UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Juan Gabriel Cayamcela Caceres Petitioner, v. Markwayne Mullin, in his Official Capacity, Secretary of the U.S. Department of Homeland Security; Todd Blanche, in his Official Capacity, Acting Attorney General of the United States; Todd M. Lyons, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement. Respondents.	Case No. (To be Assigned) Judge: Hon. _____ Magistrate Judge: _____ No request for jury trial **PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** **ORAL ARGUMENT REQUESTED**

COMES NOW, Petitioner, Juan Gabriel Cayamcela Caceres, brings this Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief pursuant to 28 U.S.C. § 2241; the All Writs Act, 28 U.S.C. § 1651; the Immigration and Nationality Act ("INA") and regulations thereunder; the Administrative Procedure Act; and the Suspension Clause of the Constitution, U.S. Const. Art. I § 9, cl. 2. The efforts to detain and remove Petitioner constitute a "severe restraint" on his individual liberty such that Petitioner is "in custody" of the Respondents in violation of the . . . laws of the United States. *Hensley v. Municipal Court,* 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241, including the Immigration Nationality Act, 8 U.S.C. § 1101 *et seq.*; the

Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*; and the Due Process Clause of the Fifth Amendment of the United States Constitution.

1. Petitioner was detained by ICE on Saturday, June 20, 2026, in East Meadow, New York, as he was on his way to work. Upon information and belief, he appears in the ICE check-in system; however, his exact detention location does not appear, as the ICE Online Detainee Locator provides no facility information, and he therefore seems to be held somewhere within either Nassau County or Suffolk County. Upon information and belief, Petitioner is being held at 535 Federal Plaza, Central Islip, New York. Any motion for bond filed by Petitioner would, upon information and belief, be denied for lack of jurisdiction if Respondents classify Petitioner, as they have classified other similarly situated long-term residents, under 8 U.S.C. § 1225(b)(2)(A) pursuant to the Board of Immigration Appeals' decision in *Matter of Yajure-Hurtado,* 29 I&N Dec. 216 (BIA 2025). In that case, the Board held that Immigration Judges lack jurisdiction to redetermine custody for noncitizens classified as "applicants for admission" under section 235(b)(2) of the Immigration and Nationality Act.

2. The United States Court of Appeals for the Second Circuit recently held in *Cunha v. Freden,* No. 25-3141 (2d Cir. Apr. 28, 2026), that 8 U.S.C. § 1225(b)(2)(A) does not authorize the mandatory detention of long-term interior residents, including individuals who entered without inspection and resided openly in the community for years before arrest, and that such individuals are properly detained, if at all, under the discretionary framework of 8 U.S.C. § 1226(a). Petitioner's circumstances ecompass *Cunha*'s holding. Notwithstanding that controlling authority, DHS has continued, in some instances, to apply *Matter of Yajure-Hurtado*'s classification to similarly situated noncitizens, and undersigned counsel is aware of at least one instance in which an Immigration Judge has declined to apply *Cunha* notwithstanding its binding effect in this

Circuit. Therefore, this Court remains the venue best positioned to ensure Petitioner receives the process to which he is entitled.

3. Pursuant to this Court's inherent powers in habeas corpus proceedings, Petitioner Juan Gabriel Cayamcela Caceres respectfully requests that this Court enjoin Respondents from effectuating his removal from the United States and order his immediate release from custody, or, in the alternative, enjoin Respondents from continuing to detain him without an opportunity for bond redetermination.

4. To the extent the Immigration Court or the Board of Immigration Appeals have disclaimed, or would disclaim, jurisdiction to review or redetermine Petitioner's custody in light of *Matter of Yajure-Hurtado,* 29 I. & N. Dec. 216 (BIA 2025), Petitioner is left without an adequate or available administrative remedy, and only this Honorable Court possesses jurisdiction under 28 U.S.C. § 2241 to review the legality of his continued detention and to grant appropriate relief. *See I.N.S. v. St. Cyr,* 533 U.S. 289, 314, 121 S. Ct. 2271, 150 L. Ed. 2d 347 (2001) (recognizing federal habeas jurisdiction where no other judicial forum is available to test the legality of executive detention).

I. PARTIES

5. Mr. Juan Gabriel Cayamcela Caceres ("Petitioner") is a native and citizen of Ecuador who entered the United States without admission or parole in or about 2012, near the southern border, traveling alone, and has remained continuously and openly present in Long Island, New York, since that time, a period of approximately fourteen years. He has no criminal history of any kind. On June 20, 2026, while leaving his residence for work, Petitioner was taken into ICE custody.

6. Respondent, Markwayne Mullin, is the Secretary of the U.S. Department of Homeland Security ("DHS"), the federal agency responsible for enforcing Petitioner's arrest, detention, and removal. Respondent Mullin is sued in his official capacity. His office address is 2707 Martin Luther King Jr. Ave, SE, Washington, DC 20528-0485.

7. Respondent Todd Blanche is named in his official capacity as the Acting Attorney General of the United States. In this capacity, he is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review pursuant to section 103(g) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(g), and is the legal custodian of Petitioner. Respondent Blanche's address is U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530.

8. Respondent Todd M. Lyons is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement. In this capacity, he is responsible for the nationwide administration and oversight of immigration detention and enforcement, including the arrest and continued detention of Petitioner. Respondent Lyons is sued in his official capacity. His office address is 500 12th Street SW, Washington, DC 20536.

II. JURISDICTION & VENUE

9. The Court has jurisdiction under the Suspension Clause. The Suspension Clause provides, "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. Art. I § 9, cl. 2. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. §§ 2241 *et seq.*, as protected under Art. I § 9, cl. 2 of the United States Constitution (Suspension Clause), and federal question jurisdiction under 28 U.S.C. § 1331. This case arises under the United States Constitution; the INA, 8 U.S.C. §§ 1101 *et seq.*; the APA, 5 U.S.C §§ 701 *et seq.*; and the Due Process Clause of the Fifth

Amendment. Petitioner's current detention as enforced by Respondents constitutes a "severe restraint[] on [Petitioner's] individual liberty," such that Petitioner is "in custody in violation of the . . . laws . . . of the United States." *See Hensley,* 411 U.S. at 351 (1973); 28 U.S.C. § 2241(c)(3). Petitioner is also subject to prolonged physical detention.

10. While the Courts of Appeals have jurisdiction to review removal orders directly through petitions for review, *see* 8 U.S.C. § 1252, federal district courts have jurisdiction under 28 U.S.C. § 2241(d) to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of Respondents' conduct. *See Demore v. Kim,* 538 U.S. 510, 516–517 (2003); *Zadvydas v. Davis,* 533 U.S. 678, 687 (2001). Venue is proper in the United States District Court for the Eastern District of New York because a substantial part of the events and omissions giving rise to this action occurred in this District. 28 U.S.C. § 1391(b)(2). Upon information and belief, Petitioner is currently being held within this District.

III. FACTS GIVING RISE TO THE HABEAS PETITION

11. Petitioner is a native and citizen of Ecuador. He entered the United States without admission or parole in or about 2012, when he was approximately twenty-one years old, and has remained continuously and openly present in Long Island, New York for approximately fourteen years. He has no criminal history, poses no danger to the community, and has longstanding family and community ties. Upon information and belief, an Immigration Judge entered a removal order against Petitioner in or about 2016. At the time of filing, undersigned counsel has not yet obtained Petitioner's complete immigration court record and therefore cannot state with certainty the procedural basis for that order.

12. In or about 2023, Petitioner's mother, a lawful permanent resident of the United States, filed a Form I-130 Petition for Alien Relative on his behalf, which remains pending

before USCIS. Petitioner is also in a committed relationship with a United States citizen who is pregnant with his child and relies upon him for support.

13. On June 20, 2026, while driving from his residence in East Meadow, New York to work, Petitioner was stopped by ICE agents on a public roadway. The agents demanded identification and arrested him. No judicial warrant was presented to Petitioner at the time of arrest. Petitioner was not engaged in criminal activity, was not attempting to flee, and had lived openly in the United States for approximately fourteen years.

14. Upon information and belief, Petitioner was initially detained at a correctional facility and later transferred. The ICE Online Detainee Locator System confirms that he remains in DHS custody but does not identify his detention location. See Exhibit A.

15. Upon information and belief, Petitioner is currently detained pursuant to a prior removal order. Respondents have not identified the statutory authority under which they presently detain him, nor have they provided Petitioner any meaningful opportunity to challenge the necessity of his detention. To the extent Respondents rely upon 8 U.S.C. § 1225(b)(2)(A), such detention is unlawful under controlling authority. To the extent Respondents rely upon 8 U.S.C. § 1231, that detention remains subject to constitutional limitations and meaningful judicial review.

16. Upon information and belief, Respondents arrested Petitioner without first obtaining or presenting an administrative warrant. Petitioner maintained a fixed residence, stable employment, substantial family ties, and had resided openly in the community for approximately fourteen years. Nothing suggests that he was likely to abscond before a warrant could be obtained.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

17. 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, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

18. 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, 83 S. Ct. 822, 9 L. Ed. 2d 837 (1963), *overruled by Wainwright v. Sykes,* 433 U.S. 72, 97 S. Ct. 2497, 53 L. Ed. 2d 594 (1977), and *abrogated by Coleman v. Thompson,* 501 U.S. 722, 111 S. Ct. 2546, 115 L. Ed. 2d 640 (1991) (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).

V. APPLICABLE LAW

A. The Government May Seek to Detain Petitioner Under the Wrong Statutory Provision and Lacks Authority to Hold Him Under 8 U.S.C. § 1225(b)(2)(A).

19. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. First, 8 U.S.C. § 1226 governs the arrest and detention of individuals placed in ordinary removal proceedings before an IJ pursuant to 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are subject to discretionary civil detention and are generally entitled to a bond hearing, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, provided they cannot show an exception. *See* 8 U.S.C. § 1226(c).

20. Second, the INA 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 referred to under § 1225(b)(2). Third, 8 U.S.C. § 1231(a)-(b) governs detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)-(b).

21. This case concerns the statutory authority, if any, under which Respondents presently detain Petitioner. To the extent Respondents rely upon 8 U.S.C. § 1225(b)(2)(A), such detention is unlawful under controlling authority. To the extent Respondents rely upon 8 U.S.C. § 1231, that detention remains subject to constitutional limitations and meaningful judicial review.

22. In 2025, DHS adopted a nationwide policy asserting that noncitizens who entered the United States without inspection may be detained under 8 U.S.C. § 1225(b)(2)(A), regardless of how long they have resided in the country. The Board of Immigration Appeals adopted a similar interpretation in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

23. That interpretation has been repeatedly rejected by federal courts. Most significantly, the Second Circuit held in *Cunha v. Freden*, No. 25-3141 (2d Cir. Apr. 28, 2026), that 8 U.S.C. § 1225(b)(2)(A) does not authorize the mandatory detention of long-term interior residents who entered without inspection and later established substantial ties in the United States. Rather, such individuals are detained, if at all, under 8 U.S.C. § 1226(a).

24. Petitioner's circumstances fit within the *Cunha* framework. He entered the United States in approximately 2012, resided openly in Long Island for fourteen years, has no criminal history, and was apprehended during a routine interior enforcement encounter while traveling to work.

25. Accordingly, to the extent Respondents rely upon 8 U.S.C. § 1225(b)(2)(A), that detention is unlawful under binding Second Circuit authority.

B. Even Assuming Respondents Detain Petitioner Pursuant to 8 U.S.C. § 1231, His Detention Remains Subject to Constitutional Limitations.

26. Respondents may contend that Petitioner is detained pursuant to 8 U.S.C. § 1231 based upon a prior in absentia removal order. Petitioner does not concede that Respondents have properly classified his detention. However, even assuming arguendo that § 1231 applies, the Constitution continues to constrain the Government's authority to deprive Petitioner of his physical liberty.

27. The Due Process Clause applies to all persons physically present within the United States, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The existence of a removal order does not extinguish constitutional protections against arbitrary executive detention.

28. Petitioner had lived openly in the United States for approximately fourteen years before his arrest. He maintained a fixed residence, longstanding employment, substantial family ties, no criminal history, and was encountered while traveling to work. Respondents nevertheless seized and incarcerated Petitioner without any apparent individualized determination that immediate detention was necessary to prevent flight, protect public safety, or effectuate imminent removal.

29. The Government's reliance upon an old and previously unexecuted in absentia removal order cannot alone justify the deprivation of Petitioner's physical liberty without constitutionally adequate process. The Due Process Clause requires more than the mechanical execution of a years-old removal order where the Government has permitted an individual to live

openly in the community for years and then abruptly subjects him to incarceration without any individualized assessment of necessity. These principles are particularly important where, as here, the Respondents have abruptly deprived a long-term resident of his liberty based upon a years-old removal order that remained unexecuted for an extended period of time. Habeas review exists precisely to ensure that executive detention remains lawful, constitutionally justified, and subject to meaningful judicial scrutiny.

30. The Government may possess authority to execute a removal order. What it has not explained is why Petitioner, after residing openly in the United States for approximately fourteen years without criminal conduct, maintaining stable employment, supporting his family, and establishing substantial community ties, was suddenly deprived of his liberty without any apparent individualized determination that detention was necessary. The Due Process Clause does not permit the Government to ignore fourteen years of settled reliance, family formation, community integration, and lawful conduct and mechanically convert a dormant removal order into immediate incarceration.

C. Petitioner's Detention Violates the Fifth Amendment's Due Process Clause.

31. The Due Process Clause applies to all persons in the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. at 693; *see also Yick Wo v. Hopkins,* 118 U.S. 356 (1886). The Supreme Court declared "that the Due Process Clause protects individuals against two types of government action" giving rise to distinct claims of substantive and procedural due process violations. *United States v. Salerno,* 481 U.S. 739, 746 (1987). Thus, "the touchstone of due process is protection of the individual against arbitrary action of government … whether the fault lies in the denial of fundamental due process fairness [procedural due process] … or in the exercise of power without any reasonable

justification in the service of a legitimate government objective [substantive due process] ..." *City of Sacramento v. Lewis,* 523 U.S. 833 (1998) (citations and internal quotations omitted).

32. Procedural due process constrains governmental decisions that deprive individuals of property or liberty interests within the meaning of the Due Process Clause of the Fifth Amendment. *See Mathews v. Eldridge,* 424 U.S. 319, 332 (1976); *see also Perry v. Sindermann,* 408 U.S. 593, 601–03 (1972) (reliance on informal policies and practices may establish a legitimate claim of entitlement to a constitutionally protected interest). Infringing upon a protected interest triggers a right to a hearing before that right is deprived, and a right to meaningful process afforded at a meaningful time. *See Bd. of Regents v. Roth,* 408 U.S. 564, 569–70 (1972). "'Substantive due process' prevents the government from engaging in conduct that 'shocks the conscience,' ... or interferes with rights 'implicit in the concept of ordered liberty.'" *Salerno,* 481 U.S. at 746 (internal citations omitted).

33. Respondents' power to detain and deport someone is not limitless, nor is it shielded from judicial review. *See Calderon v. Sessions,* 330 F. Supp. 3d 944, 950 (S.D.N.Y. 2018), *appeal withdrawn sub nom. Villavicencio Calderon v. Sessions,* No. 18-2926, 2018 WL 6920377 (2d Cir. Oct. 5, 2018) (ordering a stay of removal and release from detention); *You Xiu Qing v. Nielsen,* 321 F. Supp. 3d 451 (S.D.N.Y. 2018) (same); *S.N.C. v. Sessions,* No. 18 2018 WL 6175902 (S.D.N.Y. Nov. 26, 2018); *Compere v. Nielsen,* 2019 WL 332193, at *9 (D.N.H. Jan. 24, 2019); *Lin v. Nielsen,* 2019 WL 1958569 at *15 (D. Md. May 2, 2019) (preliminary injunction "in the public interest, as it requires DHS to comport with its own rules and regulations, and bars arbitrary and capricious action towards vulnerable undocumented immigrants"); *see also Martinez v. Nielsen,* 341 F. Supp. 3d 400 (D.N.J. Sept. 14, 2018); *Fatty v. Nielsen,* 2018 WL 3491278 at *2 (W.D. Wash. Jul. 20, 2018); *Gutierrez-Soto v. Sessions,* 317 F. Supp. 3d 917, 933–35 (W.D. Tex.

2018); *Jimenez v. Nielsen,* No. CV 18-10225-MLW, 2018 WL 4539687 (D. Mass. Sept. 21, 2018); *Sied v. Nielsen,* 2018 WL 1142202 (N.D. Cal. Mar. 2, 2018); *Ragbir v. Sessions,* 2018 WL 623557 (S.D.N.Y. Jan. 29, 2018); *Ibrahim v. Acosta,* No. 17-CV-24574, 2018 WL 582520 (S.D. Fla. Jan. 26, 2018); *Chhoeun v. Marin,* 306 F. Supp. 3d 1147 (C.D. Cal. 2018); *Rombot v. Souza,* 296 F. Supp. 3d 383 (D. Mass. 2017).

34. "Habeas corpus is at its core, an equitable remedy." *Schlup v. Delo,* 513 U.S. 298, 319 (1995). Judges have broad discretion to fashion an appropriate remedy. It may extend beyond simply ordering the release of a petitioner, *Carafas v. La Vallee,* 391 U.S. 234 (1968), and is to "be administered with the initiative and flexibility essential to ensure that miscarriages of justice within its reach are surfaced and corrected." *Harris v. Nelson,* 394 U.S. 286, 291 (1969). Habeas corpus "never has been a static, narrow, formalistic remedy; its scope has been to achieve its grand purpose, the protection of individuals against erosion of their right to be free from wrongful restraints upon their liberty." *Jones v. Cunningham,* 371 U.S. 236, 243 (1963). At its historical core, habeas corpus "has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *Rasul v. Bush,* 542 U.S. 466, 474 (2004) (citations omitted). These protections extend fully to noncitizens facing executive detention. *See I.N.S. v. St. Cyr,* 533 U.S. 289, 301 (2001); *see also Martinez v. McAleenan,* 385 F. Supp. 3d 349, 355 ("Due to its talismanic significance in protecting individual liberty from unlawful detention, habeas corpus is fundamentally governed by equity. The Supreme Court has granted the writ when justice has so required.") (*citing Munaf v. Geren,* 128 S. Ct. 2207 (2008) and *Carafas v. LaVallee,* 392 U.S. 234 (1968)). The Supreme Court has noted the writ's "scope and flexibility, its capacity to reach all manner of illegal detention, its ability to cut through barriers of form and procedural mazes." *Harris,* 394 U.S. at 291.

35. Here, Respondents deprived Petitioner of his physical liberty while he was driving to work, despite fourteen years of open residence, stable employment, substantial family ties, no criminal history, and no indication that he posed either a danger to the community or a risk of flight. No pre-detention process was afforded and no individualized necessity determination has been identified

36. Furthermore, in *Demore,* the Supreme Court held that mandatory detention under § 1226(c) was not unconstitutional on its face, but limited its holding to a brief period of detention, stating, "Congress, justifiably concerned that deportable criminal aliens who are not detained continue to engage in crime and fail to appear for their removal hearings in large numbers, may require that persons such as respondent be detained for *the brief period* necessary for their removal proceedings." 538 U.S. at 513 (emphasis added). The Court described the "brief period" that it held valid: "in the majority of cases," detention pursuant to § 1226(c) in 2003 "lasts for less than . . . 90 days." *Id.* at 529.

37. Even if the Government were correct in placing Petitioner under § 1225(b), *Demore* expressly applies only to § 1226(c) detainees and is limited to brief, finite detention; it does not authorize indefinite, pre-hearing detention of long-term residents arrested years or decades after entry. *Demore* addressed only individuals detained under 8 U.S.C. § 1226(c) based on specified criminal convictions and expressly declined to extend its holding to non-criminal detainees under § 1226(a) or recent-entry detainees under § 1225(b). It therefore provides no justification for DHS's reliance on mandatory detention in this case.

38. In the present case, there is no indication that Petitioner's detention is temporary or limited to a brief period necessary to effectuate removal. To the contrary, Petitioner has been subjected to detention that may continue for an indefinite period, potentially extending for months

or years. Petitioner is the beneficiary of a pending Form I-130 Petition for Alien Relative filed by his mother, a lawful permanent resident, approximately three years ago. He is also in a committed domestic relationship with a United States citizen who is pregnant with his child. These filings and relationships underscore his longstanding ties to the United States, including his continuous and open residence since 2012, and highlight the significant hardship that his continued detention and any removal would impose on his family. These equities strongly favor Petitioner's release from custody.

VI. CLAIMS FOR RELIEF

Count I

Habeas Corpus Under 28 U.S.C. § 2241 (Unlawful Executive Detention)

39. Whether Respondents purport to detain Petitioner pursuant to §1225(b)(2)(A), §1226, or §1231, his detention violates the Constitution and exceeds statutory authority.

Count II

Violation of the Fifth Amendment (Substantive and Procedural Due Process)

40. Respondents' detention of Petitioner violates the Fifth Amendment by subjecting him to prolonged, mandatory, and unreviewable incarceration without an individualized custody determination.

Count IV

Violation of the Suspension Clause (U.S. Const. Art. I § 9, cl. 2)

41. By eliminating any administrative review of custody and foreclosing access to an Immigration Judge, Respondents have suspended the privilege of the writ of habeas corpus as applied to Petitioner. The Suspension Clause prohibits such restrictions on habeas jurisdiction.

VII. REQUEST FOR RELIEF

42. Pending the adjudication of this Petition, Petitioner respectfully requests that the Court use its authority under 28 U.S.C. § 2243 to order the Respondents to file a return within three days, unless they can show good cause for additional time. *See* 28 U.S.C. § 2243 (order to show cause why a petition for a writ of habeas corpus should not be granted should be "returned within three days unless for good cause additional time, not exceeding twenty days, is allowed").

43. Petitioner respectfully requests that Respondents be restrained from removing him from the United States pending adjudication of his removal proceedings, if any. Premature removal would preclude him from pursuing the forms of relief for which he may be eligible and would undermine his ability to seek protection under applicable immigration laws.

44. Without this Court's intervention, the Respondents may seek to remove Petitioner in violation of law and inflict further cruel and unnecessary harm on Petitioner. Petitioner requests that this Court order that Respondents notify the Court and Petitioner's counsel five days prior to any removal of Petitioner.

45. Furthermore, Petitioner respectfully requests to be released from detention pending resolution of his immigration proceedings, if any. He has been subjected to detention despite the existence of a bona fide family-based Form I-130 petition filed on his behalf by his mother, a lawful permanent resident, and his committed domestic relationship with a United States citizen who is pregnant with his child. These circumstances underscore his statutory eligibility for lawful relief under the Immigration and Nationality Act and highlight his longstanding ties to the United States, including his continuous residence since 2012. Continued detention imposes significant hardship and interferes with his ability to meaningfully prepare and present his claims for relief.

46. Petitioner respectfully requests that this Court issue an order requiring Respondents to notify the Court and Petitioner's counsel at least five days prior to any attempt to remove him from the United States or transfer him outside this District.

VIII. EXHAUSTION OF REMEDIES

47. Petitioner's claims regarding the constitutionally inadequate process and unlawful deprivation of liberty are not subject to any statutory requirement of administrative exhaustion. *See McCarthy v. Madigan,* 503 U.S. 140, 144 (1992). To the extent that prudential concerns might lead the Court to consider exhaustion as a discretionary matter, Petitioner has taken all reasonable steps available to him within the administrative framework.

48. Moreover, neither the Immigration Judge nor the Board of Immigration Appeals has jurisdiction to adjudicate the constitutional claims raised in this habeas petition. These claims fall squarely within the purview of this Court.

49. Finally, Petitioner faces irreparable harm in the form of continued detention, psychological trauma, and the risk of premature removal before he can pursue the legal remedies available to him. Respondents have the authority to parole Petitioner under 8 C.F.R. §§ 235.3(b)(2)(iii), 1235.3(b)(2)(iii), yet have declined to do so despite his eligibility and humanitarian circumstances. Further, because the administrative process offers no meaningful opportunity for relief to the extent of the recent holding of the Board of Immigration Appeals in *Matter of Yajure-Hurtado,* 29 I&N Dec. 216 (BIA 2025), exhaustion of remedies is not required. *See McCarthy v. Madigan,* 503 U.S. 140, 146–49 (1992) (exhaustion excused where administrative remedies are inadequate or futile); *INS v. St. Cyr,* 533 U.S. 289, 314 (2001).

IX. REQUEST FOR ORAL ARGUMENT

50. Petitioner respectfully requests oral argument on this Petition.

X. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus on the ground that Petitioner's continued detention violates the Due Process Clause and order Petitioner's immediate release;
3. In the alternative, issue injunctive relief ordering Respondents to immediately release Petitioner on the ground that his continued detention violates the Due Process Clause;
4. In the alternative, order Respondents to provide Petitioner with a prompt, constitutionally adequate, individualized bond hearing under 8 U.S.C. § 1226(a) at which the Government bears the burden of justifying continued detention;
5. Enjoin Respondents from removing Petitioner from the United States;
6. Order Respondents to file a return within three days pursuant to 28 U.S.C. § 2243;
7. Declare that the process as applied to Petitioner by Respondents violates the Suspension Clause, the Due Process Clause of the Fifth Amendment, the INA, the APA, and federal regulations;
8. Issue a writ of habeas corpus directing Respondents to pursue a constitutionally adequate process to justify adverse immigration actions against Petitioner;

9. Order Respondents to provide five days of notice to the Court and Petitioner of his imminent removal or transfer outside this District;

10. Award Petitioner his costs and reasonable attorney's fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. §2412, or other statutes; and

11. Grant such further relief as the Court deems just and proper.

Dated: June 22, 2026

Respectfully submitted,

/s/ Andrea C. Soto

By: _____

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