

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

ROSAURA GONZALES RUCCI
IN REPRESENTATION OF TEOFILO AVILA
Petitioners,

v.

Civil No. 3:26-cv-01045

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.

**URGENT MOTION REQUESTING ORDER PROHIBITING THE TRANSFER OF PETITIONER
FROM PUERTO RICO TO OTHER JURISDICTION AND THAT THIS COURT CONDUCT A
BOND HEARING
FORTHWITH**

TO THE HONORABLE COURT:

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

1. On January 27, 2026, the Petitioners filed a Habeas Corpus Petition (Dkt. 1)
2. The Petitioner asserts that his detention by Immigration and Customs Enforcement ("ICE") violates his due process rights and seeks his immediate release.
3. The Petitioner has exhausted all administrative remedies.
4. Custody Hearing before the Immigration Court has been scheduled for January 29, 2026 at 8:30 am.
5. Nevertheless, the Immigration Court in Puerto Rico as well as all immigration Court's in the mainland have been advised by the Executive Office of Immigration Review to deny bond to all applicants

under the basis that “Court does not have jurisdiction. Pursuant to Matter of YAJURE HURTADO, 29 I&N Dec. 216 (BIA 2025), respondent is an application for admission and therefore is not eligible for bond.”

6. Mr. Avila respectfully requests that in the alternative to his release, the court orders that a bond hearing be held forthwith pursuant to 8 U.S.C. § 1226(a) or that this Court conducts a **Bond hearing**.

7. Mr. Avila is a national of Dominican Republic who has resided in the United States for over two decades. He entered the United States without inspection and was not apprehended by government officials upon entry.

8. He has a Petition for Alien Relative (I-130) pending adjudication before USCIS.

9. A person detained under 8 U.S.C. § 1226(a), must, upon his request, receive a custody redetermination hearing ('bond hearing') with strong procedural protections.

10. Petitioner respectfully states that the BIA's decision in *Yajure Hurtado*, it is not binding and this court "must exercise independent judgment in determining the meaning of statutory provisions." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394, 144 S. Ct. 2244, 219 L. Ed. 2d 832 (2024).

11. The *Yajure* decision is contrary to US district courts uniform approach to interpreting 8 U.S.C. §§ 1225 and 1226. See decision in *Doe v. Moniz*, F. Supp. 3d, 2025 U.S. Dist. LEXIS 173360, 2025 WL 2576819 (D. Mass. Sept. 5, 2025), at *5 (collecting cases).

12. Multiple district courts within the First Circuit have recently noted in rejecting the BIA's reasoning in *Matter of Yajure Hurtado*, the decision is inconsistent with other BIA decisions and with decades of the Department of Homeland Security's practice. See [Elias] *Escobar v. Hyde*, Civil Action No. 25-cv-12620-IT, 2025 U.S. Dist. LEXIS 196284, 2025 WL 2823324 (D. Mass. Oct. 3, 2025), and *Maza v. Hyde*, Civil Action No. 25-cv-12407-IT, -- F. Supp. 3d --, 2025 U.S. Dist. LEXIS 205956, 2025 WL 2951922 (D. Mass. Oct. 20, 2025); *Chogllo Chafra v. Scott*, 2025 U.S. Dist. LEXIS 184909, 2025 WL 2688541, at *7-S8 (D. Me. Sept. 22, 2025); see also *Sampiao v. Hyde*, F. Supp. 3d , 2025 U.S. Dist. LEXIS 175513, 2025 WL 2607924, at *8 n.11 (D. Mass. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden*, F. Supp. 3d , 2025 U.S. Dist. LEXIS 176165, 2025 WL 2639390, at *10 n.9 (D.N.H. Sept. 8, 2025).

13. Mr. Avila is a member of the nationwide class certified in *Maldonado-Bautista*, (C.D. of California, Case No. 5:25-cv-01873-SSS-BFM) and that remain in limbo without real access to justice and

the rule of law due to illegal instructions received by immigration judges across the United States. Exhibits 1 and 2. See *Pablo Lora Salazar v. Garret J. Ripa et als*, Civil No. 26-cv-1014 (MAJ), where the US District for the District of Puerto Rico stated:

"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).

Wherefore, the Petitioner respectfully asks that the Honorable Court order that Mr. Avila NOT be transferred from Puerto Rico, and to either order a Bond Hearing forthwith or that this court conducts the bond hearing, which apparently is the right course of action.

RESPECTFULLY SUBMITTED, in San Juan, Puerto Rico on January 27, 2026

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

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Dated: January 27th, 2026

CERTIFICATE OF SERVICE : I hereby certify that, on January 27th, 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 27th day of January, 2026.

s/ Fermín L. Arraiza-Navas
Attorney Name