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**UNITED STATES UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF TENNESSEE**  
**MEMPHIS DIVISION**

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**In the Matters of:**

**YESSER JOSE LOPEZ SOZA**

**A-Number: [REDACTED]**

**The Department of Homeland Security;**  
**(DHS)**

Respondents.

Civil Action No.: 2:26-cv-02224

**PETITION FOR WRIT OF HABEAS CORPUS**

**Amendment**

*(Resubmitted to correct respondents in  
certificate of service.)*

## **I. INTRODUCTION**

COMES NOW Petitioner, through undersigned counsel, and respectfully petitions this Honorable Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging Petitioner's prolonged and indefinite detention under INA § 235(b) without an individualized custody hearing, in violation of the Fifth Amendment's Due Process Clause.

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## **II. JURISDICTION AND VENUE**

1. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1331.
  2. Petitioner is currently detained within the Western District of Tennessee (Memphis) by Respondents acting under color of federal authority.
  3. Venue is proper in this Court pursuant to 28 U.S.C. § 2241(a), as Petitioner's custodian is located in Memphis, Tennessee.
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## **III. PARTIES**

4. Petitioner is a noncitizen currently detained by U.S. Immigration and Customs Enforcement ("ICE").
  5. Respondents are federal officers responsible for Petitioner's custody and detention in Memphis, Tennessee.
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## **IV. FACTUAL AND PROCEDURAL BACKGROUND**

6. Petitioner was apprehended by DHS and placed into removal proceedings pursuant to INA § 240.
7. DHS classified Petitioner as an applicant for admission and subjected Petitioner to mandatory detention under INA § 235(b).

8. Petitioner, through counsel, requested a custody redetermination before the Memphis Immigration Court.
9. The Immigration Judge denied the custody redetermination request solely on jurisdictional grounds, citing *Matter of Yajure Hurtado*, 27 I&N Dec. 772 (BIA 2020).
10. The Immigration Judge acknowledged ongoing federal litigation, including *Maldonado Bautista v. Santacruz*, C.D. Cal. 2025, but concluded that such authority was not binding in Memphis.
11. Petitioner remains detained without any individualized custody hearing, bond determination, or meaningful opportunity to challenge continued detention.

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## V. LEGAL ARGUMENT

### A. Prolonged Mandatory Detention Under INA § 235(b) Without Judicial Review Violates Due Process

12. Civil immigration detention must be reasonable in duration and accompanied by adequate procedural safeguards.
13. Prolonged detention under INA § 235(b), without an individualized hearing before a neutral decision-maker, violates the Fifth Amendment.
14. While Immigration Judges are bound by BIA precedent, federal courts are not, and retain authority to assess the constitutionality of detention statutes.

### B. DHS's Interpretation of INA § 235(b) Raises Serious Constitutional Concerns

15. Recent federal litigation, including *Maldonado Bautista v. Santacruz*, demonstrates growing judicial concern that indefinite § 235(b) detention without bond violates due process.
16. Although declaratory in nature, such decisions highlight that DHS's interpretation of § 235(b) is constitutionally suspect and warrants federal habeas review.

### C. Continued Detention Without Individualized Review Is Arbitrary and Excessive

17. Respondents have failed to provide any individualized determination that Petitioner poses a flight risk or danger to the community.
18. Continued detention without procedural safeguards has become punitive rather than regulatory.

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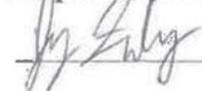
## VI. RELIEF REQUESTED

WHEREFORE, Petitioner, through counsel, respectfully requests that this Court:

1. Grant the Writ of Habeas Corpus;
2. Order Respondents to provide an individualized custody hearing before a neutral decision-maker; or
3. Alternatively, order Petitioner's immediate release under reasonable conditions; and
4. Grant such other relief as this Court deems just and proper.

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Respectfully submitted,



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Date: 2/27/26

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