

RAMIREZ-SMITH LAW
NIKKI R. SMITH, ISB: 9030
NSMITH@NRSDDT.COM
CASEY PARSONS, ISB: 11323
CPARSONS@NRSDDT.COM
JACOB ROURK, ISB: 12585
JROURK@NRSDDT.COM
444 W. Iowa Ave.
Nampa, ID 83686
208-461-1883

Attorneys for Petitioner

**UNITED STATES DISTRICT COURT
FEDERAL DISTRICT COURT OF IDAHO**

Marco Antonio CURIEL GUZMAN,

Petitioner,

v.

Ruben LEYVA, Field Office Director of
Enforcement and Removal Operations, Salt
Lake City Field Office, Immigration and
Customs Enforcement; Kenneth PORTER,
Acting Director of the Boise U.S. Immigration
and Customs Enforcement Field Sub-Office;
Markwayne MULLIN, Secretary, U.S.
Department of Homeland Security; Todd
BLANCHE, *acting* U.S. Attorney General;
Mike HOLLINSHEAD, Sheriff of Elmore
County,

Respondents.

Case No. 1:26-cv-00411

**PETITION FOR WRIT OF
HABEAS CORPUS**

1. This Petition for a Writ of Habeas Corpus for an Alien Detainee poses no unique issues meaningfully differentiating it from those previously considered by this Court where immediate release was ordered.

2. Petitioner, Marco Antonio Curiel Guzman, was detained by ICE on July 2nd, 2026. On information and belief, Petitioner arrived into the United States without admission or parole after inspection in or around March of 2007 without inspection, having been brought over by his parents at the age of 8. Exhibit A. He was served a notice to appear for immigration proceedings on July 20, 2023. *Id.*
3. Petitioner applied for cancellation of removal and adjustment of status for certain nonpermanent residents on April 4, 2024. Cancellation of removal is available to certain aliens present in the United States for 10 years or more prior to DHS's service on them of a notice to appear if their removal would cause exceptional and extremely unusual hardship to a United States citizen qualifying relative, such as a minor child. *See* 8 U.S.C. § 1229b(b). In Petitioner's case, he is the sole care provider for his children, as their mother is in criminal custody awaiting a trial date for 2 felonies and 2 misdemeanors, including aggravated battery. Petitioner moreover divorced from his wife after she physically abused him in the presence of their children. Given that history and present circumstance, Petitioner's children rely on his support inordinately, both emotional and financial.¹ Petitioner's children are temporarily residing with his mother, their grandmother, since Petitioner is now in the custody of Respondents.

¹ This history also means that Petitioner is *prima facie* eligible for VAWA cancellation of removal, which requires "extreme" rather than "extreme and exceptional" hardship in cases where the applicant was battered or subject to extreme cruelty. 8 U.S.C. § 1229b(b)(2). Likewise, while he has not yet applied, Petitioner would be *prima facie* eligible to obtain a U-visa for victims of qualifying criminal activity who cooperate with investigation or prosecution of the crime. 8 U.S.C. § 1101(a)(13)(U). *See also Immigration Center for Women & Children v. Mullin*, No. 2:25-cv-09848-AB-(ASx) Dkt. No. 57 (C.D. Cal., 2026) (granting certification for class of individuals with pending U-visas who ICE detains or seeks to detain, preventing such detention while such petitions are pending).

4. After filing his application, Petitioner was scheduled for an individual hearing on the merits of his case for July 19, 2027, and remained scheduled for the same until his detention today.
5. Petitioner was previously encountered and detained by ICE, who released him on bond on July 2023, the same date he was served a notice to appear. Exhibit C.
6. Since the date of Petitioner's release on bond, he has no new criminal convictions. He has been charged with a misdemeanor DUI and injury to child, but has not yet been arraigned or plead to those charges. He was released on bond from the criminal court when ICE redetained him. There is no indication that Respondent took any steps to provide Petitioner with a hearing or other due process before revoking the bond they previously issued him and redetaininig him subject to a new, erroneous legal framework.
7. Petitioner is detained at the Elmore County Detention Center pending his imminent relocation to the Northwest ICE Processing Center in Tacoma, Washington. *See* Exhibit B.
8. Respondents continue to subject those who entered the United States without inspection to the mandatory detention provisions under 8 U.S.C. § 1225(b), instead of that to which they have always been subjected prior and which provides for release on bond, 8 U.S.C. § 1226(a).
9. Petitioner asks this Court to order his immediate release from custody, being subjected erroneously to mandatory detention without any initial determination made by ICE in the first instance, and without the possibility for redetermination before an Immigration Judge, and thereby violating his due process liberty interests.

10. DHS policy issued on July 8, 2025 instructs all Immigration and Customs Enforcement (ICE) employees to designate anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection as subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
11. Likewise, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
12. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who entered the United States years ago. Instead, such individuals are subject to § 1226(a), which allows for release on conditional parole or bond.
13. Respondent's legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like the Petitioner.
14. Petitioner asks the Court to issue a writ of Habeas Corpus by determining that his detention is not justified because he should have been detained under 8 U.S.C. § 1226(a) only following an initial detention determination by ICE. Moreover, as articulated by the Idaho District Court, "Respondents' refusal to abandon their unlawful policy [necessitates that] Detainees will continue to file nearly identical habeas petitions then sit in jail waiting for a judicial decision. This in itself represents a substantial deprivation of liberty, and ordering a bond hearing instead of release would further exacerbate the

delay.” *Avalos Sanchez v. Leyva*, 1:26-cv-00361-BLW Dkt. No. 12 at 6 (D. Idaho, 2026); *See also, Gamino Padilla v. Knight*, 1:26-cv-00355-DCN, Dkt. No. 5 (D. Idaho, 2026) (“[I]n the context of illegal aliens subject to removal proceedings, the Government needs to choose whether detention is pursuant to § 1225 or 1226 – and they need to do so beforehand, if not shortly [after detention]. The Court’s frustration all along has been that DHS/ICE seems to be taking a ‘detain first, figure out later’ approach . . . DHS/ICE cannot keep blindly detaining people, hoping that some later investigation will suggest the person was otherwise detainable all along. Such an approach is contradicted by general principles of fairness and flies in the face of due process.”).

15. Moreover, that Petitioner has no known criminal history, Respondents’ have no justification whatsoever for their detention of him beyond their erroneous interpretation of law to which they tightly cling.
16. Petitioner set forth reasons below to be wary of the integrity and due process which could possibly be provided him in a bond hearing. Still, in the alternative to immediate release, Petitioner requests the Court to order Respondents to provide him with a constitutionally sufficient bond hearing before a neutral Immigration Judge under § 1226(a) within seven days.

JURISDICTION AND VENUE

17. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Elmore County Jail in Mountain Home, Idaho.
18. This Court has subject matter jurisdiction under 28.U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

19. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
20. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court of Idaho, the judicial district in which Petitioner currently is detained.

REQUIREMENTS OF 28 U.S.C. § 2243

21. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
22. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “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).

PARTIES

23. Petitioner, Marco Antonio Curiel Guzman, is a native and citizen of Mexico who entered the United States without admission almost 20 years ago, in 2007. Petitioner was taken

into ICE custody today, July 2nd 2026. He is in the custody, and under the direct control, of Respondents and their agents.

24. Respondent Mike Hollinshead is the Sheriff of Elmore County, and he has immediate physical custody of Petitioner pursuant to the Elmore County detention facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.
25. Respondent, Kenneth Porter, is sued in his official capacity as the Director of the Boise Field Office of U.S. Immigration and Customs Enforcement. Respondent is a legal custodian of Petitioner and has authority to release her.
26. Respondent, Ruben Leyva, is sued in his official capacity as the Director of the Salt Lake City Field Office of U.S. Immigration and Customs Enforcement. Respondent is a legal custodian of Petitioner and has authority to release her.
27. Respondent, Markwayne Mullin, is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner.
28. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

29. Petitioner is a Mexican citizen and national who entered the United States in 2007 without admission or parole after inspection by an immigration officer. He is a resident of the State of Idaho.
30. He was served a notice to appear for immigration proceedings on July 20, 2023, wherein he for cancellation of removal and adjustment of status for certain nonpermanent residents, for which he is prima facie eligible due to his children's reliance on him since their mother is in criminal custody.
31. Since the date of Petitioner's release on bond, he no new criminal convictions. He has been charged with a misdemeanor DUI and injury to child, but has not yet been arraigned or plead to those charges. On information and belief, he was released on bond from the criminal court when ICE redetained him. There is no indication that Respondent took any steps to provide Petitioner with a hearing or other due process before revoking the bond they previously issued him and redetaininig him subject to a new, erroneous legal framework.
32. Petitioner now seeks a writ of habeas corpus from this Court, ordering that his detention without bond available on jurisdictional grounds is unlawful, and that the denial of his bond on the merits in the alternative was violative of due process, such that his injury could not be properly redressed by a subsequent and additional bond hearing.

LEGAL FRAMEWORK

33. The Supreme Court has stated that it “‘is well established the Fifth Amendment entitles aliens to due process of law in deportation proceedings.’” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from

imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.”). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“both removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious”).

34. Due process therefore requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* at 690 (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.
35. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.
36. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *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, *see* 8 U.S.C. § 1226(c).
37. 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).

38. Last, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)-(b).
39. This case concerns detention provisions 1226(a) and 1225(b)(2).
40. 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(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
41. Following 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. 10312, 10323 (Mar. 6, 1997).
42. Thus, in the decades that followed, most people who entered without inspection— unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

43. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.
44. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”² claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades
45. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.
46. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.
47. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not

² Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

48. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Hernandez Alvarez*, No. 25-14065 (11th Cir., May 6, 2026); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL

2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same); *but see Buenrostro-Mendez v. Bondi*, --- F.4th ---, 2026 WL 466487 (5th Cir. Feb. 6, 2026).

49. Courts have overwhelmingly rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.
50. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, which “decided[e] the inadmissibility or deportability of a[] [noncitizen].”
51. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). 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*, 779 F. Supp.

3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Gomes*, 2025 WL 1869299, at *7.

52. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without inspection.
53. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who 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).
54. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, whose removal proceedings are ongoing and who is currently at liberty inside the United States.
55. Immediate release here is the most appropriate remedy.
56. Biased, arbitrary outcomes are now commonplace to the Immigration Courts around the nation more generally, and encouraged by the Attorney General and EOIR administrators who condition IJs' and BIA members' continued employment on their decision-making; specifically, the frequency with which they deny relief and order removal. Former Baltimore IJ Emmett Soper stated, "I think the current administration of the immigration courts does not fundamentally see the immigration courts as neutral decision-makers; . . . they see the immigration courts as a tool for this administration to advance its policy objectives."³ Former San Francisco IJ Jeremiah Johnson similarly understood "the hint that they should be hearing cases a certain way, deciding cases a certain way. Move

³ Geoff Bennett & Ali Schmitz, *Ousted Immigration Judge Describes Deepening Court Backlog*, PBS NewsHour, Nov. 12, 2025, <https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog>.

faster. Less due process, essentially.”⁴ Former Annandale IJ Anam Petit observed: “There’s a climate of fear . . . Judges feel like, if they step a toe out of line right now . . . or they’re one [asylum] grant away from being fired because of the arbitrary nature of the firings.”⁵ As of April 13, 2026, the Trump administration had dismissed more than 100 experienced immigration judges out of about 750 in place at the start of 2025, and this does not include those judges who left of their own accord through retirement or those that voluntarily left the bench.⁶ There appears no indication of restablization at this point, with more Immigration Judges exiting their roles all the time. The IJ’s decision in this matter does not come in a vacuum, but is only the most recent of a torrent of congruent actions by the agency.

57. The Idaho District Court has several times noted, of late that “this pattern casts serious doubt on the integrity” of such bond hearings. *See, Garcia Ortiz v. Henkey*, No. 26-cv-00043-BLW, Dkt. 28 at 10-11 (D. Idaho, 2026); *See also, Ochoa Yepes v. Leyva*, 1:26-cv-00299-DCN, Dkt. 10 at 3 (D. Idaho, 2026) (Petitioner “should remain a liberty and be taken into custody only after a determination that his parole status in the United States has been rescinded or revoked . . . Moreover, as previously explained, the Court is not

⁴ 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/>.

⁵ 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).

⁶ Nicholas Nehamas et. al, *How Trump Purged Immigration Judges to Speed Up Deportations*, *New York Times*, April 9, 2026, https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html?unlocked_article_code=1.a1A.s3Hs.sqD3-VVgPTof&smid=url-share.

confident in the fairness and efficacy of bond hearings at this time.”) (Internal citations omitted).

58. In particular, the Tacoma Immigration Court’s bond grant rate has dropped most recently to a staggering 1%. Exhibit D.⁷ Such outcomes, comport with the personal experience of Counsel Nikki Ramirez Smith, who has not seen a single client with any criminal history released on bond in any amount from Tacoma since at least the beginning of 2026.

Exhibit E. Taken in the context set forth, these statistics render irrational any contention that Petitioner would be given a fair bond hearing, even if one is ordered by this Court.

59. Due process requires a fair and neutral decision maker. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242, 100 S. Ct. 1610, 64 L. Ed. 2d 182 (1980) (“The requirement of neutrality has been jealously guarded by this Court.”); *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001) (“A neutral judge is one of the most basic due process protections.”) (citing *Marincas v. Lewis*, 92 F.3d 195, 204 (3d Cir. 1996) (abrogated on other grounds)).

Neutrality is absent where the Judge acts as an advocate for one side or where bias or prejudice prevents the judge from considering relevant facts or law. See *Reyes-Melendez v. INS*, 342 F.3d 1001, 1007-08 (9th Cir. 2003) (due process absent where Immigration Judge’s moral contempt for litigant based on his infidelity prevented consideration of relevant facts and made judge a “partisan adjudicator.”) (citations omitted); *United States v. Singer*, 710 F.2d 431, 436-37 (8th Cir. 1983) (“a trial judge cannot assume the mantle of an advocate”).

⁷ Exhibit D is a screenshot of TRAC’s webpage “Immigration Court Bond Hearings and Related Case Decisions.” The data is sorted as: Bond Hearing Immigration Court State, Washington; Nationality, All-Washington; Bond Hearing Outcome, Granted. Scrolling over May of 2026 denotes the bond grant rate in that month was 1.39%.

60. Finally, and apart from Respondents' unwillingness to provide a constitutionally satisfactory bond hearing to individuals like Petitioner, "Respondents' refusal to abandon their unlawful policy [necessitates that] Detainees will continue to file nearly identical habeas petitions then sit in jail waiting for a judicial decision [which] in itself represents a substantial deprivation of liberty, [such that] ordering a bond hearing instead of release would further exacerbate the delay." *Avalos Sanchez v. Leyva*, 1:26-cv-00361-BLW Dkt. No. 12 at 6 (D. Idaho, 2026); *See also, Gamino Padilla v. Knight*, 1:26-cv-00355-DCN, Dkt. No. 5 (D. Idaho, 2026) ("[I]n the context of illegal aliens subject to removal proceedings, the Government needs to choose whether detention is pursuant to § 1225 or 1226 – and they need to do so beforehand, if not shortly [after detention]. The Court's frustration all along has been that DHS/ICE seems to be taking a 'detain first, figure out later' approach . . . DHS/ICE cannot keep blindly detaining people, hoping that some later investigation will suggest the person was otherwise detainable all along. Such an approach is contradicted by general principles of fairness and flies in the face of due process.").

CLAIMS FOR RELIEF

COUNT ONE

61. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs
62. 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 the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and

placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

63. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT TWO

64. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

65. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

66. Petitioner was arrested and is detained in violation of his rights under the Fourth Amendment of the United States Constitution.

67. Respondents’ “detain first, figure out later” approach they have employed is in itself a due process violation which can only be remedied by Petitioner’s immediate release from custody. *See Gamino Padilla v. Knight*, 1:26-cv-00355-DCN, Dkt. No. 5 (D. Idaho, 2026).

68. Respondents’ continue to abrogate their duty to provide meaningful bond redeterminations which comport with due process, even after district court decisions granting habeas corpus relief to individuals like Petitioner.

69. Petitioner has a fundamental interest in liberty and being free from official restraint.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Stay Petitioner's transportation to another jurisdiction until this Court resolves his petition for a writ of habeas corpus;
- (3) Issue an Order to Show Cause ordering Respondents to show why this Petition should not be granted within three days.
- (4) Declare that denial of Petitioner's detention under 8 U.S.C. § 1225(b) denies him his statutory rights under 8 U.S.C. § 1226(a).
- (5) Declare that Petitioner's detention without reason given or present violates the due process clause of the Constitution.
- (6) Declare that Petitioner's detention is unlawful.
- (7) Issue a writ of habeas corpus ordering Respondents to release Petitioner immediately;
- (8) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (9) Grant any further relief this Court deems just and proper.

Respectfully submitted this 2nd day of July 2026,

/s/Jacob C. Rourk
Jacob C. Rourk
Attorney for Petitioner

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

I represent Petitioner, John Jairo Suarez Rueda, 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.

Respectfully submitted this 2nd day of July 2026,

/s/Jacob C. Rourk
Jacob C. Rourk
Attorney for Petitioner