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Attorney for Petitioner
Appearing *Pro Hac Vice*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Junior Gomez,)	
)	
Petitioner-Plaintiff,)	C/A No. 2:25-cv-03255
v.)	
)	AMENDED PETITION FOR WRIT OF
John Doe, <i>in his official capacity</i> as)	HABEAS CORPUS AND COMPLAINT FOR
Facility Administrator of the Florence)	DECLARATORY AND INJUNCTIVE RELIEF
Service Processing Center;)	
)	
John Cantu, <i>in his official capacity</i> as Field)	
Office Director of Phoenix Office of)	
Detention and Removal, U.S. Immigrations)	
and Customs Enforcement; U.S.)	
Department of Homeland Security;)	
)	
Todd M. Lyons, <i>in his official capacity</i> as)	
Acting Director, Immigration and Customs)	
Enforcement, U.S. Department of)	
Homeland Security;)	
)	
Kristi Noem, <i>in her official capacity</i> as)	
Secretary, U.S. Department of Homeland)	
Security; and)	
)	
Pamela Bondi, <i>in her official capacity</i> as)	
Attorney General of the United States;)	
)	
Respondents-Defendants.)	
)	

INTRODUCTION

1. This case concerns the illegal detention of Petitioner-Plaintiff Junior Gomez (“Petitioner”).
2. Petitioner fled Honduras due to death threats from [REDACTED] Petitioner [REDACTED]
[REDACTED]
[REDACTED]
3. Petitioner came to the U.S. with the intention of seeking asylum.
4. The Department of Homeland Security (“DHS”) apprehended and detained Petitioner after his entry to the U.S. on January 4, 2024. Exhibit A.
5. Based on the individualized facts of Petitioner’s case, DHS released Petitioner from its custody on an Order of Release on Recognizance pursuant to 8 U.S.C. § 1226(a). Exhibit B.
6. DHS thereafter commenced removal proceedings against Petitioner in immigration court, entitling Petitioner to present an asylum claim with the due process rights afforded to him under the Refugee Act of 1980.
7. When Petitioner appeared *pro se* for a status hearing in the Dallas Immigration Court on July 22, 2025, he planned to submit his application for asylum and proceed with his asylum claim. Instead, Immigration and Customs Enforcement (“ICE”) officers apprehended him, detained him, and are now attempting to summarily remove him without giving him the opportunity to present his asylum claim.
8. Respondents’ re-detention of Petitioner is unjustified and unrelated to an individualized consideration of Petitioner’s circumstances, thereby constituting a violation of his due process rights.
9. Petitioner is not a flight risk—as shown by his appearance at his scheduled immigration

court date – and he is not a danger to the community. On information and belief, he has never been arrested or convicted of any crime.

10. On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision that unlawfully reinterpreted the Immigration and Nationality Act (“INA”). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Prior to this decision, noncitizens like Petitioner who were apprehended by ICE in the interior of the country were detained pursuant to 8 U.S.C. § 1226(a) and eligible to seek bond hearings before Immigration Judges (“IJs”). Instead, in conflict with nearly thirty years of legal precedent, Petitioner is now considered subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and has no opportunity for release on bond while his removal proceedings are pending.
11. Petitioner’s detention pursuant to § 1225(b)(2)(A) violates the plain language of the INA and its implementing regulations. Petitioner, who was apprehended in the interior of the U.S., should not be considered an “applicant for admission” who is “seeking admission.” Rather, he should be detained pursuant 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond.
12. Petitioner respectfully asks this Court to hold that his arrest was unlawful, to hold that his continued detention without bond is unlawful, and to order his release from detention at the Florence Service Processing Center. Petitioner also respectfully asks that this Court order Respondents-Defendants (“Respondents”) not to transfer him outside of the District for the duration of this proceeding.

CUSTODY

13. Petitioner is currently in the custody of Immigration and Customs Enforcement (“ICE”) at the Florence Service Processing Center in Florence, Arizona. He is therefore in

“custody’ of [the DHS] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

14. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*
15. 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.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*
17. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

VENUE

18. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because a substantial part of the events or omissions giving rise to the claim occurred in the District of Arizona. Petitioner is under the jurisdiction of the Phoenix ICE Field Office, and he is currently detained in Florence, Arizona, at the Florence Service Processing Center. There

is no real property involved in this action.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

19. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.

See Hernandez v. Sessions, 872 F.3d 976, 988 (9th Cir. 2017).

20. Prudential exhaustion may be required if:

(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

Puga v. Chertoff, 488 F.3d 812, 815 (9th Cir. 2007) (citations omitted).

21. A court may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.”

Hernandez v. Sessions, 872 F.3d at 988 (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).

22. Petitioner asserts that exhaustion should be waived because administrative remedies would be both inadequate and futile, and his continued detention without the opportunity to present his asylum claim will result in irreparable harm.

23. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ due to the BIA’s recent decision holding that anyone who has entered the U.S. without inspection is now considered an “applicant for admission” who is “seeking admission” and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA’s decision in *Yajure Hurtado*

renders exhaustion futile).

24. The agency does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims).
25. Finally, a custody redetermination performed by an immigration judge under 8 C.F.R. § 236.1(d) occurs only after ICE has already made its initial decision to detain. It cannot substitute for the constitutional requirement that ICE conduct a meaningful, deliberative assessment of dangerousness and flight risk before or at the time of detention.

PARTIES

26. Petitioner Junior Gomez is an asylum-seeker from Honduras.
27. Respondent John Doe, whose real name is unknown, is sued in his/her official capacity as the Facility Administrator of the Florence Service Processing Center. In his/her official capacity, the Facility Administrator is Petitioner's immediate custodian.
28. Respondent John Cantu is sued in his official capacity as Field Office Director, Phoenix Field Office, Enforcement and Removal Operations, U.S. Immigration & Customs Enforcement ("ICE"). In his official capacity, Respondent Cantu is the legal custodian of Petitioner.
29. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.
30. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security, the agency tasked with enforcing

immigration laws, Secretary Noem is Petitioner's ultimate legal custodian.

31. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. As Attorney General, she has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

LEGAL BACKGROUND

Right to a Hearing Before Detention

32. Immigration detention is constitutionally permissible only when, after an individualized determination, the government establishes that a noncitizen is either a flight risk or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
33. While ICE has statutory authority to revoke a bond and re-arrest a noncitizen at any time, 8 U.S.C. § 1226(b), that authority is not unlimited. Both the Board of Immigration Appeals ("BIA") and federal courts have made clear that re-detention requires a showing of changed circumstances after the person's release. *See Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981); *Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021) ("Thus, absent changed circumstances ... ICE cannot redetain Panosyan.").
34. Additionally, the Constitution imposes independent limits: ICE's discretion to re-arrest or continue detaining a noncitizen is always bound by the requirements of due process. *See Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process").
35. Due process requires a meaningful opportunity to be heard before the deprivation of liberty occurs. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). Courts have consistently applied the *Mathews* framework when evaluating due process challenges to civil immigration detention. *See, e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022)

(collecting cases).

36. Under *Mathews*, courts consider (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335.

Statutory Framework of Immigration Detention

37. The Immigration and Nationality Act (“INA”) prescribes three basic forms of detention for noncitizens in removal proceedings.
38. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested, charged with, or convicted of certain crimes and are subject to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same). Under 8 U.S.C. § 1226(b), “[t]he Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.”
39. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) as well as other recent arrivals deemed to be “seeking admission” under § 1225(b)(2). Individuals detained under § 1225(b) may not be released on recognizance; they may only be paroled into the country under § 1182(d)(5)(A).
40. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

41. For decades, noncitizens who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.
42. In July 2025, however, ICE began asserting that all individuals who entered without inspection should be considered “seeking admission” and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
43. On September 5, 2025, the BIA issued a precedential decision adopting this interpretation, despite its departure from the INA’s text, federal precedent, and existing regulations. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
44. Numerous federal courts have rejected this interpretation and instead have consistently found that § 1226, not § 1225(b)(2), authorizes detention of noncitizens who entered without inspection and were later apprehended in the interior of the country. *See, e.g., Quispe Ardiles v. Noem*, No. 1:25-cv-01382 at *14 (E.D. Va. Sept. 30, 2025); *Hasan v. Crawford*, No. 1:25-cv-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025) (distinguishing *Yajure Hurtado*).
45. In a case similar to Petitioner’s, the Eastern District of Virginia recently held that a noncitizen was re-detained under § 1226(a), not § 1225(b)(2)(A), when the noncitizen had

previously entered without inspection, was apprehended shortly thereafter, and was released on his own recognizance “[i]n accordance with section 236 of the Immigration and Nationality Act.” *Quispe Ardiles*, No. 1:25-cv-01382 at *14.


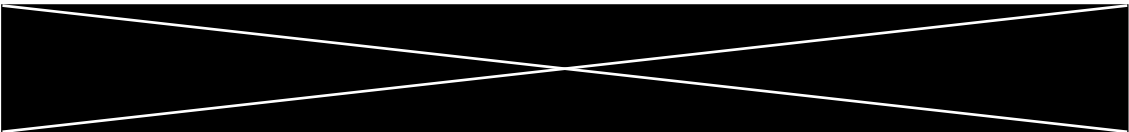
46. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Following IIRIRA, the Executive Office for Immigration Review (“EOIR”) issued regulations clarifying that individuals who entered the country without inspection were not considered detained under § 1225, but rather 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) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).
47. The statutory context and structure also make clear that § 1226 applies to individuals who have not been admitted and entered without inspection. In 2025, Congress added new mandatory detention grounds to § 1226(c) that apply only to noncitizens who have not been admitted. By specifically referencing inadmissibility for entry without inspection under 8 U.S.C. § 1182(6)(A), Congress made clear that such individuals are otherwise covered by § 1226(a). Thus, § 1226 plainly applies to noncitizens charged as inadmissible, including those present without admission or parole.
48. The Supreme Court has explained that § 1225(b) is concerned “primarily [with those] seeking entry,” and is generally imposed “at the Nation’s borders and ports of entry, where

the Government must determine whether [a noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 297, 2987 (2018). In contrast, Section 1226 “authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings.” *Id.* at 289 (emphases added).

49. Furthermore, § 1225(b)(2) specifically applies only to those “seeking admission.” Similarly, the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are “coming or attempting to come into the United States.” The use of the present progressive tense would exclude noncitizens like Petitioner who are apprehended in the interior years after they entered, as they are no longer “seeking admission” or “coming [...] into the United States.” *See Martinez v. Hyde*, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); *see also Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing “is arriving” in INA § 235(b)(1)(A)(i) and observing that “[t]he use of the present progressive, like use of the present participle, denotes an ongoing process”).

STATEMENT OF FACTS

50. Petitioner is a citizen of Honduras.

51. Petitioner previously 


52. As a result, Petitioner spent several years in hiding before fleeing to the United States.

53. On or about January 3, 2024, Petitioner entered the United States and presented himself to immigration authorities with the intention of seeking asylum. Exhibit A.

54. DHS released Petitioner from custody on January 4, 2024, pursuant to an Order of Release on Recognizance under 8 U.S.C. § 1226(a). Exhibit B.
55. DHS thereafter initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a in Dallas, Texas. Exhibit A.
56. DHS alleged that Petitioner was inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and commanded that he appear for a hearing on July 22, 2025, in the Dallas Immigration Court. *Id.*
57. On information and belief, Petitioner fully complied with all ICE check-ins and other requirements after his release from custody.
58. On July 22, 2025, Petitioner appeared *pro se* at his scheduled hearing in Dallas, intending to submit his asylum application. Instead of allowing him to proceed, Respondents moved to dismiss the case, and the immigration court dismissed Petitioner's proceedings. Exhibit C.
59. On information and belief, Petitioner was not informed that the dismissal was sought to place him into expedited removal proceedings.
60. Following the hearing, ICE agents arrested Petitioner. On information and belief, Petitioner was detained without any process or opportunity to be heard prior to his arrest.
61. On July 24, 2025, Petitioner appealed the immigration judge's dismissal to the BIA, and that appeal remains pending. Exhibit D.
62. On information and belief, Petitioner has never been arrested or charged with any criminal offense.
63. Petitioner is currently subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

CAUSES OF ACTION

COUNT ONE

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); 5 U.S.C. §§ 702, 706

64. Petitioner restates and realleges all paragraphs as if fully set forth here.
65. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.
66. Although the government has statutory discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), that discretion must comply with constitutional due process protections, which guarantee Petitioner a meaningful opportunity to be heard before any deprivation of liberty.
67. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).
68. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner's release. Petitioner's arrest and detention were unlawful, and Respondents should be required to release him from custody. Furthermore, Respondents must provide Petitioner with notice and a hearing before a neutral decisionmaker prior to any potential re-detention.
69. Petitioner's private interest in freedom from detention is profound. The interest in being free from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 ("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.").

70. The risk of erroneous deprivation is exceptionally high. Petitioner has complied fully with ICE requirements, appeared at his scheduled hearing, and has never been charged with any criminal offense. Moreover, in light of Respondents' campaign of widespread and arbitrary arrests at immigration courts, individuals like Petitioner face a heightened risk of detention despite posing no flight risk or danger to the community.
71. The government's interest in detaining Petitioner without due process is minimal. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. Petitioner has no criminal history and has appeared at prior hearings, demonstrating that the government has little justification for his continued detention.
72. Furthermore, the "fiscal and administrative burdens" of providing Petitioner with immediate release and a pre-detention hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35. Petitioner seeks a neutral hearing to determine whether circumstances have changed sufficiently to justify any re-arrest.
73. Considering these factors, Petitioner respectfully requests that this Court order his immediate release from custody and prohibit Respondents from re-arresting him without first providing a hearing before a neutral adjudicator. At such a hearing, the adjudicator would evaluate whether Petitioner poses a danger to the community or a flight risk, such that re-detention would be justified.

COUNT TWO

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Substantive Due Process); 5 U.S.C. §§ 702, 706

74. Petitioner restates and realleges all paragraphs as if fully set forth here.

75. Petitioner is not a flight risk nor is he a danger to the community, and his detention is therefore unjustified and unlawful.

76. Petitioner therefore requests this Court order that his arrest and detention are unlawful and that he be released from custody.

COUNT THREE

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

77. Petitioner restates and realleges all paragraphs as if fully set forth here.

78. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

79. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

80. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

81. Petitioner's continuing detention is therefore unlawful.

COUNT FOUR

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19 Unlawful Denial of Release on Bond

82. Petitioner restates and realleges all paragraphs as if fully set forth here.

83. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323. The agencies thus made clear that individuals

who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

84. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT FIVE

Violation of Fifth Amendment Right to Due Process

85. Petitioner restates and realleges all paragraphs as if fully set forth here.
86. Petitioner alleges his detention under 8 U.S.C. § 1225(b) is a violation of his right to due process.
87. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.
88. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990).
89. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner's release.
90. Petitioner's private interest in freedom from detention is profound. The interest in being free from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("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.").
91. The risk of erroneous deprivation is exceptionally high.

92. The government's interest in detaining Petitioner without due process is minimal. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690.
93. Furthermore, the "fiscal and administrative burdens" of providing Petitioner with a bond hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35.
94. Considering these factors, Petitioner respectfully requests that this Court order his immediate release from custody or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a).

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Declare that Petitioner's detention without bond is unlawful;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) or the Due Process Clause within seven days;
- (6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

- (7) Enjoin Respondents from re-arresting Petitioner unless a hearing is held before a neutral adjudicator to determine whether his re-detention is justified;
- (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.

Date: October 8, 2025

Respectfully Submitted,

/s/ Katherine Soltis
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