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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
Phoenix Division

Umarbek Gayrat Ugli Nomozov, an adult, Petitioner, v. John Cantu, Phoenix Field Office Director Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); Todd Lyons, Acting Director of Immigration Customs Enforcement ("ICE") U.S. Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security ("DHS"); U.S. Department of Homeland Security; and Pamela Bondi, Attorney General of the United States, Respondents.	Case No. Agency No. [redacted] **Petition For Writ Of Habeas Corpus**

INTRODUCTION

1. Petitioner Umarbek Gayrat Ugli Nomozov is a noncitizen and resident of the United States who is harmed by Respondents' new, draconian policy reinterpreting the immigration detention statutes to preclude Petitioner from eligibility for bond under the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for bond hearings under 8 C.F.R. §§ 1003.19(a), 1236.1(d). Instead, pursuant to this new policy, Respondents now consider Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of his lengthy removal proceedings.

2. Petitioner is charged with having entered the United States without inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner's removal proceedings, DHS denied his release from immigration custody. That denial was consistent with a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone alleged to be inadmissible under §1182(a)(6)(A)(i) --i.e., those who entered the United States without inspection--to be subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A) and therefore eligible for release only on parole.

4. Petitioner's detention on this basis violates the plain language of the INA and its implementing regulations.

5. Subparagraph 1225(b)(2)(A) applies to individuals who are apprehended

on arrival in the United States. It states that an "applicant for admission" who is "seeking admission" shall be detained for a removal proceeding. *Id.* It does not apply to individuals like Petitioner, who are arrested and detained by ICE after having entered and begun residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to Petitioner who is charged as inadmissible for having entered the United States without inspection.

6. Respondents' new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Indeed, for decades, Respondents have applied §1226(a) to people like Petitioner. Respondents' new policies are thus not only contrary to law, but arbitrary and capricious in violation of the Administrative Procedure Act (APA). They were also adopted without complying with the APA's procedural requirements.

7. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempts to detain and deport Petitioner are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing Petitioner's transfer out of this district.

JURISDICTION

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

9. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

10. 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).

VENUE

11. Venue is proper because Petitioner is in Respondents' custody in Eloy, Arizona. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

12. For these same reasons, divisional venue is proper under LRCiv 5.1(b).

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

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the 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.*

14. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

15. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

16. Petitioner is a 28-year-old citizen of Uzbekistan. Petitioner is present within the state of Arizona as of the time of the filing of this petition.

17. Respondent John Cantu is the Field Office Director for the Phoenix Field Office, Immigration and Customs Enforcement and Removal Operations ("ICE"). The Phoenix Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. Respondent Cantu is a legal custodian of Petitioner.

18. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent John Cantu and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents

in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

20. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

21. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens.

22. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

23. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

24. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

25. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have

been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c).

26. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" referred to under§ 1225(b)(2).

27. Last, the INA also provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, *see*, 8 U.S.C. § 123 l(a)-(b).

28. This case concerns the detention provisions at §1226(a) and § 1225(b)(2).

29. 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. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

30. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead 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").

31. For decades, this interpretation has governed the administration of custody. Noncitizens who were not deemed "arriving aliens" at the time of inspection, or who were released into the United States after inspection and issuance of an NTA, were treated as detained under § 1226. *See* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (explaining that § 1226(a) "restates" the detention authority previously codified at 8 U.S.C. § 1252(a) (1994)).

32. In recent weeks, Respondents have adopted an entirely new interpretation of the statute. Ona May 22, 2025, the Board of Immigration Appeals (BIA), issued an unpublished decision holding that all noncitizens who entered the United States without admission or parole are considered applicants for admission, and are therefore ineligible for IJ bond hearings under 8 U.S.C. § 1225(b)(2)(A).

33. On July 8, 2025, ICE, "in coordination with the Department of Justice (DOJ)," announced a corresponding policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice.

34. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed subject to mandatory detention under§ 1225(b)(2)(A). *Id.* The policy applies regardless of when a

person is apprehended and affects those who have resided in the United States for months, years, and even decades.

35. It is estimated that this novel interpretation of the INA would require a person's detention any time that immigration authorities arrest one of the millions of immigrants residing in the United States who entered without inspection and who has not since been admitted or paroled.[1]

36. Nationwide, pursuant to its July 8, 2025, policy, Respondents are now asserting that all persons who entered without inspection are subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A).

37. While some IJs in other immigration courts have continued to grant bond to people like Petitioner, consistent with its new policy, DHS also has begun filing Form EOIR-43, Notice of Service Intent to Appeal Custody Redetermination. This notice not only appeals any IJ decision granting bond but also triggers an automatic stay of the bond decision during the appeal. *See* 8 C.F.R. § 1003.19(i)(2).

38. The "auto-stay" provision of 8 C.F.R. § 1003.19(i)(2) prevents noncitizens from posting bond and being released even in jurisdictions where IJs have rejected DHS's unlawful reinterpretation of §1225(b)(2) and have granted bond.

39. ICE and DOJ have adopted this new and unprecedented position on bond even though federal courts have rejected this exact conclusion. For example, in

[1] Maria Sacchetti & Carol D. Leonnig, *ICE declares millions of undocumented immigrants ineligible for bond hearings*, Washington Post (July 14, 2025),https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/ [https://perma.cc/5ZTR-EN4B].

the Tacoma, Washington, immigration court, IJs previously stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, reasoning such people are subject to mandatory detention under § 1225(b)(2)(A). There, in granting preliminary injunctive relief, the U.S. District Court for the Western District of Washington found that such a reading of the INA is likely unlawful and that §1226(a), not §1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez* v. *Bostock,* No. 3:25-CV-05240-TMC, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes* v. *Hyde,* No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion); *Diaz Martinez* v. *Hyde,* No. CV 25-11613-BEM, --- F. Supp. 3d ---- 2025 WL 2084238, at *9 (D. Mass. July 24, 2025) (ordering release where noncitizen was redetained based on ICE's assertion of detention authority under §1225(b)).

40. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court and other courts explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

41. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

42. The text of §1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Just this year, Congress enacted subparagraph (E) in the Laken Riley Act to exclude certain noncitizens who entered without inspection from § 1226(a)'s default bond provision. Subparagraph (E)'s reference to persons inadmissible under § 1 182(6)(A), i.e., persons inadmissible for entering without inspection, makes clear that, by default, such people are afforded 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*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393,400 (2010)). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

43. By contrast, §1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez*, 2025 WL 2084238, at *8 ("'[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission ... and those who are within the United States after an entry, irrespective of its legality.'"(*quoting Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). 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* v. *Rodriguez,* 583 U.S. 281, 287 (2018).

44. Accordingly, the mandatory detention provision of §1225(b)(2) does not apply to Petitioner, who has already entered and has been residing in the United States at the time he was apprehended

FACTUAL BACKGROUND

45. Petitioner is a citizen and national of Uzbekistan born on

46. Petitioner was threatened by

47. Fearing for his life, he sought protection in the United States.

48. On or about January 31, 2024, Petitioner came to the Tecate Port of entry in California to seek asylum. Prior to releasing Petitioner into the United States on his own recognizance based on his individual facts and circumstances, Respondents issued an arrest warrant for Petitioner under INA §236 placing him in removal proceedings under INA §240.

49. On or about February 22, 2024, Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a in Detroit, Michigan and filed his Notice to Appear.

50. Respondents alleged that Petitioner was inadmissible to the United States

under 8 U.S.C. § 1182(a)(7)(A)(i)(I) and commanded that Petitioner appear for a hearing in the immigration court in Detroit, MI on November 6, 2025.

51. Petitioner applied for asylum before the Immigration Court.

52. In or around August of 2025, while driving his vehicle, Petitioner was arrested and placed in DHS custody.

53. DHS then transported Petitioner to Eloy, Arizona.

54. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

55. Any request for a bond redetermination with Immigration Court is futile. DHS's new policy was issued "in coordination with" DOJ. EOIR--the immigration court system--is a component agency of DOJ. Further, as noted, a recent published BIA decision held that persons like Petitioner are subject to mandatory detention as applicants for admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner are subject to detention under § 1225(b)(2)(A). *See, e.g.*, Mot. 19 to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. 20 June 6, 2025), Dkt. 49 at 27-30.

CLAIMS FOR RELIEF

COUNT I

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

56. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

57. The mandatory detention provision at 8 U.S.C. § 1225 (b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to Petitioner who previously entered the country and has been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such a noncitizen is detained under § 1226(a) and is eligible for release on bond, unless he is subject to§ 1225(b)(1), § 1226(c), or § 1231.

58. Nonetheless, Respondents have adopted a policy and practice of applying § 1225(b)(2) to Petitioner.

59. The unlawful application of §1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

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

60. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

61. 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 (emphasis added). 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.

62. Nonetheless, Respondents adopted a policy and practice of applying §1225(b)(2) to Petitioner.

63. 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 III

Violation of the Administrative Procedure Act Contrary to Law and Arbitrary and Capricious Agency Policy

64. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

65. The APA provides that a "reviewing court shall ... hold unlawful and set aside agency action, findings, and conclusions found to be ... arbitrary and

capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to Petitioner who previously entered the country and has been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such a noncitizen is detained under§ 1226(a) and are eligible for release on bond, unless he is subject to § 1225(b)(1), § 1226(c), or § 1231.

67. Nonetheless, Respondents have a policy and practice of applying §1225(b)(2) to Petitioner.

68. Moreover, Respondents have failed to articulate reasoned explanations or their decisions, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

69. The application of §1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

COUNT IV

Violation of the Administrative Procedure Act
Failure to Observe Required Procedures

70. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

71. The APA provides that a "reviewing court shall ... hold unlawful and set aside agency action, findings, and conclusions found to be ... without observance of procedure required by law." 5 U.S.C. § 706(2)(D). Specifically, the APA requires agencies to follow public notice-and-comment rulemaking procedures before promulgating new regulations or amending existing regulations. *See* 5 U.S.C. § 553(b), (c).

72. Respondents failed to comply with the APA by adopting its policy and departing from its regulations without any rulemaking, let alone any notice or meaningful opportunity to comment. Respondents failed to publish any such new rule despite affecting the substantive rights of thousands of noncitizens under the INA, as required under 5 U.S.C. § 553(d).

73. Had Respondents complied with the advance publication and notice-and-comment rulemaking requirements under the APA, members of the public and organizations that advocate on behalf of noncitizens like Petitioner would have submitted comments opposing the new policies.

74. The APA's notice and comment exceptions related to "foreign affairs function[s] of the United States," *id.* § 553(a)(1), and "good cause," *id.* § 553(d)(3), are inapplicable.

75. Respondents' adoption of their no-bond policies therefore violates the public notice-and-comment rulemaking procedures required under the APA.

COUNT V

Violation of Fifth Amendment Right to Due Process

76. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

77. Petitioner's detention by DHS violates his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution.

78. Immigration detention violates due process if it is not reasonably related to the purpose of ensuring a noncitizen's removal from the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92, 699-700 (2001); *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Where removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and is unlawful. *See id.* at 699-700.

79. The Supreme Court has also established that noncitizens in deportation or removal proceedings are just as entitled to due process protections as anyone else. *See Zadvydas*, 533 U.S. at 690 (2001) ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem. The Fifth

Amendment's Due Process Clause forbids the Government to 'depriv[e]" any "person . . . of . . . liberty . . . without due process of law.'").

80. Here, there is no reason to justify Petitioner's detention. Petitioner has been living in the United States for over a year, where he has very strong ties to the community.

81. Petitioner has also been unable to have a bond hearing before an Immigration Court, because BIA's decision *Matter of Yajure Hurtado* mandates that IJs deny bond to noncitizens like Petitioner. *See* 29 I&N Dec. 216 (BIA 2025). Therefore, Petitioner is being held in custody without the possibility of having his case reviewed by an Immigration Judge – despite not being subject to mandatory detention.

82. Here, Petitioner has resided in the United States since January 31, 2024, when DHS inspected him at the Tecante Port of Entry, issued a Notice to Appear, and allowed him to reside in the country pending removal proceedings. For over a year, Petitioner lived openly in the interior with the knowledge and acquiescence of DHS.

83. In *Jennings v. Rodriguez*, the Supreme Court makes a clear distinction between noncitizens who are detained while entering the country and noncitizens who are already present in the United States. *Jennings v. Rodriguez*, 804 F. 3d 106. The opinion of the Supreme Court recognizes that "§ 1226 applies to aliens already present in the United States. . .." and that "§ 1226(a) authorizes the Attorney General to arrest and detain an alien 'pending a decision

on whether the alien is to be removed from the United States.'" § 1226(a). As long as the detained alien is not covered by § 1226(c), the Attorney General "may release" the alien on "bond . . . or conditional parole." § 1226(a). Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention. See 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1).

84. The Ninth Circuit has long recognized that individuals held in detention under § 1226(a) have the right to a bond hearing in which the government needs to show by clear and convincing evidence that continued detention is justified. *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022).

85. Here, Petitioner has been living in the United States for over a year prior to his detention, and the reason for his current detention is not related to his first detention as an "applicant for admission." In the present case, there is not the issue of a continued detention of someone who is trying to enter the country, but rather a new detention – on a new warrant – for someone who has been in the country for over a year.

86. The Arrest Warrant issued by the Department of Homeland Security states that the Petitioner was detained under Section 236 of the Immigration and Nationality Act. The document clearly shows that Petitioner is detained under §1226(a).

87. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being

admitted. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231. *See Rocha Rosado v. Figueroa*, 2025 WL 2349133, (D. Ariz. Aug. 13, 2025).

88. Petitioner was placed in removal proceedings pursuant to 8 U.S.C. § 1229 by a Notice to Appear in October of 2022. Because Petitioner was placed into removal proceedings pursuant to § 1229, an alternative process to that stated in § 1225, his release in 2022 and his current detention are pursuant to § 1226, not § 1225. This conclusion is supported by the fact that the Deportation Officer ordering Petitioner detained in October 2022, cited INA § 236, i.e., 8 U.S.C. § 1226.

89. The only exception permitting the release of aliens detained under § 1225(b) is the parole authority provided by § 1182(d)(5)(A). Parole into the United States employs a legal fiction whereby noncitizens are physically permitted to enter the country but are nonetheless "treated," for legal purposes, "as if stopped at the border." *Department of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020), *quoting Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953).

90. Noncitizens paroled into the United States are in a fundamentally different and less protected position than "those who are within the United States after an entry, irrespective of its legality." *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958). Individuals detained as inadmissible upon inspection at the border can only be paroled into the United States "'for urgent humanitarian

reasons or significant public benefit.'" *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018), *quoting* 8 U.S.C. § 1182(d)(5)(A). Because there is no evidence that Petitioner was released into the United States for urgent humanitarian reasons or significant public benefits, his "discretionary" release must be construed as conditional parole, or release on recognizance.

91. Release on recognizance is not a form of "parole into the United States" based on "humanitarian" grounds or "public benefit," but rather a form of "conditional parole" from detention upon a charge of removability, authorized by 8 U.S.C. 1226(a)(2)(B). *See Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115-16 (9th Cir. 2007) (holding a non-citizen released on an "Order of Release on Recognizance" must necessarily have been detained and released under § 1226, *inter alia* because they were not an "arriving alien" under the regulations governing § 1225); *Rocha Rosado v. Figueroa*, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025).

92. Parole "into the United States" under § 1182(d)(5)(A), permits a non-citizen to physically enter the country, subject to a reservation of rights by the government that it may continue to treat the non-citizen "as if stopped at the border." *Thuraissigiam*, 591 U.S. at 139.

93. Conditional parole provides a mechanism of release on recognizance, without payment of a bond, at the discretion of the government. *See Rivera v. Holder*, 307 F.R.D. 539, 553 (W.D. Wash. 2015).

94. The record regarding Petitioner's lack of detention during his removal proceedings beginning in 2024, after inspection at the border, through August of 2025, can only be construed as demonstrating that he was conditionally paroled into the United States. See *Matter of Cabrera-Fernandez*, 28 I.&N. Dec. 747, 749 (B.I.A. 2023) (holding an immigration judge erred in treating release on recognizance of noncitizens "detained soon after their unlawful entry" as constructive humanitarian parole where the government had not followed the "procedures for parole under [section 1182(d)(5)]"). *See also Martinez v. Hyde*, ___ F. Supp. 3d ___, No. CV 25-11613, 2025 WL 2084238, at *3-4 (D. Mass. July 24, 2025).

95. Given the fact Petitioner was "present in the United States" long before he was taken into custody a second time in 2025 (the first time being at the border in 2024), it would make no sense to talk about admitting him into the United States or allowing him to "enter" the United States in 2025. Petitioner was already in the U.S. over a year, and he has been in the U.S. with the knowledge and approval of the Department of Homeland Security.

96. Therefore, because Petitioner's presence in the United States after his inspection and release into the United States in 2024, and after his Notice to Appear hearing, has been on a conditional parole pursuant to § 1226, the DHS's and DOJ's 2025 determination that immigration courts are without jurisdiction to reconsider Petitioner's detention, and Petitioner 's detention itself in the absence of a bond hearing to determine if he poses a danger to community or a

flight risk, violates his Fifth Amendment Due Process rights under the Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(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 Respondents' policy and practice of denying consideration for bond on the basis of §1225(b)(2) to Petitioner violates the INA, its implementing regulations, the APA, and the Due Process Clause;

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

(6) Set aside Respondents' unlawful detention policy under the APA, 5 U.S.C. § 706(2), as contrary to law, arbitrary and capricious, and contrary to constitutional right;

(7) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

(8) Grant any further relief this Court deems just and proper.

Dated: September 29, 2025

/s/ Eli Goldmann
Eli Goldmann, Esq.
6664 Coral Springs Cir
Las Vegas, NV 89108
Attorney for Petitioner

VERIFICATION

I, Eli Goldmann, attorney for the petitioner in the above-entitled proceeding, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Petition for Writ of Habeas Corpus and, based on information and belief and records reasonably available to me, verify that its contents are true and correct to the best of my knowledge. Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

Date: September 29, 2025

/s/ Eli Goldmann
Eli Goldmann
Attorney for Petitioner

UNITED STATES DISTRICT COURT
District Of Arizona
Phoenix Division

Umarbek Gayrat Ugli Nomozov, an adult,

Petitioner,

v.

John Cantu, Phoenix Field Office Director Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); Todd Lyons, Acting Director of Immigration Customs Enforcement ("ICE") U.S. Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security ("DHS"); U.S. Department of Homeland Security; and Pamela Bondi, Attorney General of the United States,

Respondents.

Case No.

Agency No [redacted]

Petition For Writ Of Habeas Corpus

INDEX

DOCUMENT:	
Exhibit	*Description*
A	Petitioner's Notice to Appear (NTA)

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:
Subject ID: [redacted] FINS [redacted]
DOB: [redacted] File No: [redacted]

In the Matter of:
Respondent: UMARBEK GAYRAT UGLI HOMOZOV currently residing at:
[redacted]
(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of UZBEKISTAN and a citizen of UZBEKISTAN ;
3. You arrived in the United States at or near TECATE, CA , on or about January 31, 2024 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

477 MICHIGAN AVENUE, SUITE 440 DETROIT, MI 48226

(Complete Address of Immigration Court, including Room Number, if any)

on November 06, 2025 at 08:30 AM to show why you should not be removed from the United States based on the charge(s) set forth above.

(Date) (Time)

(A) WATCH COMMANDER [illegible]

(Signature and Title of Issuing Officer)

Date: February 03, 2024

[illegible]

(City and State)

DHS Form I-862 (6/22)

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