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**UNITED STATES DISTRICT COURT
THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-2955

MANUEL MOYA PINEDA,

Petitioner

v.

JUAN BALTASAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado,
in his official capacity,

ROBERT GAUDIAN, Field Office Director, Denver Field Office, U.S. Immigration and
Customs Enforcement, in his official capacity,

KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official
capacity,

TODD LYONS, Acting Director of Immigration and Customs Enforcement, in his official
capacity,

PAM BONDI, Attorney General, U.S. Department of Justice, in her official capacity,

Respondents

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Respondents illegal jail without bond Petitioner Manuel Moya Pineda at
Immigration and Customs Enforcement's ("ICE") Denver Contract Detention Facility in
Aurora, Colorado. Mr. Moya Pineda is entitled to a writ of *habeas corpus* to end his illegal
incarceration.

I. INTRODUCTION

1. Petitioner Manuel Moya Pineda ("Mr. Moya Pineda") entered the United States almost twenty years ago and has not left since. He is the loving father of two young U.S. citizen children and five U.S. citizen stepchildren. Mr. Moya Pineda is married to a U.S. citizen who he supports economically and emotionally as she survived domestic violence at the hands of a prior partner.

2. ICE first took Mr. Moya Pineda into custody and charged him with "entry without inspection" pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) in 2012. An immigration judge ("IJ") subsequently ordered Mr. Moya Pineda released upon payment of \$6000 bond. Since his release, Mr. Moya Pineda has remained in the community and not violated his bond conditions.

3. Nevertheless, ICE violently incarcerated Mr. Moya Pineda again without notice on or about July 18, 2025. Mr. Moya Pineda was driving in Aurora, Colorado when five unmarked cars pulled him over. Mr. Moya Pineda partially rolled down his window as two officers approached his vehicle. One of the officers then broke his window and threatened Mr. Moya Pineda with pepper spray. Scared for his safety, Mr. Moya Pineda exited his vehicle. The officers then arrested him without asking any questions or acknowledging that he was lawfully at liberty pursuant to an IJ-issued bond from 2012. ICE then brought him to the Aurora Facility and reinitiated his removal proceedings.

4. Despite Mr. Moya Pineda's lack of a disqualifying criminal convictions, long-standing ties to his community in the U.S., and the hardship detention inflicts on his U.S.

citizen family, Respondents are illegally denying him release on bond while civilly incarcerating him at the ICE Denver Contract Detention Facility in Aurora, Colorado ("Aurora Facility").¹

II. PARTIES

Petitioner

5. ICE jails Mr. Moya Pineda at the Aurora Facility in Aurora, Colorado. Mr. Moya Pineda has lived in the United States for nearly twenty years along with his U.S.-citizen wife, his two U.S.-citizen children, who are 9 and 10 years old, and his five U.S.-citizen stepchildren. He and his family have lived in Colorado since 2015.

Respondents

6. Juan Baltasar is the Warden of the Aurora Facility where ICE jails Mr. Moya Pineda, and is an employee of the GEO Group, the for-profit prison company that operates the facility. Mr. Baltasar is a legal custodian of Mr. Moya Pineda. He is sued in his official capacity.

7. Robert Guadian is the ICE Field Office Director of the Denver ICE Field Office and is sued in his official capacity. Mr. Guadian is the immediate custodian of Mr. Moya Pineda and is responsible for Mr. Moya Pineda's detention and removal.

8. Kristi Noem is the Secretary of the Department of Homeland Security (DHS). Ms. Noem is responsible for the implementation and enforcement of the INA. DHS is the parent agency of ICE, and thus Ms. Noem also oversees ICE, which is responsible for

¹ This Petition does not refer to the Aurora Facility or Mr. Moya Pineda's loss of liberty as detention because it does not accurately reflect the conditions at the Aurora Facility. *E.g.*, *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1182 (D. of Colo. 2024) (citation omitted) (acknowledging that the District of Colorado has already found that the GEO Facility is "more akin to incarceration than civil confinement").

Mr. Moya Pineda's illegal detention. Ms. Noem has ultimate custodial authority over Mr. Moya Pineda and is sued in her official capacity.

9. Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity. Mr. Lyons is responsible for Mr. Moya Pineda's illegal detention and has custodial authority over him.

10. Pamela Bondi is the Attorney General of the United States. She is responsible for the actions of the Department of Justice (DOJ). The Executive Office for Immigration Review (EOIR) and the immigration court system it operates are a component agency of DOJ. Ms. Bondi is sued in her official capacity.

III. JURISDICTION AND VENUE

11. Respondents incarcerated Mr. Moya Pineda at the Aurora Facility in Aurora, Colorado on or about July 18, 2025. Mr. Moya Pineda is currently imprisoned in this District and is under the control of Respondents and their agents.

12. Mr. Moya Pineda brings this action under 28 U.S.C. § 2241, the INA and its implementing regulations, the Administrative Procedures Act (5 §§ U.S.C. 500-596, 701-706), the All Writs Act (8 U.S.C. § 1651), the Declaratory Judgment Act, 28 U.S.C. § 2201, and the U.S. Constitution. District courts have jurisdiction under 28 U.S.C. § 2241 to hear *habeas corpus* actions by noncitizens challenging the lawfulness and constitutionality of their civil immigration detention.

13. This Court also has federal question jurisdiction pursuant to 28 U.S.C. § 1331, as this is a civil action arising under the laws of the U.S.

14. Venue is proper under 28 U.S.C. § 1391 because Respondents imprison Mr. Moya Pineda in Aurora, Colorado, within the jurisdiction of this Court. Likewise, Mr. Moya

Pineda is a resident of this District, his counsel is located in this District, and a substantial part of the events giving rise to the claims in this action took place within this District.

IV. FACTUAL BACKGROUND

A. Legal Authority for Immigration Detention.

15. ICE's authority to jail noncitizens is proscribed by statute. Section 1226(a) of 8 U.S.C. establishes discretionary detention for noncitizens ICE arrests "[o]n a warrant issued by the Attorney General" and then place in 8 U.S.C. § 1229a removal proceedings. 8 U.S.C. § 1226(a). Those noncitizens may then request an IJ to redetermine the arresting immigration officer's "initial custody determination" at any time prior to a final order of removal. *Id.*; 8 C.F.R. §§ 236.1(d)(1), 1003.19(a), (b). During the custody redetermination request, i.e., bond hearing, the IJ determines whether the noncitizen establishes by the preponderance of the evidence if they are a risk of flight or danger to the community. See generally *Matter of Guerra*, 24 I. & N. Dec. 37 (B.I.A. 2006).

16. Section 1226(c) of 8 U.S.C. establishes mandatory detention for noncitizens with certain criminal legal contacts in § 1229a removal proceedings. 8 U.S.C. § 1226(c). IJs do not have the authority to consider these noncitizens' request for release on bond unless ICE is substantially unlikely to establish that the noncitizen falls within one of § 1226(c)'s mandatory detention provisions. See generally *Matter of Joseph*, 22 I. & N. Dec. 799 (B.I.A. 1999).

17. The statute also provides for mandatory detention of a narrow subset of noncitizens subject to an expedited removal pursuant to § 1225(b) or for other noncitizen "applicants for admission" to the U.S. who are apprehended at the border or port of entry. See 8 U.S.C. § 1225(b)(2). Section 1225 focuses on noncitizens "arriv[ing]" "whether or

not at a designated port of arrival,” and applies to people like those who were “interdicted in international or United State waters” (§ 1225(a)(1)), are “stowaways” (§ 1225(a)(2)), and who are otherwise “applicants for admission” into the U.S. (§ 1225(a)(3)). In contrast to § 1226, § 1225 discusses matters such as “screening” “claims for asylum” (§ 1225(b)(1)(A)(i)-(ii)) at the border, “inspection” by an immigration officer to determine if a noncitizen “is ... clearly and beyond a doubt entitled to be admitted” (§ 1225(b)(2) & (d)), and “removal” of “an arriving [noncitizen]” (§ 1225(c)(1)).

18. Finally, the statute provides for detention of noncitizens with final removal orders. 8 U.S.C. § 1231(a), (b).

19. Mr. Moya Pineda does not have criminal legal contact rendering him subject to 8 U.S.C. § 1226(c). He is also not subject to § 1231 detention because he does not have a final removal order. Rather, this case concerns the discretionary detention provision at 8 U.S.C. § 1226(a) and Respondents’ erroneous assertion that mandatory detention pursuant to § 1225(b) applies.

20. The Supreme Court summarizes the interplay between §§ 1226 and 1225 as follows: “In sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission *into* the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Jennings v. Rodriguez*, 582 U.S. 281, 289 (2018) (Alito, J., emphasis added).

21. Both the § 1226 and § 1225 detention provisions 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 in early 2025 by the Laken Riley Act (LRA), Pub. L. No. 119-1, 139 Stat. 3 (2025).

22. Following the enactment of the IIRIRA in 1996, EOIR wrote regulations applicable to proceedings before IJs explaining that, in general, people who entered the country without inspection (also known as “present without admission”) were *not* detainable under § 1225 and instead could only be 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) (“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”).

23. Thus, in the following decades, people who entered without inspection and did not have certain criminal legal contacts could receive § 1226(a) bond hearings when placed in § 1229a proceedings. That practice was consistent with additional decades of pre-IIRIRA practice, in which noncitizens who were not “arriving” or seeking entry into the United States 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 the new § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

24. This practice – both pre- and post-enactment of the IIRIRA – is consistent with the fact that noncitizens present in the U.S. have constitutional rights. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens], whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

25. Despite this long-standing practice and the plain text of the statute, the Board of Immigration Appeals (BIA) issued an unpublished decision on May 22, 2025 holding that noncitizens who entered the United States without inspection were subject to § 1225(b)(2) mandatory detention as “applicants for admission.”

26. On July 8, 2025, ICE, “in coordination with” the DOJ announced a new policy consistent with the unpublished BIA decision from May 22, 2025. The new ICE/DOJ policy, titled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all noncitizens present within the U.S. who entered without inspection – no matter how long ago, no matter where, and no matter how – are deemed “applicants for admission” under 8 U.S.C. § 1225, and thus subject to mandatory detention under § 1225(b)(2)(A). The new policy applies regardless of when and where a person was apprehended and affects people who have resided in the U.S. for years.

27. On September 5, 2025 the BIA published a precedential decision finding the same. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

28. The federal courts have since resoundingly rejected Respondents’ position in more than 20 district court decisions. See *Rodriguez-Vazquez v. Bostock*, No. 779 F.Supp.3d 1239 (W.D. Wash. 2025) (granting preliminary relief); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, *8 (D. Mass. July 7, 2025) (granting individual *habeas* relief); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp.3d ---, 2025 WL 2084238, *9 (D. Mass. July 24, 2025) (denying reconsideration of individual *habeas* relief); *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM, *13 (C.D. Cal. July 28, 2025) (granting preliminary relief); *Escalante v. Bondi*, No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025) (report and recommendation to grant preliminary relief,

adopted *sub nom* *O.E. v. Bondi*, 2025 WL 2235056 (D. Minn. Aug. 4, 2025)); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D. N.Y. Aug. 8, 2025) (granting individual *habeas* relief); *de Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and recommendation to grant *habeas* relief, adopted without objection at 2025 WL 2349133 (D. Ariz. Aug. 13, 2025)); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (granting *habeas* relief); *Aquilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (same); *Arazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug 15, 2025) (same); *Romero v. Hyde*, --- F.Supp.3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (same); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, Doc. 20 (D. Md. Aug. 24, 2025) (same); *Benitez v. Noem*, No. 5:25-cv-02190, Doc. 11 (C.D. Cal. Aug. 26, 2025) (granting preliminary relief); *Kostak v. Trump*, No. 3:25-dcv-01093-JE, Doc. 20 (W.D. La. Aug. 27, 2025) (same); *Jose J.O.E. v. Bondi*, --- F.Supp.3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) (same); *Lopez-Campos v. Raycraft*, --- F.Supp.3d ---, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (granting individual *habeas* relief and enjoining pursuit of detention on the basis of § 1225(b)(2)(A)); *Palma Perez v. Berg*, --- F.Supp.3d ---, 2025 WL 2531566 (D. Neb. Sept. 3, 2025) (finding “little support” in the statute for detention under § 1225(b)(2) and ordering release on other grounds); *Cortes Fernandez v. Lyons*, No. 8:25-cv-506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025) (same); *Carmona-Lorenzo v. Trump*, No. 4:25-cv-3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025) (same); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025) (granting injunctive relief, ordering release and enjoining redetention without a bond hearing); *Vasquez Garcia et al. v. Noem*, No. 25-cv-02180-

DMS-MMP, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025) (granting TRO in part, finding detention pursuant to § 1226(a) and ordering a bond hearing); *Doe v. Moniz*, No. 1:25-cv-12094-IT, 2025 WL 2576819 (D. Mass. Sept. 5, 2025) (granting habeas finding detention pursuant to § 1226(a)).

29. The federal courts' overwhelming rejection of Respondents' position continues after *Matter of Yajure Hurtado*. See e.g., *Zaragoza Mosqueda v. Noem*, No. 5:25-cv-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025) (enjoining continued detention without a §1226(a) bond hearing within seven days); *Sampiao v. Hyde*, --- F.Supp.3d ---, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (ordering release on bond); *Pizzaro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (granting habeas relief); *Cuevas Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO (HC), 2025 WL 2617256, (E.D. Cal. Sept. 9, 2025) (granting a preliminary injunction and ordering release); *Hinestroza v. Kaiser*, No. 25-cv-07559-JD, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025) (granting TRO and finding § 1225(b)(2) inapplicable); *Jimenez v. FCI Berlin, Warden et al.*, --- F.Supp.3d ---, 2025 WL 2639390 (D.N.H. Sept. 9, 2025) (finding detention pursuant to § 1226(a) and ordering a bail hearing); *Salcedo Aceros v. Kaiser et al.*, No 25-cv-06924-EMC (EMC), 2025 WL 2637503 (N.D. Ca. Sept. 12, 2025) (granting PI and finding § 1225(b)(2) inapplicable).

30. That includes the District of Colorado where Judge Sweeney explains, *inter alia*, that the Government's argument for § 1225(b)(2) detention must fail when a noncitizen is not "seeking admission" into the United States. *Garcia Cortes v. Noem et al.*, No. 1:25-cv-02677-CNS, 2025 WL 2652880 at *3 (D. of Colo. Sept. 16 2025) ("Because Petitioner

is not, nor was he at the time he was arrested, seeking admission, § 1225(b)(2)(A)'s mandatory detention requirement does not apply").

31. As evidenced by the federal court decisions, the interpretation by DHS, DOJ, EOIR, and ICE that § 1225(b) governs detention in this case defies the plain language of the INA, fundamental canons of statutory construction, and the agency's long-extant implementing regulations.

32. Indeed, the statute's plain text demonstrates § 1226(a) – not § 1225(b) – applies to people like Mr. Moya Pineda. Section 1226(a) is the "default rule" applying to all persons "pending a decision on whether the [noncitizen] is to be removed." *Rodriguez Vazquez*, 779 F.Supp.3d at 1246; *Jennings*, 582 U.S. at 281.

33. Notably, the plain language of § 1226 applies to people charged as inadmissible for entering without inspection. *E.g.*, 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to inadmissible individuals makes clear that, by default, inadmissible individuals not subject to subparagraph (E)(ii) are entitled to 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 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

34. Thus, § 1226 applies to noncitizens like Mr. Moya Pineda who are present without inspection, face related inadmissibility charges in removal proceedings and who do not have certain criminal legal contacts.

35. By contrast, § 1225(b) applies to people *arriving at* U.S. ports of entry or who *recently entered* the U.S. and are encountered *at or near the border*. Section 1225's entire

framework is premised around inspection at the border of people who are “seeking admission” to the U.S. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “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*, 582 U.S. at 287.

36. Accordingly, contrary to Respondents’ erroneous interpretation of the statute, the mandatory detention provisions of § 1225(b)(2) do not apply to people like Mr. Moya Pineda who “arrived” in the country long ago and have resided in Colorado for years before ICE jailed them.

B. Mr. Moya Pineda’s Illegal Detention Without Bond

37. Mr. Moya Pineda has resided in Aurora, Colorado since 2015. Prior to living in Colorado, Mr. Moya Pineda lived in Riverside, California for approximately nine years. ICE placed him in removal proceedings and sought his removal pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) in 2012 for being present without inspection. An IJ subsequently granted his custody redetermination request, and he was released after paying \$6,000 bond. An IJ then administratively closed his removal proceedings. Mr. Moya Pineda thereafter continued to reside in the United States and complied with all terms of his bond conditions while his case remained administratively closed.

38. Mr. Moya Pineda has two U.S.-citizen children, his son, K.M. (10 years old) and daughter, J.M. (9 years old), who he supports along with his U.S. citizen wife. Mr. Moya Pineda owns his own painting company, which is a business in good standing with the state of Colorado. His colleagues describe him as a hard worker and dependable employee. Before his detention in 2025, he lived at a fixed address with his family. Mr.

Moya Pineda pays all required taxes – including Social Security taxes even though he would not benefit from the Social Security program.

39. In short, Mr. Moya Pineda has a fixed address, strong ties to the community, and no disqualifying criminal convictions. As such, Mr. Moya Pineda is an excellent candidate for release from immigration detention on bond. In fact, an IJ granted Mr. Moya Pineda bond in 2012 under largely the same facts. The only difference between now and then is Respondents' unlawful policy shift and the additional positive equities Mr. Moya Pineda acquired since 2012; e.g., his two U.S. citizen children, continued residence in the United States, gainful employment, compliance with his bond conditions for 13 years, and no adverse legal contacts.

40. Nevertheless, ICE violently took Mr. Moya Pineda into custody on or about July 18, 2025, and imprisoned him at the Aurora Facility. ICE declined to issue bond to Mr. Moya Pineda under § 1226(a) and recalendered his removal proceedings before the Aurora Immigration Court pursuant to 8 U.S.C. § 1229a.

41. On August 26, 2025, through counsel, Mr. Moya Pineda requested a bond hearing before an IJ. On September 11, 2025, IJ Alison Kane of the Aurora Immigration Court ruled that the court lacked jurisdiction to consider his bond redetermination request, finding him subject to § 1225(b)(2) because of his unlawful entry to the United States nearly 20 years ago.

V. CLAIMS FOR RELIEF

COUNT I

Respondents Jail Mr. Moya Pineda in Violation of 8 U.S.C. § 1226(a)

42. Mr. Moya Pineda incorporates by reference the allegations of fact set forth in the preceding paragraphs.

43. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Mr. Moya Pineda because he was present and residing in the U.S., has been placed in § 1229a removal proceedings, and charged with inadmissibility pursuant to 8 U.S.C. § 1182. Simply, § 1225 does not apply to people like Mr. Moya Pineda who previously entered the country and reside in the U.S. prior to being detained and placed in removal proceedings. Such noncitizens may only be detained pursuant to § 1226(a), unless they are subject to mandatory detention provisions irrelevant here. Detention under § 1226(a) requires access to bond.

44. Applying § 1225 to Mr. Moya Pineda unlawfully mandates his continued detention without a bond hearing and violates 8 U.S.C. § 1226(a).

COUNT II

Respondents are Detaining Mr. Moya Pineda in Violation of the INA Bond Regulations (8 C.F.R. §§ 236.1, 1236.1 & 1003.19)

45. Mr. Moya Pineda incorporates by reference the allegations of fact set forth in the preceding paragraphs.

46. Respondent EOIR and the then Immigration and Naturalization Service issued a rule to interpret and apply the IIRIRA under the heading "Apprehension, Custody, and Detention of [Noncitizens]," which explained: "Despite 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.*" 62 Fed. Reg. at 10323 (emphasis added). Respondents thus long-ago made clear that people like Mr. Moya Pineda who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and the implementing regulations.

47. Nonetheless, Respondents here deemed Mr. Moya Pineda subject to mandatory detention under § 1225.

48. Applying § 1225 to Mr. Moya Pineda instead unlawfully mandates his continued detention under § 1225(b)(2).

49. Respondents' application of § 1225(b)(2) to Mr. Moya Pineda unlawfully requires his continued detention in violation of 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Respondents are Detaining Mr. Moya Pineda in Violation of the Administrative Procedures Act (5 U.S.C. § 706(2))

50. Mr. Moya Pineda incorporates by reference the allegations of fact set forth in the preceding paragraphs.

51. Under the APA, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

52. Respondents' detention of Mr. Moya Pineda pursuant to § 1225 is arbitrary and capricious, and in violation of the Fifth Amendment of the U.S. Constitution. Respondents do not have statutory authority under § 1225 to detain Mr. Moya Pineda.

53. Respondents' detention of Mr. Moya Pineda without access to bond is arbitrary, capricious, an abuse of discretion, violative of the U.S. Constitution, and without statutory authority, all in violation of 5 U.S.C. § 706(2).

COUNT IV

Respondents Detain Mr. Moya Pineda in Violation of his Fifth Amendment Due Process Rights

54. Mr. Moya Pineda incorporates by reference the allegations of fact set forth in the preceding paragraphs.

55. 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 [Fifth Amendment's due process] Clause protects." *Zadvydas*, 533 U.S. at 690.

56. Mr. Moya Pineda has a fundamental interest in liberty and being free from official restraint, such as imprisonment in the Aurora Facility.

57. Respondents' detention of Mr. Moya Pineda without providing him a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to Due Process.

PRAYER FOR RELIEF

Mr. Moya Pineda respectfully asks that this Court take jurisdiction over this matter and grant the following relief:

1. Issue a writ of *habeas corpus* requiring Respondents to either release Mr. Moya Pineda immediately or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
2. Enjoin respondents from transferring Mr. Moya Pineda outside the jurisdiction of the District of Colorado pending resolution of this case;
3. Award Mr. Moya Pineda attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and,

4. Grant any other and further relief that this Court deems just and proper.

Dated: September 19, 2025.

/s/ Hans Meyer
/s/ Conor Gleason
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VERIFICATION

I, Mary Jo Highland, declare as follows:

1. I am an attorney admitted to practice law in the State of Colorado.
2. Because many of the allegations in this petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf.
3. I have read the foregoing Petition for Writ of *Habeas Corpus* and know the contents thereof to be true to my knowledge, information, and belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 19, 2025.

/s/ Mary Jo Highland
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CERTIFICATE OF SERVICE

I, Hans Meyer, hereby certify that on September 19, 2025, I filed the foregoing with the Clerk of Court using the CM/ECF system. I, Ana Loera, hereby certify that I have mailed a hard copy of the document to the individuals identified below pursuant to Fed.R.Civ.P. 4 via certified mail on September 19, 2025.

Kevin Traskos
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