

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

LUISA ANNETTE ALVAREZ FELIX
IN REPRESENTATION OF JOAN ALBERTO
ZORRILA-LORA
Petitioners,

v.

Civil No. 3:26-cv-01041

REBECCA GONZÁLEZ RAMOS, Special Agent in Charge of Homeland Security Investigations in San Juan, **GARRET J. RIPA** is Miami Field Office Director for U.S. Immigration and Customs Enforcement, overseen Puerto Rico's Immigration and Removal Operations, ICE Office in GSA Guaynabo Detention Facility; **TODD LYONS** in his official capacity, Acting Director for U.S. Immigration and Customs Enforcement; **KRISTI NOEM**, Secretary of Homeland Security; **PAMELA BONDI**, United States Attorney General; **W. STEPHEN MULDROW**, US District Attorney for the District of Puerto Rico; **ROBERTO VAQUERO** Director of Field Operations Customs and Border Protection; *all in their official capacities*

PETITION FOR A WRIT OF
HABEAS CORPUS

**URGENT MOTION TO STAY
TRANSFER OF PETITIONER
TO OTHER JURISDICTION**

Respondents.

**PETITIONER'S RESPONSE TO GOVERNMENT MEMORANDUMS AND OPPOSITIONS
TO *PETITION FOR WRIT OF HABEAS CORPUS*, AT DKT. 21, AND
PETITIONER'S *URGENT MOTION* AT DKT. 24**

TO THE HONORABLE COURT:

Come now the Petitioners, through the undersigned legal counsels and respectfully state, allege and pray as follows:

On January 30, 2026 the Petitioner was notified with the Government Memorandums and Oppositions at Dkts. 21 and 24. In compliance with the Court Order the Petitioner's Response follows:

- I. Petitioner Is Detained Pursuant to § 1226(a), Which Requires an Individualized Bond Hearing.**

Mr. Joan Zorrilla-Lora alleges his detention violates his constitutional rights and the Immigration and Nationality Act (INA) as well as his due process rights, his right to access to counsel under the Fifth Amendment to the United States Constitution and adequate conditions of confinement. He requested, in part, an immediate TRO prohibiting the Government, their agents, and employees from transferring Petitioner out of the District of Puerto Rico until he receives a bond hearing and until his writ of habeas corpus is fully reviewed, which was granted by the Court at Dkt. 7.

To assess whether Petitioner is likely to succeed on the merits in his request for a bond hearing, the Court addressed the threshold question of which statute provides the Government with authority to detain Mr. Zorrilla Lora.

The Government possesses the authority to detain certain noncitizens according to the Immigration and Naturalization Act (INA). Importantly, the INA differentiates between *mandatory* detention and *discretionary* detention. Only the latter provides a detainee with an entitlement to a bond hearing before an Immigration Judge. The statutory provisions controlling this distinction are: 8 U.S.C. §§ 1225 and 1226.

Section 1225 governs the detention of immigrants who have not been “admitted” under the INA. It provides for inspection of “[a]ll [noncitizens] . . . who are *applicants for admission* or otherwise seeking admission or readmission to or transit through the United States.” 8 U.S.C. § 1225(a)(3).

An “**applicant for admission**” is defined as “[non-citizen] present in the United States who has not been admitted or who arrives in the United States” *Id.* § 1225(a)(1). Notably, Section 1225(b)(2) marshals a **mandatory** detention scheme by providing that, for noncitizens *who are “applicant[s] for admission*, if the examining immigration officer determines that a [noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] shall be detained for a proceeding under section 1229a [for full removal proceedings].”

Id. § 1225(b)(2)(A). Detention under Section 1225(b)(2) is generally mandatory, and the statute does not provide for bond hearings. *See Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018).

On the other hand, contrary to the reasoning of the Government in their Memorandum (Dkt.21), **Section 1226** governs the “usual removal process” and *affords noncitizens procedural protections not available in expedited removal proceedings*. *See Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020).

Under Section 1226, a person who is “arrested and detained” faces the following outcomes:

- the Attorney General “may continue to detain the arrested [noncitizen]”;
- the Attorney General “may release the [noncitizen] on bond of at least \$1,500”; or
- the Attorney General “may release the [noncitizen] on conditional parole.” 8 U.S.C. §

1226(a).

Therefore, a “discretionary detention framework for noncitizens” pursuant to Section 1226(a), exists. *Gomes v. Hyde*, No. 1:25-CV-11571, 2025 WL 1869299, at *1 (D. Mass. July 7, 2025).

Section 1226(a) of INA entitles a noncitizen to an initial bond hearing before a *neutral* decisionmaker, the *opportunity to be represented by counsel and to present evidence*, the right to appeal, and the right to seek new hearing when circumstances materially change. *See also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022); *Doe v. Tompkins*, 11 F.4th 1, 2 (1st Cir. 2021) (holding that *the Government bears the burden of proving at an initial bond hearing held under Section 1226(a) that (1) a noncitizen poses a danger to the community based on clear and convincing evidence, or (2) the noncitizen poses a flight risk based on a preponderance of the evidence*); *Brito v. Garland*, 22 F.4th 240, 246 (1st Cir. 2021) (same).

Noncitizens involved in specific criminal activities are not covered by the general rule of discretionary detention under Section 1226(a). 8 U.S.C. § 1226(c)(1).

Respondents attempt to argue that Petitioner is “an applicant for admission” who is “seeking admission” and thus subject to the mandatory detention scheme under § 1225(b)(2)(A). Respondents repeat a novel interpretation, rejected by numerous federal courts, that § 1225 governs “applicants for admission” while § 1226 governs those “who have been admitted.”³ But as set forth in greater detail in our motions, § 1226 applies to noncitizens inside the country, including those who entered without inspection, while § 1225 is limited to noncitizens seeking admission at a border or port of entry.⁴

Respondents’ arguments to the contrary are unavailing. As the overwhelming majority of courts that have considered this issue have determined, Respondents’ reading of the statute is contrary to the plain meaning of the text, basic principles of statutory interpretation, and well-established federal precedent. *See, e.g., Armando Becerra Vargas v. Bondi*, SA-25-cv-1023, 2025 WL 3300446 (W.D. Tex. Nov. 12, 2025) (Bemporand, MJ.) (collecting cases and noting that “the majority of the district courts in the Fifth Circuit—and the courts in this District—that have considered the issue” “have rejected Respondents’ broad new interpretation of § 1252(b)(2)”), *report and recommendation adopted sub nom. Vargas v. Bondi*, SA-25-cv-1023, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025) (Biery, J.); *Covarrubias v. Vergara*, 5:25-cv-112, 2025 WL 2950097, at *3 (S.D. Tex. Oct. 8, 2025) (Kazen, J.) (same).

Furthermore, Respondents’ interpretation of “seeking admission” is at odds with background constitutional principles. Respondents posit that, on Petitioner’s reading of the statute would now bestow him with the benefit of additional process. However, it is well established “that once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). By providing additional

process for noncitizens that have entered the country, the relevant statutory framework aligns with well-established constitutional principles that do the same.

In short, Respondents do not dispute that Petitioner entered the United States without inspection in 2021 and has been present and resided in the United States for more than 4 years. In other words, Petitioner was not “arriving” at a border nor “seeking admission” when he was arrested. Accordingly, Petitioner is being detained pursuant to § 1226, which requires an individualized bond hearing.

II. Petitioner’s Continued Detention Without a Bond Hearing Violates Due Process.

Petitioner has also established that his continued detention without a bond hearing violates his right to procedural due process.

On January 23, 2026, Petitioner filed his *Temporary Restraining Order* (Dkts. 2 and 3) to preserve the status quo pending resolution of his *Petition for Writ of Habeas Corpus*, filed the same day. (Dkts. 1 and 3).

In his *Petition*, Mr. Zorrilla-Lora alleges that:

- (1) He is a national and citizen of the Dominican Republic;
- (2) On approximately October 13, 2021 he entered Puerto Rico without undergoing proper admission procedures;
- (3) On August 20, 2022, he married Luisa Anette Alvarez-Feliz, a United States citizen.
- (4) On September 13, 2024, USCIS approved his Petition for Alien Relative (1-130);
- (5) On June 12, 2025, United States Citizenship and Immigration Service (“USCIS”) received his application for Provisional Unlawful Presence Waiver (I-601A) and payment of the filing fee as evinced by receipt number YSC2590037159;
- (6) His I-601A waiver is currently pending for adjudication. (Dkts. 1 at Exhibits 1-3; 5-6).

On January 8, 2026, Petitioner was stopped by Carolina Municipal Police Officer Bahamundi Requena (“Officer Bahamundi”) for alleged violations of Municipal Ordinance 17 Series 2022-2023-03. (Dkt. 1 at 2). Petitioner’s Puerto Rico Driver’s License, which he provided to Officer Bahamundi, contains a distinctive purple bar reserved for non-citizens. Id. Petitioner was cited to appear at the Carolina Municipal Police Station on January 15, 2026. Id. Petitioner was arrested by United States Border Patrol agents (“BP Agents”) at the Carolina Municipal Police Station on January 15, 2026. Id. at 2-3. The Petitioner is currently in the physical custody of Respondents. Id.

Petitioner argues that his detention is a violation of his constitutional rights to due process and is not justified under the Immigration and Nationality Act. The initial citation to the police headquarters in Carolina was based on his national origin, and was issued by a police officer with no authority to act as an immigration official.

This Court initially accepted Petitioner’s claims that absent judicial intervention, he faces imminent transfer outside of the District of Puerto Rico that would cause irreparable harm by severely interfering with his right to counsel and other constitutional rights. Accordingly, the Court enjoined Respondents from transferring or relocating Petitioner outside the District of Puerto Rico. (Dkt. 7)

Contrary to the Government theory, Section 1226(a)’s discretionary regime governs the detention because Mr. Zorrilla-Lora who was arrested while residing in the United States. This interpretation aligns with the statutory distinction between arriving applicants for admission (governed by Section 1225) and noncitizens who are already present in the United States and are later arrested and detained (governed by Section 1226). Applying Section 1225(b)(2) to this factual posture would blur that distinction and render Section 1226(a) effectively redundant, contrary to basic principles of statutory interpretation. In addition, Mr. Zorrilla-Lora has no criminal record at all, which could otherwise subject him to the mandatory detention exception outlined under Section

1226(c). *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 26-27 (1st Cir. 2021); *Rodriguez-Diaz*, 53 F.4th at 1196.

Where removal and detention of a noncitizen is discretionary, and not mandatory, Section 1226(a), entitles a noncitizen to an initial bond hearing before a neutral decisionmaker, the opportunity to be represented by counsel and to present evidence, the right to appeal, and the right to seek a new hearing when circumstances materially change. *Rodriguez-Diaz*, 53 F.4th at 1202; *see also Doe*, 11 F.4th at 2.

A. THE BOND HEARING and the Futility of Administrative Remedies:

On January 21, 2026, the Immigration Court held a pre-NTA hearing even though Respondent's attorney admitted for the record that a Notice to Appear was issued by the agency and was served on Petitioner but not to the Court. The Immigration Judge heard arguments from both parties and determined that Petitioner's "requested a custody redetermination pursuant to 8 C.F. R. §1236. *After full consideration of the evidence presented*, the [Petitioner's] request for a change in custody status is hereby ordered: **Denied because the Court does not have jurisdiction**. Pursuant to Matter of YAJURE HURTADO, 29 I&N Dec. 216 (BIA 2025), respondent is an application (sic) for admission and therefore is not eligible for bond." (Emphasis added) (See Exh. 1)

It is important to inform this Court that during said hearing Respondent's counsel informed the Immigration Court that Petitioner was served with a Notice to Appear (NTA) but that the same was not filed with the Immigration Court. This NTA dated January 16, 2026, reveals that at the time of its serving to Petitioner in Puerto Rico, Respondents stated that his address was "18201 SW 12th St. Miami Florida, 33194-2700" (Exh. 2) which corresponds to the Krome Detention Center. The specific facility where they intend to detain Petitioner, has been denounced innumerable in the nationwide pattern of dangerous and inhumane conditions that exists across the network of detention centers operated by or for ICE. This pattern has been extensively documented by human rights organization,

investigative journalists, and is reflected in the desperate account of those trapped inside.¹ The systemic failures consistently documented across the ICE detention system render any placement into ICE custody an immediate threat to a detainee's life, health, and constitutional rights.

Respondents refer that the IJ during the bond hearing celebrated on January 21, 2026, reserved Petitioner's right to appeal before the BIA. But that remedy is impossible to exhaust since the Chief Justice of the BIA, Teresa Riley who was appointed in December 2025, as recent as January 13, 2026, at 3:09 pm reminded all immigration judges that "**Yajure-Hurtado remains binding precedent on agency adjudications.**" Any allegations regarding exhaustion of administrative remedies becomes futile in these circumstances.

Petitioner not only challenged the legality of his detention but also requested a TRO which was granted *in part* by this Court. (Dkt. 7) Equally important to Note is that Petitioner was issued a Warrant for Arrest of Alien on January 16, 2026 at 8:39 AM, prior to his detention at the Carolina Municipal Headquarters at 1:00 pm. It is through the "Order to Detain or Release Alien" that Respondents determined that they would detain Petitioner and he was assigned alien registration number "A233 127 254" and the "Event No. RAM2601000012" was created. (See Exh. 3) Notice that the alleged warrant is not signed by any official.

The Government bases its decision to not grant a bond hearing by resting upon a recent decision issued by the Board of Immigration Appeals in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This administrative decision found that Immigration Judges do not have jurisdiction over custody redeterminations for noncitizens who were present in the United States without admission. *Id.* at 220-28.

However, the Court is not bound by BIA interpretations that conflict with the statutory text or controlling circuit precedent which is what the Government proposed. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024). After a conscious analysis of the implications of the proposed

interpretation by the Government and by the BIA, district courts have rejected the approach of *Matter of Yajure Hurtado* and upheld the right to a bond hearing under circumstances akin to those of the Petitioner.¹ In a recent Order at the District Court, similar circumstances of this case, the Court issued the habeas corpus and ordered “to release Petitioner immediately pending that bond hearing.” See Case No. 26-1014 (MAJ):

"Emergency Motion for Order to Show Cause." On January 13, 2025, this Court enjoined the Defendants from transferring Petitioner out of the District of Puerto Rico until Petitioner was afforded an opportunity for a bond hearing, since 8 U.S.C. § 1226(a) entitles Petitioner to a bond hearing as of right. (ECF No. 5) (citing *Elias Escobar v. Hyde*, Civ. No. 25-12620, 2025 WL 2823324, at *3 (D. Mass. Oct. 3, 2025)). **Since the subsequent bond proceedings held before an Immigration Judge were dismissed for lack of jurisdiction, (ECF No. 8 at 2), that prior Order remains in effect. Accordingly, at this time Respondents may not transfer Petitioner out of the District.** The Court notes that in other recent cases where the Government has argued that there is no right to a bond hearing for individuals detained under circumstances similar to those of Petitioner, their arguments have been rejected again and again by various district courts. *See*, e.g., *Elias Escobar*, 2025 WL 2823324; *Moreira Aguiar v. Moniz*, 25-cv-12706, 2025 WL 2987656 (D. Mass. Oct. 22, 2025); *Tomas Elias v. Hyde*, 25-cv-540, 2025 WL 3004437 (D.R.I. Oct. 27, 2025); *Rodriguez v. Nessinger*, 25-cv-505, 2025 WL 3306576 (D.R.I. Oct. 17, 2025); *Los Caballero v. Baltazar*, 25-cv-3120, 2025 WL 2977650 (D. Co. Oct. 22, 2025); *Barco Mercado v. Francis*, 25-cv-6582, 2025 WL 3295903 (S.D.N.Y. Nov. 26, 2025). In each of those cases, federal district judges granted habeas relief and ordered the Government to comply with the well-established rule that a person detained under Section 1226(a) is entitled to a bond hearing. This Court will do the same. **Accordingly, the Court GRANTS 1 "Petition for Writ of Habeas Corpus."** Respondents are hereby **ORDERED** to provide Petitioner with a bond hearing under Section 1226(a) within 10 days of this Order. Respondents are further **ORDERED to release Petitioner immediately pending that bond hearing. The Government shall set minimal release conditions that will reasonably assure Petitioner's appearance at the bond hearing.** Respondents are further **ORDERED** to provide individualized reasons at the bond hearing as to why Petitioner is granted or denied bond. If Respondents do not provide Petitioner with a bond hearing under Section 1226(a) as hereby ordered, **or if said bond hearing is dismissed for lack of jurisdiction, Petitioner must be immediately released from detention.** No later than 1/29/2026 the Parties shall file a Joint Status Report concerning (1) the results of any bond hearing that was conducted or, if no hearing was held, advise the Court of the date Petitioner was released from custody; and (2) whether any additional proceedings in this matter are required. Signed by Judge Maria Antongiorgi-Jordan on 1/16/2026. (ao) (Entered: 01/16/2026)" (Emphasis added).

¹ *See*, e.g., *Sampiao v. Hyde*, 799 F. Supp. 3d 14, 29 n.11 (D. Mass. 2025) (noting the court's disagreement with the BIA's analysis in *Yajure Hurtado*); *Elias Escobar v. Hyde*, No. 25-CV-12620, 2025 WL 2823324, at *3 (D. Mass. Oct. 3, 2025); *Moreira Aguiar v. Moniz*, No. 25-CV-12706, 2025 WL 2987656, at *3 (D. Mass. Oct. 22, 2025); *Tomas Elias v. Hyde*, No. 25-CV-540, 2025 WL 3004437, at *3 (D.R.I. Oct. 27, 2025); *Lora-Salazar v. Ripa*, No. 26-CV-1014-MAJ (D.P.R. Jan. 13, 2026) (Docket Nos. 5, 13). In the same vein, district courts have similarly rejected the adoption of a broad interpretation of 1225(b)(2) that would, consequently, generate overlap with Section 1226(a) as to erroneously deny the noncitizen's right to a bond hearing. *See generally Jimenez v. FCI Berlin, Warden*, 799 F. Supp. 3d 59 (D.N.H. 2025); *Rodriguez v. Nessinger*, No. 25-CV-505, 2025 WL 3306576 (D.R.I. Oct. 17, 2025); *Doe v. Moniz*, 800 F. Supp. 3d 203 (D. Mass. 2025); *Loa Caballero v. Baltazar*, No. 25-CV-3120, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 2809996 (D. Mass. Oct. 3, 2025) (granting a preliminary injunction to release a Petitioner unless provided with a bond hearing compliant with *Hernandez-Lara*).

This case evidenced the futility of exhausting administrative remedies when immigration judges are ignoring the rule of law, giving more importance to the instructions received from the Board of Immigration Appeals and other sources. In addition, because Mr. Zorrilla is not a “prisoner” within the context of the Prisoners’ Litigation Reform Act (PLRA) but a civil detainee, the requirement to exhaust administrative remedies does not apply.

Finally, administrative judges of immigration have no authority to address the constitutional challenges to Mr. Zorrilla’s arrest, detention, and transfer to a different jurisdiction. See *Ozturk*: (Neither the IJ nor the BIA has “jurisdiction to decide constitutional issues.” *Rabiu v. Immigr. & Naturalization Serv.*, 41 F.3d 879, 882 (2d Cir. 1994); see also *Hinds v. Lynch*, 790 F.3d 259, 262 (1st Cir. 2015) (citing *Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992)); *Arriaga v. Mukasey*, 521 F.3d 219, 222 (2d Cir. 2008) (same).)

Based on the merits of Petitioner’s claim, it is requested that this Court deny the Respondents Memorandum and Opposition to Petition for Writ of Habeas Corpus. Moreover, when the Government has no valid arguments against the evident and irreparable harm that the Petitioner is suffering and would continue to suffer if the writ of habeas corpus is not issued. The balance of interests must favor Petitioner’s wellbeing.

B. Irreparable Harm:

Here, the “irremediable” injury would be multiple: detention; removal from this Court’s jurisdiction pending the habeas corpus proceedings; and the imminent consequences that would have on his person and his rights. Without a bond, Mr. Zorrilla-Lora faces a potential prolonged detention, depriving him of his liberty. *Ferrara v. United States*, 370 F. Supp. 2d 351, 360 (D. Mass. 2005) (“Obviously, the loss of liberty is a . . . severe form of irreparable injury.”). During this time, the Petitioner would also face a substantial risk of confinement in facilities that courts have repeatedly found raise serious health, safety, and due process concerns. See, e.g., *Mercado v. Noem*, 800 F. Supp. 3d 526, 545

(S.D.N.Y. 2025) (discussing allegations of “significant overcrowding, pervasive unsanitary conditions, lack of basic hygiene resources, insufficient food and water, inadequate sleeping conditions, substandard medical care, and extremely significant restrictions on attorney-client communications” in a New York immigration detention center).

Moreover, the Petitioner is struggling to avoid be transferred to an immigration detention facility in mainland United States and separated from his counsel – which raises grave concerns as to his constitutional right to access to counsel. (See Dkt. 3)

Respondents’ erroneous argument that Mr. Zorrilla Lora due process was not violated relies on a Supreme Court case, *Demore v. Kim*, 538 U.S. 510 (2003), that is materially different from the case before this court's consideration. Therefore, the application is incorrect. In *Demore*, the noncitizen was a permanent resident who was placed in removal proceedings under section 236 of the INA, **after having committed a criminal offense**, which deemed him a “deportable alien”. According to section 237, a “deportable alien” is someone who:

1. at the time of entry is found inadmissible;
2. has committed certain criminal offenses;
3. has falsified documents;
4. has engaged in activities with security related grounds;
5. has become a public charge after being in the country for a certain amount of time, and;
6. is an unlawful voter

See 8 U.S.C § 1227. Mr. Zorrilla-Lora as we have stressed from the beginning is not under any of these categories.

In *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018), the Supreme Court held that Section 1225 authorizes the Government “to detain certain [noncitizens] seeking admission into the country,” while Section 1226 “authorizes the Government to detain certain [noncitizens] already in the country.” 583 U.S. at 289.

To justify the detention of Mr. Zorrilla, Respondents refer to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 218 (BIA 2025). In *Yajure Hurtado*, the Board of Immigration Appeals (BIA) determined that

immigration judges lacked jurisdiction to see bond hearings because, under section 1225, all noncitizens seeking admission were subjected to mandatory detention. But Respondents failed to apply a decision from the Central District Court of California, that on December 18, 2025, issued a Final Summary Judgment certifying a class action, and determined that noncitizens present in the United States without admission **are not applicants for admission and cannot be subjected to mandatory detention**. See *Maldonado Bautista*, 5:25-cv-01873-SSS-BFM. The Court stated that to be part of the bond eligible class: "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Id.* See also *Lopez-Lugo v. Bondi*, 2025 U.S. Dist. LEXIS 256892, *Francisco T. v. Bondi*, 2025 U.S. Dist. LEXIS 227338.

The Plaintiff in the instant case is a beneficiary of the class and not a *mandatory detention case*. Mr. Zorrilla is entitled to his bond hearing in Puerto Rico. See *Pablo Lora Salazar v. Garret J. Ripa et als*, Civil No. 26-cv-1014 (MAJ).

Considering the decision in *Maldonado Bautista*, that certified a nationwide class of immigration detainees who are eligible for bond, *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*, (C.D. of California, Case No. :25-cv-01873-SSS-BFM)², the posture of IJ's at this stage is reckless and arbitrary, urging the intervention of this Court.

As a matter of fact, during this month the ACLU of Puerto Rico and the undersigned counsels obtained 4 temporary restraining orders and an Order asking for the return of one of our clients due to the continued challenge to the Court authority by the Department of Homeland Security (DHS) and the Immigration and Custom Enforcement (ICE) in Puerto Rico. See U.S. District Court for the District of

² *Maldonado Bautista* is a nationwide class action with a final determination of the District Court, contrary to the arguments of the Government. The Petitioner and many other similarly situated in Puerto Rico complies with the definition of class members in this case.

Puerto Rico, Cases No. 26-1028 (GMM); 26-1036 (PAD); 26-1041 (RAM); 26-1045 (SCC). An additional Case, No. 26-1014 (MAJ) reflects also our statement. It is alarming that an immigrant that does not have access to a lawyer would have to endure an arbitrary violation of their civil rights and liberties at the hands of ICE agents. And this is wrong!

C. Balance of Interests:

When the Government, as here, is acting contrary to the plain text of federal law, the balance of equities weighs against it. *See New York v. Trump*, 133 F.4th 51, 71 (1st Cir. 2025); *New Jersey v. Trump*, 131 F.4th 27, 40-41 (1st Cir. 2025). Therefore, there is patently “no public interest in the perpetuation of unlawful agency action.” *Rhode Island v. Trump*, 155 F.4th 35, 50 (1st Cir. 2025) (citation omitted). See TRO issued in case number 26-1028 (GMM) (Dkt. 7)

III. The Immediate and Legal Custodian Rule:

Under 28 U.S.C. sec. 2242-2243, the proper respondent in a habeas petition is the immediate custodian over the detainee. *Rumsfeld v. Padilla*, 542 U.S. 426, at 442-43 (2004). However, not having an official Warden (federal official), the person with the legal custody of Mr. Zorrilla when the Petition was filed was Rebecca González Ramos and/or Roberto Vaquero. *See Roman v. Ashcroft*, 340 F.3d 314, 319 (6th Cir. 2003). The Petitioner has been cautious and included as Respondents not only the immediate custodian but also their direct supervisors.

Respondents’ argument that Petitioners sued the incorrect custodian likewise fail. As a matter of fact, the immediate custodian rule invoked by the respondents is more flexible in immigration habeas corpus proceedings for obvious reasons. In *Ozturk v. Trump*, Case No. 25-cv-10695-DJC; (2nd Cir. 25-1019) the petitioner included as a proper respondent the ***Special Agent in Charge***. The Court validated compliance with the habeas requirements stating that the petition was filed in the district of confinement and that it names the petitioner’s *immediate custodian or legal custodian*. In addition, *Ozturk* included the “Field Office Director” as a respondent. This was challenged by the Government and the Court validated *Ozturk* contention: “Öztürk’s original petition named Patricia Hyde, who it identified as ICE’s

New England Field Office Director. Dist. Ct. Dkt. ECF No. 1 at 1–2. Because Öztürk was in transit when her petition was filed, Öztürk contends that Hyde was in fact her immediate custodian during that period. See Opp. at 12.” (*Ozturk*, at p. 16) However, in our case, Mr. Zorrilla was not in transit when the petition was filed. Therefore, the proper respondent is Rebecca González, *Special Agent in Charge* of HIS and ICE operations in Puerto Rico.

For individuals in jail, “there is generally only one proper respondent to a given prisoner’s habeas petition,” who is the “immediate custodian.” *Padilla v. Rumsfeld*, 542 U.S. 426, 434–35 (2004). A case used by the Respondents. The immediate custodian is generally “the person having a day-to-day control over the prisoner.” *Robledo-Gonzales v. Ashcroft*, 342 F.3d 667, 673 (7th Cir. 2003) (quoting *Guerra v. Meese*, 786 F.2d 414, 416 (D.C. Cir. 1986)). For someone not in jail, the custodian can be someone else, even a court. See, e.g., *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 495 (1973). The Seventh Circuit says courts should look for “someone (or some institution) who has both an interest in opposing the petition if it lacks merit, and the power to give the petitioner what he seeks if the petition has merit.” *Reimnitz v. State's Att'y of Cook Cnty.*, 761 F.2d 405, 409 (7th Cir. 1985). In a recent case in this District, **Case No. 26-1045** (SCC), the Court ordered Rebecca Gonzalez, as the immediate custodian of the detainee to return the Petitioner to the jurisdiction of Puerto Rico: “Failure to comply with this Order shall result in Rebecca González Ramos, as Mr. Avila’s designated custodian, being held in contempt of court.” (Dkt. 16) Respondents complied with the order.

In this case ICE, and Homeland Security represented by Rebecca González where the legal and/or immediate custodian of Mr. Zorrilla since his detention until the filing of the Habeas Petition.

In particular, the Supreme Court has held that when a prisoner is held “in an undisclosed location by an unknown custodian, it is impossible to apply the immediate custodian and district of confinement rules.” *Padilla*, 542 U.S. at 450 n.18. Yet it cannot be the case that individuals are barred from seeking habeas corpus for hours or days until they reach a new destination; that would not only frustrate the

purpose of the writ, but it would also be inconsistent with its history. 3 W. Blackstone, Commentaries *131 (“[T]he sovereign is at all times entitled to have an account, why the liberty of any of her subjects is restrained,” “not only in term-time, but also during the vacation”); *Khalil v. Joyce*, 777 F. Supp. 3d 369, 410 (D.N.J. 2025) (“The implication of not applying the unknown custodian exception” in such circumstances would be that “the Petitioner, detained in the United States, would not have been able to call on any habeas court.”).

In *Roman v. Ashcroft* the Sixth Circuit found that “historically, the question of who is the custodian, and therefore the appropriate respondent in a habeas suit, depends primarily on **who has power over the petitioner and on the convenience of the parties and the court.**” *Roman v. Ashcroft*, 340 F.3d 314, 319 (6th Cir. 2003) (Emphasis added).

A “detained [noncitizen] filing a habeas corpus petition **should generally** name as a respondent the person exercising daily control over his affairs.” *Id.* at 320. (Emphasis added). The Court then went on to “conclude that although the warden of each detention facility technically has day-to-day control over [noncitizen] detainees, the INS District Director for the district where a detention facility is located ‘has power over’ [noncitizen] habeas corpus petitioners.” *Id.* In this case the Special Agent in charge is Rebecca González; the proper respondent.

“The Supreme Court’s decision in *Ex parte Endo*, 323 U.S. 283 (1944), ‘stands for the important but limited proposition that when the Government moves a habeas petitioner after she properly files a petition naming her immediate custodian, the District Court retains jurisdiction and may direct the writ to **any respondent** within its jurisdiction who has legal authority to effectuate the prisoner’s release.’” *Padilla*, 542 U.S. at 441. (as cited in *Ozturk*, supra, pp. 12-13) (Vermont district court obtained jurisdiction at that time and retains it even in light of Öztürk’s subsequent transfer to Louisiana, p. 13) In this case, the jurisdiction resides in the District of Puerto Rico and Rebecca González as the proper respondent within its jurisdiction.

IV. This Court Has Jurisdiction.

There are no jurisdictional hurdles precluding this Court from granting the Petition. Respondents first argue that the jurisdiction-stripping provision of 8 U.S.C. § 1252(g) applies here. This provision's scope is "narrow." *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020). It only strips federal court jurisdiction over claims arising from three circumstances: a decision or action (1) to commence removal proceedings, (2) to adjudicate cases, or (3) to execute removal orders. *See* 8 U.S.C. § 1252(g). Accordingly, § 1252(g) does not "cover[] all claims arising from deportation proceedings or impose[] a general jurisdictional limitation." *Regents of the Univ. of Cal.*, 591 U.S. at 19 (citation modified). None of the dispositions cited under 8 USC sec. 1252 are applicable to the facts of this case.

Section 1252(g) does not impose a jurisdictional limitation in this case because Petitioner's challenge does not arise from any of the narrow circumstances covered by that statute. Petitioner challenges only the decision to detain him during the pendency of those proceedings. *See Carrera-Valdez v. Perryman*, 211 F.3d 1046, 1047 (7th Cir. 2000) ("nothing in § 1252(g) precludes review of the decision to confine"); *Esquivel-Ipina v. LaRose*, No. 25-cv-2672, 2025 WL 2998361, at *3 (S.D. Cal. Oct. 24, 2025) (holding that § 1225(g) did not strip the court of jurisdiction to entertain habeas petitioner's challenge to his detention under § 1225(b)(2)(A)). Further, Section 1252(g) does not prohibit purely legal claims that do not challenge the Attorney General's discretionary authority. *See, e.g., Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (stating that § 1252(g) does not bar review of the "lawfulness" of a removal-related action because such claims are "collateral" to the discretionary decisions immunized by § 1252(g)).

Respondents contend that § 1252(g) applies here because Petitioner is challenging the decision to detain him, which arises directly from the decision to commence and adjudicate removal proceedings against him. The decision to detain Petitioner is distinct from any of the decisions listed in § 1252(g). In their view, a decision to detain a noncitizen "arises from" a decision to commence

proceedings insofar as the issue of detention arises as a consequence of the decision to commence proceedings in the first place. That construction fails because it flies in the face of Supreme Court precedent. The Supreme Court has stated that the “arising from” language in § 1252(g) “refer[s] to just those three specific actions” listed therein. *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) (plurality opinion) (citing *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)). Because, as Respondents themselves implicitly recognize, Petitioner’s challenge does not concern one of the three decisions listed in § 1252(g), that statute does not strip the Court of jurisdiction over this matter.

In addition to § 1252(g), neither 8 U.S.C. §§ 1225(b)(4) or section 1252(b)(9), bar federal court review of Petitioner’s detention at this stage. Petitioner’s challenge cannot be raised before an immigration judge in removal proceedings. Section 1225(b)(4) provides that a challenge to a decision of an immigration officer, “if favorable to the admission of any alien,” shall proceed before an immigration judge. *See* 8 U.S.C. § 1254(b). Because the decision to detain Petitioner without the opportunity for bond is plainly not favorable to the admission of Petitioner, § 1225(b)(4) is inapposite. *See Cardona-Lozano v. Noem*, No. 1:25-cv-1784, 2025 WL 3218244, at *1 n.2 (W.D. Tex. Nov. 14, 2025) (Pitman, J.) (stating that “the Court finds nothing in § 1225(b)(4) that bars its jurisdiction” over habeas petitioner’s challenge to his detention under §1225(b)(2)(A)).

Likewise, § 1252(b)(9) is inapplicable. That statute limits judicial review of questions of law and fact arising from a removal proceeding to judicial review of a final order of removal. *See* 8 U.S.C. § 1252(b)(9). But § 1252(b)(9)’s limitation does not apply “where those bringing suit are not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be determined.” *Regents of the Univ. of Cal.*, 591 U.S. at 19 (citation modified). In challenging the legality of his detention without the opportunity for bond, Petitioner is “not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be

determined.” *See id.* Accordingly, § 1252(b)(9) does not bar Petitioner’s challenge at this stage. *See Mahdawi v. Trump*, 136 F.4th 443, 452 (2d Cir. 2025) (“Consequently, even if his claims have a substantive overlap with challenges he may bring in his removal proceedings, his detention claims do not themselves challenge or arise from removal proceedings, and § 1252(b)(9)’s channeling function has no role to play.” (citation modified)).

In addition, courts have consistently recognized that challenges to the legality of a noncitizen’s detention are independent of removal-based claims and not barred by Section 1225(g). *See, e.g., Carrera-Valdez v. Perryman*, 211 F.3d 1046, 1047 (7th Cir. 2000) (“[N]othing in § 1252(g) precludes review of the decision to confine.”); *Hamama v. Adducci*, 912 F.3d 869 (6th Cir. 2018) (acknowledging that “the district court had jurisdiction over the detention-based claims and that this jurisdiction is an independent consideration that is not tied to whether the district court has jurisdiction over the removal-based claims.”).³ Further, Section 1252(g) does not prohibit purely legal challenges that do not challenge the Attorney General’s discretionary authority. *United States v. Hovespian*, 359 F.3d 1144, 1155 (9th Cir. 2004) (*en banc*); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (Section 1252(g) does not bar review of the “lawfulness” actions that are “collateral” to the discretionary decisions immunized by that provision.)

CONCLUSION

In conclusion, Petitioner respectfully urges the Court to reach the same conclusion as legion federal courts by likewise holding that Petitioner’s continued detention without a bond hearing violates the Immigration and Nationality Act and his right to due process. Additionally, his detention was based on national origin and discriminatory grounds. Because he continues to be unlawfully detained, Petitioner respectfully requests that this Court grant his Petition for a Writ of Habeas Corpus.

³ In *Hamama*, the Sixth Circuit ultimately concluded that the detention-related claims were also barred from review; but that was because 8 U.S.C. § 1252(f)(1) bars claims seeking class-wide, non-habeas, injunctive relief, something Petitioner does not seek. *Hamama*, 912 F.3d at 877.

PRAYER OF RELIEF:

WHEREFORE, the Petitioners very respectfully request from the Court to DENY the Government Memorandums in Opposition to *Petitioners' Writ of Habeas Corpus* (Dkt. 21) and *Petitioners' Urgent Motion* (Dkt. 24); and:

- a) To issue the writ of habeas corpus considering the reluctance of the IJ's to hold the bond hearing, and release the Petitioner under his own recognizance;
- b) To hold the bond hearing before the US District Court or release the Petitioner under his own recognizance ;
- c) To allow Petitioners a limited discovery encompassing the production of the Petitioner's immigration administrative file, including but not limited to any agreement between ICE and the Municipal Police of Carolina to collaborate in immigration detentions; the I-200; I-213; I-182; I-286; I-831 and any agreement with the Municipality of Carolina under section 287 (g);
- d) To allow the Petitioners to take a deposition on the immediate supervisor of the ICE officers involved in the detention of the Petitioner;
- e) Enjoin Respondents, their officers, agents, and employees from transferring or relocating Petitioner outside the District of Puerto Rico pending resolution of the Petition for Writ of Habeas Corpus;
- f) Grant such other and further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED, in San Juan, Puerto Rico on February 4, 2026.

s/ Fermín L. Arraiza-Navas
#215705 (US District Court Puerto Rico)

Annette Martínez-Orabona
Executive Director
American Civil Liberties Union
Puerto Rico Chapter
Union Plaza, Suite 1105
416 Avenida Ponce de León
San Juan, Puerto Rico 00918
(787) 753-9493
(646) 740-3865

farraiza@aclu.org Counsel for Petitioner

s/ Rafael E. Rodríguez Rivera
RAFAEL E. RODRÍGUEZ RIVERA
USDC-PR 218603
rrodriguez@inter.juris.edu
Legal Aid Clinic
Interamerican University of Puerto Rico
Faculty of Law
PO Box 194735
San Juan, Puerto Rico 00919-4735
Tel. (787)751-1600

s/María del R. García Miranda
MARIA DEL R GARCIA MIRANDA
Clínica de Asistencia Legal Inmigración
Escuela de Derecho UPR
USDC 304709
PO Box 10365
San Juan, Puerto Rico 00922
Tel. (787)977-2323
charitogarcia@hotmail.com

Dated February 4th, 2026

CERTIFICATE OF SERVICE: I hereby certify that, on February 4th, 2026, I electronically filed the foregoing document with the United States District Court of Puerto Rico by using the CM/ECF system, which will send notifications of such filing to all CM/ECF counsel of record.

Dated this 4th day of February, 2026.

s/ Fermín L. Arraiza-Navas
Attorney Name