (2004) ("[O]ur understanding of custody has broadened to include restraints short of physical

[9] *Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004)

confinement."); Carafas v. LaVallee[10] ("... the 'in custody' determination is made at the time the habeas petition is filed."); Spencer v. Kemna[11] (providing the same).

V. PARTIES

16. Petitioner is Paul Perez Mejia. He is not subject to a removal order. He is not in expedited removal proceedings. He has been in the United States since on or around January 19, 2023 when he entered the United States. Petitioner previously applied for a bond out of his instant immigration detention on June 2, 2026, which the immigration court denied on June 11, 2026, finding a lack of jurisdiction.

17. Respondent, Warden of Stewart Detention Center, refers to either Jason Streeval, who is employed by "CoreCivic" as the warden of the detention center where Petitioner is detained, or otherwise whoever is the current Warden of that detention center. This respondent has immediate physical custody over Petitioner and is sued in his official legal capacity.

VI. EXHAUSTION OF REMEDIES

18. The doctrine of exhaustion of remedies does not apply in this case either expressly or implicitly. Even if it did apply, Petitioner satisfies exceptions to it as exhaustion would be "futile" because the immigration court "is biased or has predetermined the issue." See Matter of Yajure-Hurtado[12]; Matter of Q. Li[13] (BIA decides that "An applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceeding is detained under [...] 8 U.S.C. § 1225(b) (2018), and is ineligible for any subsequent release on bond under [...] 8 U.S.C. § 1226(a) (2018)." And that "Any alien detained under [...] 8 U.S.C. § 1225(b), who is released from detention pursuant to a grant of parole under [...] 8 U.S.C. § 1182(d)(5)(A) (2018), and whose grant of parole is subsequently terminated, is returned to custody under Section 235(b) [8 U.S.C. § 1225(b)]."

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[10] *Carafas v. LaVallee*, 391 U.S. 234, 237-38 (1968)
[11] *Spencer v. Kemna*, 523 U.S. 1, 7 (1998)
[12] *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025)
[13] *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025)

19. To respect the Court's finite resources, Petitioner includes additional argument on why that doctrine is inapplicable in a footnote, though he reserves the right to brief the issue further if needed.[14]

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[14] Under the doctrine of exhaustion of remedies, a petitioner must generally 'exhaust' all administrative remedies before seeking relief in federal court. *Thompson v. United States Marine Corp*, D.C. Docket No. 09 80312 CV KLR (unpublished). Exhaustion is a prudential requirement rather than jurisdictional. *Hull v. IRS*, No. 10-1410, 2011 WL 3835402 (10th Cir. Aug. 31, 2011); *see also* William Funk, *Exhaustion of Administrative Remedies – New Dimensions Since Darby*, 18 Pace Environmental Law Review (2000) (Tracing the doctrine out of common law and federal equity jurisdiction).

When Congress imposes an exhaustion remedy by statute, exhaustion is generally required. *Coit Indep. Jt Venture v. FSLIC*, 489 U.S. 561, at 579 (1989) (*citing Weinberger v. Salfi*, 422 U.S. 749, 766 (1975); *Myers v. Bethlehem Shipbuilding Corp.*, 303 U.S. 41, 50-51 (1938). If exhaustion is not *explicit* in a statute, then "courts are guided by congressional intent in determining whether application of the doctrine would be consistent with the statutory scheme. *Coit, supra* (*citing Patsy v. Florida Board of Regents*, 457 U.S. 496, 502 (1982).

The INA does have an exhaustion provision that applies only in the context of "final orders of removal." 8 U.S.C. § 1252(d)(1) ("A court may review a final order of removal only if the alien has exhausted all administrative remedies ...") This exhaustion provision is not jurisdictional. *Santos-Zacaria v. Garland*, 498 U.S. ___ (2023). Petitioner is not subject to a removal order; so, § 1252(d)(1) does not apply here to impose an *explicit* exhaustion requirement.

Nor can the INA be read to impose an exhaustion requirement *by implication*. The Court need not engage in statutory interpretation as "[w]here statutory language is plain and unambiguous, courts give effect to the statute as written without engaging in statutory construction." *In re Adoption of Doe*, 156 Idaho 345, 349. Even if this Court found § 1252(d)(1) to be ambiguous, straightforward application of plain text interpretation reveals § 1252(d)(1) does not impose an applicable exhaustion requirement. *See* e.g. Antonin Scalia & Bryan A. Gardner, *Reading Law: The Interpretation of Legal Texts* (1st Ed. 2012) (The "Supremacy of the Text Principle" (The words of a governing text are of paramount concer, and what they convey, in their context, is what the text means), "Omitted Case Canon" (*casus omissus pro omisso habendus est* – nothing is to be added to what the text state or reasonably implies), "Negative Implication Canon" (*expression unius est exclusion alterius* – the expression of one thing implies the exclusion of alternatives), and the "Whole Text Canon" (The text must be construed as a whole) each demonstrate Congress did not impose an exhaustion requirement – either expressly or by implication. See also *A Dozen Canons of Statutory and Constitutional Text Construction*, Judicature.duke.edu Articles, available at https://judicature.duke.edu/articles/a-dozen-canons-of-statutory-and-constitutional-text-construction/).

Even if the doctrine of exhaustion did apply, Petitioner satisfies several exceptions to it. Exhaustion is excused if:

> (1) Requiring exhaustion of administrative remedies causes prejudice, due to unreasonable delay or an 'indefinite timeframe for administrative action';
> (2) The agency lacks the ability or competence to resolve the issue or grant the relief requested;
> (3) Appealing through the administrative process would be futile because the agency is biased or has predetermined the issue; or
> (4) where substantial constitutional questions are raised.

Iddir v. INS, 301 F.3d 492, 500 (7th circuit case citing *McCarthy v. Madigan*, 503 U.S. 140, 146-48 (1992); *Bowen v. City of New York*, 476 U.S. 467, 483 (1986); *Mathews v. Diaz*, 426 U.S. 67, 76 (1976); *Gibson v. Berryhill*, 411 U.S. 564, 575 (1973); *Houghton v. Shafer*, 392 U.S. 639, 640 (1968); *McNeese v. Board of Educ.*, 373 U.S. 668, 675 (1963)).

Here, exhaustion would be futile. Immigration judges continue to rely on a September 5, 2025 BIA decision, *Yajure-Hurtado*, which holds "Based on the plain language of [...] 8 U.S.C. § 1225(B)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or grant bond to aliens who are present in the United States without admission. *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). BIA therefore asserts that all "applicants for admission", a class that encompasses more than fourteen million people[14], are detained under 8 U.S.C. § 1225(b) and therefore subject to "mandatory detention" and ineligible for release on bond. This interpretation is wrong. It defies due process, plain text interpretation of the INA, common sense, and several federal court decisions. *See Lazaro Maldonado Bautista v. Ernesto*

VII. LEGAL FRAMEWORK

20. The Court is empowered to "extend" a writ of habeas corpus to a prisoner if the prisoner is in custody "under or by color of the authority of the United States", or is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2241(c)(1), (3); 28 U.S.C. 2243.

21. Here, in summary, the Court may grant habeas corpus relief in this case by order Petitioner's immediate release, or that he be given a bond hearing in which 8 U.S.C. § 1226(a) controls (whether that bond hearing be conducted by this Court, or by the immigration court), based on the following separate theories, any of which independently confer authority to grant relief: (1) Petitioner's detention does not comport with the due process clause, (2) Petitioner's detention does not comport with Alvarez v. Warden15, (3) Petitioner's detention does not comport with the Immigration and Nationality Act (at, inter alia, 8 U.S.C. § 1226(a)).[16]

22. Additionally, Petitioner offers concise argument that his detention violates the 8th amendment prohibition on excessive bail or cruel and unusual punishment and that habeas relief may alternatively be awarded on that basis.

A. The Court may grant habeas relief because Respondent violates Alvarez v. Warden

23. In Alvarez v. Warden, supra, the Court clarified the scope and applicability of various statutory provisions pertaining to immigration detention, crucially including 8 U.S.C. § 1226(a) and its contrast with 8 U.S.C. § 1225(b). That case is binding in this circuit.[17]

Santacruz Jr, 5:25-cv-01873, (C.D. Cal.). *See also McCarthy v. Madigan*, 503 U.S. 140, 148 (1992) ("an administrative remedy may be inadequate where the administrative body is shown to be biased or has otherwise predetermined the issue before it.")[14]

Dozens of federal district courts, in addition to Maldonado-Bautista, have concluded 8 U.S.C. § 1226(a) does generally govern the detention of an applicant for admission, and that 8 U.S.C. § 1225(b) does not. See footnote 9, supra. For twenty-eight such decisions outside the eleventh circuit, see footnote 3.[14] Within the eleventh circuit, see also J.A.M. v. Streeval, No. 4:25-CV-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) (Granting habeas relief in a consolidated case with similar facts, ordering bond hearings under 8 U.S.C. § 1226(a)).

[15] *Alvarez v. Warden*, Fed. Det. Ct. Miami, No. 25-14065 (11th Cir. May 6, 2026)

[16] In addition, Petitioner cites at least twenty-eight federal court decisions that support Petitioner's position that 8 U.S.C. § 1226(a) governs his detention and 8 U.S.C. § 1225(b) does not.

[17] All federal circuits have adopted the "law of the circuit doctrine", under which the first published decision on a question of federal law published by a three-judge panel within a circuit is generally binding within that same circuit unless the decision is reviewed or overruled by the Supreme Court, or by a later appellate panel within the circuit. See Canetti, Craig W.; Garcia, Michael John; Harrington, Tamsin G. (2026, February 6). *The U.S. Court of Appeals:*

24. In *Alvarez*, the federal court looked at the plain text of 8 U.S.C. § 1225(b)(2)(A) and found it to "yield this command:

> an alien shall be detained for a § 1229 proceeding if he (1) is arriving in the United States or is present in the United States without having been granted lawful entry; (2) is seeking lawful entry after inspection and authorization by an immigration officer; and (3) is not clearly and beyond a doubt entitled to lawful entry, as determined by the examining immigration officer.
>
> [...]
>
> When read this way, the function of the provision is clear -- arriving or present aliens who are seeking to be inspected and granted lawful entry must demonstrate they are 'clearly and beyond a doubt entitled' to get it, else they will be detained and referred by the inspecting officer for a proceeding before an immigration judge to determine whether they are *in fact* entitled to lawful entry.

Alvarez v. Warden, Fed. Det. Ctr. Miami, No. 25-14065 (11th Cir. May 6, 2026).

25. The Alvarez court applied this standard and found "Petitioners do not fall within the scope of § 1225(b)(2)(A)." As for condition (1), being present in the United States without having been granted a lawful entry, the Court found this was true of the Alvarez-Petitioners. But crucially as for condition (2), the Court found the Alvarez-Petitioners were not "seeking lawful entry after inspection and authorization by an immigration officer" when they were simply detained following a traffic stop, "nor were they taking any cognizable steps to obtain the rights and privileges of lawful entry. They were only present in the country."

26. Here, just like in Alvarez, Petitioner arguably satisfies condition (1), presence in the United States without being granted a "lawful entry."[18]

27. However, condition (2) of this 'Alvarez test' is where the immigration judge violated Alvarez, because - by attending his scheduled ICE check-in - Petitioner was not

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Background and Circuit Splits from 2025. (CRS Report No. R48846). https://www.congress.gov/crs-product/R48846

[18] To be clear, factually, Petitioner was stopped and arrested by border patrol officers on his way into the United States. He was subsequently released from detention by those officers and allowed to enter the United States. Under present immigration definitions, this is not considered a "lawful entry." However, Petitioner takes the position that he has long-since "entered" the country such that expedited removal proceedings cannot lawfully be instituted against him, nor can 8 U.S.C. § 1225(B) be applied to him.

"seeking lawful entry after inspection and authorization by an immigration officer", nor was he taking any "cognizable steps" to obtain the rights and privileges of lawful entry. Rather, Petitioner was simply present in this country without status in the vicinity of ICE officers, and now he presently is confined in an immigration detention center. *See Alvarez v. Warden*, *supra*, at page 20 of 121

28. In the order, the immigration judge states "Respondent was originally encountered and arrested by border patrol shortly after entering the U.S. from Mexico [...] on January 19, 2023, and that he was being processed for expedited removal. As such, the Court finds that it does not have jurisdiction to determine bond in this matter." In support of this proposition, the IJ cites DHS v. Thuraissigiam, which says "an alien who is detained shortly after unlawful entry cannot be said to have 'effected an entry,' and is in the same position as an alien seeking admission at a port of entry." *Quoting* Exhibit A, IJ Order (citing *DHS v. Thuraissigiam*[19], which in turn quotes from *Zadvydas v. Davis*[20]). The IJ further cites *Matter of Q. Li*[21] and *Matter of M-S-*[22], before stating that "The only exception permitting release of aliens detained under section 235(B) of the INA is the parole authority provided by section 212(d)(5)(A) of the INA."

29. The words used by the immigration judge in that court's decision reveal the reasoning of the immigration judge. Here, that reasoning is legally incorrect for several reasons, namely because it violates Alvarez v. Warden, which is binding upon immigration courts in the 11th Circuit. Matter of Garcia[23] (federal law is binding in immigration court proceedings, such that immigration courts are bound by the law of the federal circuit in which the immigration court geographically lies and 'where venue lies.')

30. First, the above 'Alvarez test' provides that section 1225(b) detention can apply only if, inter alia, the detainee is seeking lawful entry or taking "cognizable steps" to obtain the

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[19] DHS v. Thuraissigiam, 591 U.S. 103, 140 (2020)
[20] Zadvydas v. Davis, 533 U.S. 678, 693 (2001)
[21] Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025)
[22] Matter of M-S-, 27 I&N Dec. 509, 516 (A.G. 2019)
[23] Matter of Garcia, 28 I&N Dec. 693 (BIA 2023)

rights and privileges of lawful entry. The Alvarez court rejected that such conditions were met where the two Alvarez-Petitioners were arrested after two traffic stops within the United States in September 2025 (both having entered the country in the years 2015 or 2019), then subsequently placed into removal proceedings. *Alvarez v. Warden*, at page 8.

31. Here, Petitioner entered the United States in January 2023. *Exhibit B, I213 Narrative*. On his way into the country, he was arrested by border patrol officials, who attest that "The subject is being processed for an Expedited Removal. The subject was apprehended within 14 days of entering the United States and within 100 air miles of the United States / Mexico international boundary [. . .] " Id at page 7 of 7

32. In May 2025, DHS instituted removal proceedings against him. *Exhibit C, ECAS May 1 Removal Proceeding*. In August 2025, that removal proceeding was closed by the immigration court "due to a failure to prosecute." *Id.* Then, in May 2026, Petitioner attended an ICE check-in and ICE arrested him. Then, also in May 2026, DHS instituted new removal proceedings against him, in which DHS charges Petitioner as allegedly removable under INA § 212(a)(6) [8 U.S.C. § 1182(a)(6)] and INA § 212(a)(7) [8 U.S.C. § 1182(a)(7)].

33. Therefore, because Petitioner was not seeking lawful entry or taking "cognizable steps" towards such entry upon his arrest, but rather had long since "entered" the country in 2023, it violated *Alvarez v. Warden* for the immigration judge to treat Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b), because *Alvarez v. Warden* held precisely the opposite on substantially similar facts.

B. The Court may grant habeas relief because Respondent's detention without access to a bond hearing violates the due process clause

34. Due process requires that immigration detention "'bear[] a reasonable relation to the purpose for which the individual was committed.'" *Demore v. Kim*[24]. Immigration detention should not be used as a punishment and should only be used when, under an individualized

[24] *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690) (2001))

determination, a noncitizen is a flight risk because they are unlikely to appear for Court, or is a danger to the community. *Zadvydas v. Davis*[25].

35. Constitutional due process "does not permit indefinite detention" and, in the post-removal order context, implicitly limits a [non-citizens] detention to a period reasonably necessary to bring about that alien's removal from the United States. *Zadvydas v. Davis*, supra.

36. Here, the immigration judge concluded the immigration court lacks jurisdiction to grant bond to Petitioner. Exhibit A. In doing so, the immigration judge deprives Petitioner of his right to argue why he should be released on bond, because the IJ erroneously considers Petitioner bound by a statutory provision that does not apply to him (8 U.S.C. § 1225(b)). See also *Jennings v. Rodriguez*, 583 U.S. ___ (2018).

37. In addition, detainees are entitled to an impartial adjudicator. *Goldberg v. Kelly*, 397 U.S. 254, 271 (1970) (Noting an impartial decisionmaker is an "essential right" in civil proceedings). The immigration courts are partial and systemically biased in favor of DHS and against immigrants. Evidence of EOIR institutional capture falls into five categories, each independently sufficient to establish bias: (1) the ongoing mass-scale purge of immigration judges who, seemingly, disobey the current administration's deportation agenda; (2) the parallel purge and reconstitution of BIA, resulting in a 97% pro-government decision rate; (3) the recruitment and installation of explicitly enforcement aligned "deportation judges" with dramatically reduced qualification; (4) EOIR policy directives demonstrating pro-government adjudication bias; and (5) explicit instructions to defy federal court rulings that impede DHS enforcement goals.

38. In *Tumey v. Ohio*, 273 U.S. 510 (1927), the Court noted "it certainly violates the Fourteenth Amendment … to subject [a person's] liberty or property to the judgment of a court the judge of which has a direct, personal, substantial, pecuniary interest in reaching a conclusion against him in his case." Furthermore:

[25] *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)

> [U]nder the Due Process Clause, no judge 'can be a judge in his own case [or be] permitted to try cases where he has an interest in the outcome.' *In re Murchison*, 349 U.S. 133, 136 (1955). He went on to acknowledge that what degree or kind of interest is sufficient to disqualify a judge from sitting 'cannot be defined with precision.' [...] Nonetheless, a reasonable formulation of the issue is whether the 'situation is one "which would offer a possible temptation to the average ... judge to ... lead him not to hold the balance nice, clear and true."'

Aetna Life Ins. Co. v. Lavoie, 475 U.S. 813, at 822-823 (1986) (quoting *In re Murchison*).

39. As such, *Murchison* shows it violates due process for a judge to have too great of an 'interest' in the outcome of a case, noting what kinds of interests are disqualifying 'cannot be defined with precision." *Id.* Furthermore, it may violate due process for a judge to oversee a case in "[a] situation ... which would offer a possible temptation to the average judge to lead him not to hold the balance nice, clear and true." *Tumey v. Ohio*, supra.

40. Immigration Judges are not Article III judges. Immigration Judges are part of the executive branch and operate under EOIR, which itself operates under the Attorney General who answers to the President. Immigration Judges do not have heightened protection from removal (firing) from office. If an IJ does something with which the executive disagrees, it can fire the immigration judge. Since 2025, the executive branch has fired "nearly 100 [immigration] judges", leaving a remaining total of 557 Immigration Judges as of February 20, 2026. See *Anusha Mathur, Ximena Bustillo, U.S. has a quarter fewer immigration judges than it did a year ago. Here's why*, NPR, published February 23, 2026 (https://www.npr.org/2026/02/23/g-s1-110911/trump-immigration-judges-dismissals-numbers). Given the incentives at play it is, to Counsel, perhaps unsurprising that the current iteration of BIA has promulgated such decisions as Yajure-Hurtado.[26] Immigration judges are incentivized to obey executive policy at risk of

[26] Which purports to deny access to bond hearings to the class of all "applicants for admission", a class that encompasses more than 14 million people. For the 14 million number, see Jeffrey S. Passel and Jens Manuel Krogstad, *U.S. Unauthorized Immigrant Population Reached a Record 14 Million in 2023*, Pew Research, Sept. 12, 2025, accessible at https://www.pewresearch.org/race-and-ethnicity/2025/08/21/u-s-unauthorized-immigrant-population-reached-a-record-14-million-in-

being fired for disobedience. This erodes due process rights and shows the immigration courts are incapable of affording non citizens with due process of law in adjudication of a bond hearing held under 8 U.S.C. § 1226(a).

41. Because Immigration Judges are in a "situation … which would offer a possible temptation … to lead him [or her] not to hold the balance nice, clear and true", such judges have demonstrated their lack of ability or willingness to provide Petitioner with a due process compliant bond hearing under Section 1226(a). *Quoting Aetna Life Ins.*, supra. [27]

42. In parallel to the purge of the immigration courts, the Board of Immigration Appeals (BIA) has endured a similar purge in which its formerly 28 member board was reduced to 15 members. All BIA appointees to BIA were fired.[28] As of January 22, 2026, the new administration's BIA issued 71 published decisions, of which 69 decisions (97%) favored the administration.[29] For comparison, during the prior four-year administration, 60% of BIA appeal outcomes in published opinions favored the administration.[30]

43. To replace purged judges, DOJ launched a recruitment campaign explicitly marketed as seeking "deportation judges." DHS–a party in immigration proceedings before EOIR– promoted these openings on social media with enforcement-focused language: "Bring the

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2023/#:~:text=The%20number%20of%20unauthorized%20immigrants%20in%20the%20United%20States%20reached,a%20comprehensive%20and%20detailed%20estimate (Describing that "Unauthorized immigrants were 27% of the U.S. foreign-born population in 2023", consisting of "14.0 million [people]…")

[27] For evidence of the lack of due process in immigration court, *see also*: Hilda Gutierrez, Michael Bott & Son Vo, *'An all-out attack on immigration court:' SF immigration judges speak out after firings*, NBC Bay Area (Nov. 25, 2025), https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/; Marco Poggio, *Judges See an Immigration Court Gutted from Inside*, Law360 (Oct. 31, 2025), https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside; Eric Katz, *'Climate of Fear': Immigration Judges Say Functioning of Their Court System Is in Jeopardy Due to Trump's Firings*, Gov't Executive (Nov. 14, 2025), https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-syste m-jeopardy-due-trumps-firings/409544/; *and see* Isabela Dias, *"Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts*, Mother Jones (Oct. 9, 2025), https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/.

[28] Am. Imm. Council, *BIA Decision Strips Immigration Judges of Bond Authority, All but Guaranteeing Mandatory Detention for Undocumented Immigrants* (Sept. 12, 2025), https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undoc umented-immigrants/.

[29] Exec. Off. for Immigr. Rev., *Volume 29*, U.S. Dep't of Just. (Jan. 21, 2025), https://www.justice.gov/eoir/volume-29; Of the remaining two decisions: 1 decision was neutral (involving attorney sanctions) and 1 decision disfavored the administration.

[30] Exec. Off. for Immigr. Rev., *Volume 28*, U.S. Dep't of Just. (June 13, 2025), https://www.justice.gov/eoir/volume-28. (First decision, *Matter of DIKHTYAR*, 28 I&N Dec. 214 (BIA 2021), issued 01/22/2021)

hammer down on criminal illegal aliens" and "Defend your communities, your culture, your very way of life."[31] DOJ also authorized up to 600 military lawyers to serve as temporary immigration judges for a renewable term not to exceed six months, while simultaneously eliminating requirements to serve as a temporary immigration judge.[32] Previously, temporary judge candidates were required to have previously served as an immigration judge, appellate immigration judge, or administrative judge within another agency, or have at least 10 years of immigration law experience. The administration gutted these requirements allowing "any attorney" to be selected as a temporary immigration judge, and furthermore reduced training to approximately two weeks [33]

44. **Therefore, the Court may grant habeas corpus relief because his detention violates the due process clause. IIis detention violates the due process clause because (1) he is deprived of his right to argue for bond, and (2) because he is subjected to detention by a partial adjudicator in the immigration courts and in the Board of Immigration Appeals,** both institutions which pantomime and gesture at justice but fail to reliably provide it as is perhaps unsurprising where both institutions operate under the threat of sanction of firing by higher-ups within the executive branch for perceived disobedience to executive branch policy preferences. *See James Madison,* Federalist Papers No. 47 ("The accumulation of all powers, legislative, executive, and judiciary, in the same hands [...] may justly be pronounced the very definition of tyranny.")

C. The Court may award habeas relief because Petitioner's detention violates the Eighth amendment

45. The Eighth Amendment provides "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. Amend. VIII. By denying Petitioner the right to apply for or receive a bond out of detention, the

[31] dhsgov, Instagram (Nov. 21, 2025), https://www.instagram.com/p/DRVT8DmCQKD/?hl=en.
[32] Designation of Temporary Immigration Judges, 90 Fed. Reg. 41,883 (Aug. 28, 2025).
[33] Corey R. Lewandowski (@CLewandowski_), X (Sept. 2, 2025, 1:47 PM), https://x.com/clewandowski_/status/1962950546652070269.

government violates the 8th amendment prohibitions on excessive bail and cruel and unusual punishment.

46. 133 years ago, the Supreme Court noted in dicta that "deportation" is not necessarily a "punishment" for a crime. *Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893) (cited in *Wong Wing v. United States*, 163 U.S. 228, 236 (1896)). That dicta has stuck around and some judges have cited it in decisions treating immigration law as "civil." *Elia v. Gonzales*, 431 F.3d 268, 276 (6th Cir. 2005); *Briseno v. Immigr. & Naturalization Serv.*, 192 F.3d 1320, 1323 (9th Cir. 1999); *Oliver v. U.S. Dep't of Just., Immigr. & Naturalization Serv.*, 517 F.2d 426, 428 (2d Cir. 1975) (despite its "severe … consequences," deportation is not a criminal punishment) (*Quoting Harisiades v. Shaughnessy*, 342 U.S. 580, 594 (1952)).

47. However, since this 133 year old dicta was written down, the Supreme Court has never *held* immigration law is per se civil law. The Supreme Court has never *held* that, no matter how grueling, mass-scale, or arbitrary the detention, that the 8th amendment is *per* inapplicable in the immigration context.

48. Petitioner argues the Court can apply the 8th amendment here as a basis for providing Petitioner habeas corpus relief. Firstly, the Court should reject a rigid, formal, categorical analysis of cabining the 8th amendment to having applicability solely in "criminal proceedings." Secondly, even with such an analysis, my client is detained, an immigration court has found it supposedly lacks jurisdiction to grant bond, forcing my client to remain detained during the pendency of a proceeding regarding the "charges" the Department of Homeland Security levies against him. These factors make this a quasi-criminal proceeding in all but formal categorization.

49. The Court can examine several cases in support of the proposition that the 8th amendment is a basis for habeas relief out of immigration detention in this case. See Justice Douglas's dissent in *Hariasiades v. Shaughnessy*[34], *see also Estelle v. Gamble*[35], *Helling v. McKinney*[36]; *Jones v. Cunningham*, 371 U.S. 236, 238–40 (1963) (noting that habeas corpus is not limited to situations where the applicant is in custody, but can be used by aliens, members of the military and other situations where one's liberty is restrained); *Bell v. Wolfish*, 441 U.S. 520, 526 n.6 (1979) (Supreme Court has "left for another day the question of the propriety of using a writ of habeas corpus to obtain review of the conditions of confinement, as distinct from the fact or length of the confinement itself.", also at page 535 noting pretrial detainees "may not be punished prior to an adjudication of guilt in accordance with due process of law."); *but see Nelson v. Campbell*, 541 U.S. 637 (2004) (challenges to conditions of confinement are better reserved for a Biven's claim); *Farrow v. West*, 320 F.3d 1235, 1238 (11th Cir. 2003) (deliberate indifference claim raised in 42 U.S.C. § 1983 complaint); *Campbell v. Sikes*, 169 F.3d 1353, 1361 (11th Cir. 1999) (same).

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[34] Hariasiades v. Shaughnessy, 342 U.S. 580, 598-600 (1952) Justice Douglas (dissent) ("The power of deportation is … an implied one. The right to life and liberty is an express one. Why this implied power should be given priority over the express guarantee of the Fifth Amendment has never been satisfactorily answered … The expulsion of a race may be within the inherent powers of a despotism. History, before the adoption of this constitution, was not destitute of examples of the exercise of such a power, and its framers were familiar with history, and wisely … they gave to this government no general power to banish … Banishment is punishment in the practical sense. It may deprive a man and his family of all that makes life worthwhile.")

[35] Estelle v. Gamble, 429 U.S. 97, 106 (1976) (Describing the deliberate indifference standard for Eighth Amendment claims based on deliberate indifference to serious medical needs).

[36] Helling v. McKinney, 509 U.S. 25, 33 (1933) (Even where the harm has not yet occurred, a prisoner can still file a successful Eighth Amendment claim regarding the conditions of his or her confinement, recognizing a remedy for unsafe conditions where a tragic event has not yet occurred).

VIII. CLAIMS FOR RELIEF

COUNT ONE: Violation of Alvarez v. Warden and 8 U.S.C. § 1226(a)

50. Petitioner incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

51. By erroneously classifying Petitioner's detention as under 8 U.S.C. § 1225(b), the immigration judge violated Alvarez v. Warden, depriving Petitioner of his right to seek bond under that case and under 8 U.S.C. § 1226(a).

52. Therefore, this Court can award habeas corpus relief. 28 U.S.C. § 2241.

COUNT TWO: Violation of Fifth Amendment Due Process

53. Respondents are unlawfully detaining the Petitioner by depriving him of a bond hearing under 8 U.S.C. § 1226(a) and erroneously considering him to be bound by 8 U.S.C. § 1225(b). "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint- lies at the heart of the liberty that Clause protects." *Zadvydas*.

54. Because Petitioner has a due process right to request bond, and this due process right is violated by his detention, this Court may award habeas corpus relief. 28 U.S.C. § 2241; see also U.S. Const. Amend. V. The Due Process Clause entitles aliens to due process in deportation proceedings. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Demore v. Kim*, 538 U.S. 510 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *see also Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (Criminal law case in which the Supreme Court noted in dicta that "At the least, due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed.") See also *United States v. Salerno*, 481 U.S. 739, 746 (1987) ("[I]mpermissible punishment before trial" violates substantive due process protections.). In *Salerno*, the Court analyzed whether the Bail Reform Act of 1984 complied with the requirements of Fifth Amendment due process. Justice Rehnquist writing for the majority held the Bail Reform Act of 1984 did *not* violate the substantive due process clause,

reasoning: "[p]reventing danger to the community is a legitimate regulatory goal and the incidents of detention are not excessive in relation to that goal, **since the Act carefully limits the circumstances under which detention may be sought to the most serious of crimes, the arrestee is entitled to a prompt hearing, the maximum length of detention is limited by the Speedy Trial Act, and detainees must be housed apart from convicts**. [emphasis added]. Thus, the Act constitutes a permissible regulation, rather than impermissible punishment." Id.

55. Unlike Salerno, the interpretation of 8 U.S.C. § 1225(b) put forth by the immigration judge, and by BIA in Yajure Hurtado, does not "carefully limit" the circumstances of detention. It does the opposite and transmutes out of the narrowly-carved statutory standard of Section 1225(b) a de facto general rule of detention without bond, in sheer disregard of the mandates of Constitutional due process or the plain text of 8 U.S.C. § 1226(a).

56. Alternatively, the Court may award habeas relief because the immigration courts and Board of Immigration Appeals are unable or unwilling to provide non-citizens with due process of law.

COUNT THREE: Violation of the Eighth Amendment

57. The Eighth Amendment provides "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. Amend. VIII.

58. By denying Petitioner the right to any amount of bail and erroneously applying 8 U.S.C. § 1225(b) to him, Respondents violate the Eighth Amendment prohibition on excessive bail and on the imposition of cruel and unusual punishment.

59. Therefore, the Court may base its grant of habeas corpus relief on the Eighth Amendment. See 28 U.S.C. § 2241.

IX. PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring Respondents to release Petitioner within three days;

c. Alternatively, issue an order under which this Court will conduct a Section 1226(a) hearing of its own,

d. Alternatively, issue an order requiring Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a),

e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted this 15th of June 2026.

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

I represent Petitioner Paul Perez Mejia 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.

Submitted this 15th of June 2026.

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