UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

JOSE DANIEL CONTRERAS-CERVANTES, FREDY DE LOS ANGELES-FLORES, MARIELA VIRGINIA OCANDO-LEON, LUIS FELIPE JARQUIN-JARQUIN, DEBBIE VASQUEZ-CRUZ, JAIRO MANUEL GODOY-PEREZ, MARIFER DIAZ-ALCANTAR, and MIGUEL ANGEL REYES-SANCHEZ,

Petitioners,

v.

KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No.

Hon.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This petition arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

2. This policy has led to the unlawful detention of countless noncitizens nationwide. Dozens of habeas corpus petitions for their release have been filed in jurisdictions across the country (including at least six in the Eastern District of Michigan). Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

3. Petitioners have all been unlawfully detained without the possibility of bond in furtherance of this policy. They all came to the United States between three and twenty-five years ago and were as young as eleven months old when they arrived. They have all lived here ever since.

4. Each Petitioner was taken into immigration custody, in some cases after being arrested by immigration authorities and in other cases after local law enforcement contacted immigration authorities following a routine traffic stop. Respondents placed each of them in civil immigration removal proceedings, alleging

that they had entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

5. Petitioners are currently in the physical custody of Respondents at various immigration detention centers that fall under the purview of the Detroit Field Office of Immigration and Customs Enforcement (ICE), which has responsibility for immigration detention centers in Michigan and Ohio.

6. Under 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond, Petitioners are entitled to a bond determination. That statute expressly applies to people who, like Petitioners, are residing in the United States but are charged as inadmissible for having initially entered the United States without inspection. In accordance with 8 U.S.C. § 1226(a), the Department of Homeland Security (DHS) and Executive Office of Immigration Review (EOIR) have for decades provided bond determinations and bond hearings to people like Petitioners who have been living in the United States but allegedly entered without inspection.

7. However, pursuant to a new governmental policy announced on July 8, 2025,[1] Petitioners are now being unlawfully detained without bond. The new policy instructs all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged

[1] ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission (Jul. 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD].

with being inadmissible under § 1182(a)(6)(A)(i)—i.e., those who initially entered the United States without inspection. Instead, under the new policy, ICE employees are to subject people like Petitioners to mandatory detention without bond under § 1225(b)(2)(A)—a provision that has historically been applied only to recent arrivals at the U.S. border—no matter how long they have resided in the United States.

8. Detaining Petitioners without bond is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Petitioners. It also violates their right to due process by depriving them of their liberty without any consideration of whether such a deprivation is warranted.

9. Accordingly, Petitioners seek a writ of habeas corpus requiring that they be immediately released from custody unless Respondents provide them a bond hearing under § 1226(a) within seven days.

10. Petitioners are not challenging any discretionary denial of bond; they are challenging the legal determination that they are not eligible for bond under § 1226(a) in the first place.

JURISDICTION

11. This Court has jurisdiction under 28 U.S.C. § 2241(c) (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

13. Venue is proper in the Eastern District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioners are detained in immigration detention facilities in Michigan and Ohio at the direction of, and are in the immediate custody of, Respondent Kevin Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314, 320–21 (6th Cir. 2003).

14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in the Eastern District.

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for a writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

16. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

17. Petitioner Jose Daniel Contreras-Cervantes is a citizen of Mexico who has resided in the United States since 2006. He has been in immigration detention since August 5, 2025, and is currently detained at the North Lake Processing Center. After taking custody of Mr. Contreras-Cervantes, ICE did not set bond. Mr. Contreras-Cervantes requested review of his custody (i.e., a bond hearing) by an immigration judge (IJ) at the Cleveland Immigration Court. On August 28, 2025, Mr. Contreras-Cervantes was denied eligibility for bond by an IJ because he was deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

18. Petitioner Fredy De Los Angeles-Flores is a citizen of Mexico who has resided in the United States since 2010. He has been in immigration detention at the Monroe County Jail since June 27, 2025. After taking custody of Mr. De Los Angeles-Flores, ICE did not set bond. Mr. De Los Angeles-Flores requested review

of his custody (i.e., a bond hearing) by an IJ at the Detroit Immigration Court. On August 7, 2025, Mr. De Los Angeles-Flores was denied eligibility for bond by an IJ because he was deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

19. Petitioner Mariela Virginia Ocando-Leon is a citizen of Venezuela who has resided in the United States since 2021. She has been in immigration detention since July 15, 2025, and is currently detained at the Corrections Center of Northwest Ohio. After taking custody of Ms. Ocando-Leon, ICE did not set bond. Ms. Ocando-Leon requested review of her custody (i.e., a bond hearing) by an IJ at the Cleveland Immigration Court, but after an IJ at the Cleveland Immigration Court said she was ineligible for bond because she was deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2), her immigration counsel withdrew the bond request.

20. Petitioner Luis Felipe Jarquin-Jarquin is a citizen of Nicaragua who has resided in the United States since 2022. He has been in immigration detention at the Monroe County Jail since August 6, 2025. After taking custody of Mr. Jarquin-Jarquin, ICE did not set bond. Mr. Jarquin-Jarquin requested review of his custody (i.e., a bond hearing) by an IJ at the Detroit Immigration Court. On August 25, 2025, Mr. Jarquin-Jarquin was denied eligibility for bond by an IJ because he was deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

21. Petitioner Debbie Vasquez-Cruz is a citizen of Mexico who has resided in the United States since 2016. She has been in immigration detention since August

1, 2025, and is currently detained at the Corrections Center of Northwest Ohio. After taking custody of Ms. Vasquez-Cruz, ICE did not set bond. Ms. Vasquez-Cruz's immigration counsel requested review of her custody (i.e., a bond hearing), but after an IJ at the Cleveland Immigration Court said she was ineligible for bond because she was deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2), her immigration counsel withdrew the bond request.

22. Petitioner Jairo Manuel Godoy-Perez is a citizen of Guatemala who has resided in the United States since 2018. He has been in immigration detention since July 31, 2025, and is currently detained at the North Lake Processing Center. After taking custody of Mr. Godoy-Perez, ICE did not set bond. Mr. Godoy-Perez's immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

23. Petitioner Marifer Diaz-Alcantar is a citizen of Mexico who has resided in the United States since 2003. She has been in immigration detention since July 30, 2025, and is currently detained at the Corrections Center of Northwest Ohio. After taking custody of Ms. Diaz-Alcantar, ICE did not set bond. Ms. Diaz-Alcantar's immigration counsel advised her that seeking a bond hearing would be futile, as judges at the Cleveland Immigration Court judges are currently deeming

individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

24. Petitioner Miguel Angel Reyes-Sanchez is a citizen of Mexico who has resided in the United States since 2000. He has been in immigration detention since September 5, 2025, and is currently detained at the North Lake Processing Center. After taking custody of Mr. Reyes-Sanchez, ICE did not set bond. Mr. Reyes-Sanchez's immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

25. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Raycraft is Petitioners' immediate custodian and is responsible for Petitioners' detention and removal. He is named in his official capacity.

26. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioners' detention. Ms. Noem has ultimate custodial authority over Petitioners and is sued in her official capacity.

27. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

28. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates are component agencies. She is sued in her official capacity.

29. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

FACTS

Petitioner Jose Daniel Contreras-Cervantes

30. Petitioner Jose Daniel Contreras-Cervantes came to United States in 2006 at the age of 14. Mr. Contreras-Cervantes, who is now 33 years old, has resided in the United States continuously for over 19 years.

31. Mr. Contreras-Cervantes has been married for ten years. His wife is a U.S. citizen, and the couple have three U.S. citizen children, ages 1, 8, and 9. The family lives in Romeo, Michigan.

32. In 2024, Mr. Contreras-Cervantes was diagnosed with Chronic Myeloid Leukemia, a rare and life-threatening cancer of the bone marrow. As a result of his

cancer treatment, he is also suffering from anemia and serious vision changes, including retinal hemorrhage. His vision loss is one of the most significant side effects of the cancer medication. He recently underwent vitreoretinal surgery and is supposed to have follow-up appointments with his ophthalmologist. He requires daily oral chemotherapy, ongoing monitoring by both an oncologist and ophthalmologist, and continuity of care.

33. On August 5, 2025, Mr. Contreras-Cervantes was pulled over by the Macomb County Sheriff's Office for an alleged traffic violation (driving 6-10 miles over the speed limit). During the stop, the officer contacted U.S. Customs and Border Protection (CBP), who arrived at the scene and arrested Mr. Contreras-Cervantes, presumably based on a belief that he was present in the United States without authorization.

34. Mr. Contreras-Cervantes was detained from August 5 to August 12, 2025, at the Marysville Border Patrol Station in Michigan. During that time, he received no medical care for his leukemia. He was then transferred to the Mahoning County Jail in Ohio, where he was held from August 13 to September 2, 2025. He did not receive any care for his leukemia until August 27, 2025.

35. Mr. Contreras-Cervantes was subsequently transferred—via Vermont—to the North Lake Processing Center in Baldwin, Michigan, where he has been detained since September 3, 2025. At North Lake, he is receiving only limited

care for his medical conditions. He is being given different chemotherapy medication from the one recommended by his treating physician. Administration of the anti-nausea medication needed to manage chemotherapy side effects has been inconsistent. At times, he is given a medication that causes vomiting before it takes effect. He continues to experience persistent weakness and dizziness. Facility staff have told him they have no control over which medications are administered.

36. Mr. Contreras-Cervantes' treatment regimen is closely tied to his established medical care team. His detention separates him from that team and jeopardizes his health due to lack of access to effective medication and specialized care. The disruption in his treatment—including the lack of critically necessary medication from August 5 to August 27, 2025—the ongoing absence of his regular care team, and the risk of future lapses in care place him at grave risk of severe complications, including permanent vision damage, uncontrolled white blood cell proliferation, infection, and death.

37. After Mr. Contreras-Cervantes was arrested, DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a, first before the Cleveland Immigration Court and later before the Detroit Immigration Court. ICE has charged Mr. Contreras-Cervantes with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and § 1182(a)(7)(A)(i)(I) as someone who entered the United States without inspection and lacks the necessary immigration documents.

38. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue detaining Mr. Contreras-Cervantes without providing an opportunity to post bond or be released under other conditions.

39. Mr. Contreras-Cervantes subsequently requested a bond hearing before an IJ. On August 28, 2025, an IJ issued a decision that the court lacked jurisdiction to conduct a bond hearing because Mr. Contreras-Cervantes is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See* Exhibit 1 (Contreras-Cervantes Bond Decision). The Court did not make any factual findings or in any way suggest that Mr. Contreras-Cervantes is a flight risk or danger to the community.

40. Mr. Contreras-Cervantes is clearly neither a flight risk nor a danger to the community, as demonstrated by:

- His serious medical condition.
- His long-term residence in the United States, having entered as a child, lived here continuously since, and remained at the same address for the past 10 years.
- His U.S. citizen wife and three U.S. citizen children, all of whom rely on him for daily emotional and financial support. His family faces significant medical challenges: his wife has a severe congenital condition that has required 42 reconstructive surgeries and is deaf in one ear; his 8-year-old

is being evaluated for a possible tumor; and his one-year-old recently underwent surgery.

- His deep ties to the community, including active membership in Saint Clement of Rome Church in Romeo, Michigan.
- His lack of criminal history, aside from traffic-related offenses.

41. Mr. Contreras-Cervantes, who is working closely with his immigration attorney, has strong claims for relief based his family ties and long-term residence in the United States.

42. As a result of the IJ's bond denial, Mr. Contreras-Cervantes remains in detention. Without relief from this Court, he faces the prospect of months—or even years—in immigration custody, separated from wife, young children, community, and church. His detention is devastating for his family. His wife, who has taken on working night shifts to help make ends meet, cannot continue doing so without his support at home, particularly given the medical and developmental needs of their three young children.

Petitioner Fredy De Los Angeles-Flores

43. Petitioner Fredy De Los Angeles-Flores has resided in the United States since 2010 and lives in Pontiac, Michigan. He is 46 years old and the sole caregiver to his 13-year-old U.S. citizen son.

44. On June 27, 2025, Mr. De Los Angeles-Flores was arrested at a gas station in Pontiac, Michigan. Officers, who did not verbally identify themselves but wore vests labeled "DHS," arrested Mr. De Los Angeles-Flores after first questioning him about someone else whom they were looking for. He was subsequently transferred to the Monroe County Jail in Monroe, Michigan, where he remains detained.

45. DHS placed Mr. De Los Angeles-Flores in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Mr. De Los Angeles-Flores with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

46. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue detaining Mr. De Los Angeles-Flores without providing an opportunity to post bond or be released under other conditions.

47. Mr. De Los Angeles-Flores subsequently requested a bond hearing before an IJ. On August 7, 2025, an IJ issued a decision that the court lacked jurisdiction to conduct a bond hearing because Mr. De Los Angeles-Flores is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See* Exhibit 2 (De Los Angeles-Flores Bond Decision). The Court did not make any factual findings or in

any way suggest that Mr. De Los Angeles-Flores is a flight risk or danger to the community.

48. Mr. De Los Angeles-Flores is clearly neither a flight risk nor a danger to the community, as demonstrated by:

- His role as caregiver for his U.S. citizen son.
- Having lived in the U.S. for a decade and a half and owning his home.
- Being involved in and having strong support from his community.
- Having no criminal history aside from minor traffic infractions.

49. Mr. De Los Angeles-Flores, who is actively working with his immigration attorney, has strong claims for immigration relief based on his family ties and his long residence in the United States.

50. Without relief from this court, Mr. De Los Angeles-Flores faces the prospect of months, or even years, in immigration custody, separated from his 13-year-old son and community. Mr. De Los Angeles-Flores' detention has disrupted his ability to care for his son and has been traumatic for the child. Mr. De Los Angeles-Flores provided a safe and stable home environment and is deeply involved in his son's education and school community, regularly attending parent-teacher conferences, cultural nights, and other school events. As a result of Mr. De Los Angeles-Flores' detention, his son is experiencing emotional hardship, and the child's social worker has expressed concern about the child's stability.

Petitioner Mariela Virginia Ocando-Leon

51. Petitioner Mariela Virginia Ocando-Leon has resided in the United States since 2021 and lives in White Lake, Michigan. She is 49 years old and works as a painter.

52. On July 15, 2025, Ms. Ocando-Leon was a passenger in a vehicle pulled over by police in Auburn Hills, Michigan. Although she provided her documents, including her work authorization, local police contacted CBP. CBP took her into custody, and she was held for several days at the Detroit Border Patrol Station. Since approximately July 26, 2025, she has been detained at the Corrections Center of Northwest Ohio.

53. Ms. Ocando-Leon is in removal proceedings before the Cleveland Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Ms. Ocando-Leon with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and § 1182(a)(7)(A)(i)(I) as someone who entered the United States without inspection and lacks the necessary immigration documents.

54. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue Ms. Ocando-Leon's detention without providing an opportunity to post bond or be released under other conditions.

55. Ms. Ocando-Leon subsequently requested a bond hearing before an IJ. Her immigration counsel requested review of her custody (i.e., a bond hearing), but

after an IJ at the Cleveland Immigration Court said she was ineligible for bond due to mandatory detention under 8 U.S.C. § 1225(b)(2), her counsel withdrew the request.

56. Ms. Ocando-Leon is clearly neither a flight risk nor a danger to the community, as demonstrated by:

- Her stable employment as a painter.
- Her deep ties to Michigan, including a U.S. citizen sister who serves as her sponsor.
- Her lack of criminal history, aside from minor traffic infractions.

57. Ms. Ocando-Leon, who previously held Temporary Protected Status, is currently working with an immigration attorney to pursue immigration relief. Without relief from this Court, Ms. Ocando-Leon faces the prospect of months—or even years—in immigration custody, separated from her family and community.

Petitioner Luis Felipe Jarquin-Jarquin

58. Petitioner Luis Felipe Jarquin-Jarquin has resided in the United States since 2022 and lives in Ypsilanti, Michigan. Mr. Jarquin-Jarquin is 33 years old and is employed as a roofer.

59. On August 6, 2025, Mr. Jarquin-Jarquin was pulled over by ICE officers in Ypsilanti, Michigan while driving a roofing company vehicle. The officers, who identified themselves as ICE, claimed they were looking for someone

who matched his description. Although Mr. Jarquin-Jarquin had a valid driver's license, vehicle registration, and work authorization, he was detained. Mr. Jarquin-Jarquin has remained in custody and is currently detained at Monroe County Jail in Michigan.

60. DHS placed Mr. Jarquin-Jarquin in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection, and § 1182(a)(7)(A)(i)(I) as someone who lacks the necessary immigration documents.

61. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue Mr. Jarquin-Jarquin's detention without providing an opportunity to post bond or be released under other conditions.

62. Mr. Jarquin-Jarquin subsequently requested a bond hearing before an IJ. On August 25, 2025, an IJ issued a decision that the court lacked jurisdiction to conduct a bond hearing because Mr. Jarquin-Jarquin is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See* Exhibit 3 (Jarquin-Jarquin Bond Decision). The Court did not make any factual findings or in any way suggest that Mr. Jarquin-Jarquin is a flight risk or danger to the community.

63. Mr. Jarquin-Jarquin is clearly neither a flight risk nor a danger to the community, as demonstrated by the fact that:

- He has been regularly employed as a roofer.
- He is a valued member of the St. Francis of Assisi Catholic Church in Ann Arbor, Michigan, where he has regularly assisted as a sacristan. He is a dedicated and practicing Catholic who is committed to his faith and community.
- He has no criminal record.

64. Mr. Jarquin-Jarquin, who is actively working with his immigration attorney, has strong claims for immigration relief. Without relief from this Court, he faces the prospect of months—or even years—in immigration custody, separated from his church and community.

Petitioner Debbie Vasquez-Cruz

65. Petitioner Debbie Vasquez-Cruz has resided in the United States for nearly nine years since 2016 and lives in Detroit, Michigan.

66. Ms. Vasquez-Cruz is 33 years old. She is married and the mother of a six-year-old U.S. citizen daughter with a disability. Her daughter depends on her daily for stability, support, and specialized attention.

67. On August 1, 2025, Ms. Vasquez-Cruz and her daughter were en route to the beach to celebrate a friend's birthday when the driver of the vehicle mistakenly

turned into Canada. CBP detained both Ms. Vasquez-Cruz and her six-year-old, disabled U.S. citizen daughter. Mother and daughter were held at the Port Huron Border Patrol Station before immigration authorities separated them. Ms. Vasquez-Cruz is now detained at the Corrections Center of Northwest Ohio.

68. DHS placed Ms. Vasquez-Cruz in removal proceedings before the Cleveland Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Ms. Vasquez-Cruz with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and § 1182(a)(7)(A)(i)(I) as someone who entered the United States without inspection and lacks necessary immigration documents.

69. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue Ms. Vasquez-Cruz's detention without providing an opportunity to post bond or be released under other conditions.

70. Ms. Vasquez-Cruz subsequently requested a bond hearing before an IJ. However, after an IJ at the Cleveland Immigration Court said she was ineligible for bond due to mandatory detention under 8 U.S.C. § 1225(b)(2), her immigration counsel withdrew the bond request. *See* Ex. 4 (Vasquez-Cruz bond denial).

71. Ms. Vasquez-Cruz is clearly neither a flight risk nor a danger to the community, as demonstrated by:

- Her deep commitment to caring for her six-year-old disabled U.S. citizen daughter.

- Her lack of any criminal history.

72. Ms. Vasquez-Cruz is working with an immigration attorney and has strong claims for immigration relief.

73. Without relief from this Court, Ms. Vasquez-Cruz faces the prospect of months—or even years—in immigration custody, separated from her family and community. Her detention has been especially hard on her daughter, who relies on her for daily care and emotional support. The two have never been separated for any meaningful length of time, and Ms. Vasquez-Cruz's detention has caused disruption to her daughter's care.

Petitioner Jairo Manuel Godoy-Perez

74. Petitioner Jairo Manuel Godoy-Perez came to the United States in 2018 as a 17-year-old and has resided in the United States since. He lives in Milford, Michigan.

75. Mr. Godoy-Perez is 25 years old. He is a victim of a felonious assault and is currently participating in the Oakland County Prosecutor's Office Crime Victims Program. Due to his detention, he has missed three court hearings where he was expected to serve as a witness in the related proceedings.

76. On July 31, 2025, Mr. Godoy-Perez was pulled over by ICE officers in Wixom, Michigan while driving. He was taken into custody and has remained

detained since. Mr. Godoy-Perez is currently held at the North Lake Processing Center in Michigan.

77. DHS placed Mr. Godoy-Perez in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Mr. Godoy-Perez with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and § 1182(a)(7)(A)(i)(I) as someone who entered the United States without inspection and lacks necessary immigration documents.

78. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue Mr. Godoy-Perez's detention without providing an opportunity to post bond or be released under other conditions.

79. Mr. Godoy-Perez's immigration counsel advised him that seeking a bond hearing would be futile because the Detroit Immigration Court judges are currently deeming people who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

80. Mr. Godoy-Perez is clearly neither a flight risk nor a danger to the community, as demonstrated by the fact that:

- He cooperated with law enforcement as a witness and crime victim.
- He has no criminal history.

81. Mr. Godoy-Perez has strong claims for immigration relief and is actively working with his immigration attorney. Without relief from this court, Mr.

Godoy-Perez faces the prospect of months, or even years, in immigration custody, separated from his family and community.

Petitioner Marifer Diaz-Alcantar

82. Petitioner Marifer Diaz-Alcantar came to the United States in 2003 at 11 months old and has lived here ever since. She graduated from Western International High School and resides in Detroit, Michigan.

83. Ms. Diaz-Alcantar is now 23 years old and has applied for Deferred Action for Childhood Arrivals (DACA), a program designed to provide immigration protections for individuals who came to the United States as children. Her application is currently pending.

84. On July 30, 2025, Ms. Diaz-Alcantar was stopped by the Clay Township Police Department during a routine traffic stop. Although she provided her documents, the police contacted CBP, and CBP took her into custody. She was detained at the Marysville Border Patrol Station from July 30 to August 8, 2025, then transferred to Detroit on August 8, 2025. Later that same day, she was moved to the Corrections Center of Northwest Ohio, where she has remained in custody since.

85. DHS placed Ms. Diaz-Alcantar in removal proceedings before the Cleveland Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Ms. Diaz-Alcantar with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and §

1182(a)(7)(A)(i)(I) as someone who entered the United States without inspection and lacks necessary immigration documents.

86. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue Ms. Diaz-Alcantar's detention without providing an opportunity to post bond or be released under other conditions. Her immigration counsel advised that seeking a bond hearing would be futile, as judges at the Cleveland Immigration Court are currently deeming people who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

87. Ms. Diaz-Alcantar is clearly neither a flight risk nor a danger to the community, as demonstrated by the following:

- She came to the United States as a baby, does not speak Spanish fluently, and has no ties or support system outside the country.
- She has no criminal history.

88. Ms. Diaz-Alcantar is working with an immigration attorney and has strong claims for relief based on her arrival in the United States as a child and her fear of removal to Mexico.

89. Without relief from this court, Ms. Diaz-Alcantar faces the prospect of months—or even years—in immigration custody, separated from her family and community.

Petitioner Miguel Angel Reyes-Sanchez

90. Petitioner Miguel Angel Reyes-Sanchez came to the United States as an infant in 2000 and has resided here ever since. He lives in Detroit, Michigan.

91. Mr. Reyes-Sanchez, who is now 25 years old, is married to a U.S. citizen. The couple has two U.S. citizen children, a four-year-old and a 10-month-old.

92. On September 5, 2025, Mr. Reyes-Sanchez was pulled over while driving to work by an unmarked ICE vehicle. Although Mr. Reyez-Sanchez presented his driver's license and work permit, he was taken into custody. He is being detained at the North Lake Processing Center in Baldwin, Michigan.

93. Mr. Reyes-Sanchez is in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Mr. Reyes-Sanchez with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

94. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue Mr. Reyes-Sanchez's detention without an opportunity to post bond or be released on other conditions. Mr. Reyes-Sanchez's immigration counsel advised him that seeking a bond hearing would be futile because the Detroit Immigration Court judges are currently deeming

people who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

95. Mr. Reyes-Sanchez is clearly neither a flight risk nor a danger to the community, as demonstrated by the fact:

- That he entered the United States as an infant, has lived here continuously since, and attended school here.
- That he has a U.S. citizen wife and two young U.S. citizen children, all of whom rely on him for daily emotional and financial support.
- He has strong family and community ties.
- That he has no criminal history other than traffic infractions.

96. Mr. Reyes-Sanchez, who is working with his immigration attorney, has strong claims for immigration relief based on his family ties and his long residence in the United States.

97. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from wife, young children, and community. His detention is emotionally devastating for his family and has caused severe financial strain as the family has lost his income, and his wife has had to reduce her work hours to care for the children.

LEGAL FRAMEWORK

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

99. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a. *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to seek release on bond.[2] The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioners who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

100. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See*

[2] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception does not apply to Petitioners here.

Jennings, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioners.

101. Third, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231. Section 1231 is not relevant here.

102. This case challenges Respondents' erroneous decision that Petitioners are subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

103. 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, 582–583, 585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

104. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not 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.

10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, [noncitizens] 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.").

105. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" 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 that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

106. However, on July 8, 2025, ICE, "in coordination with" the Department of Justice, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice.

107. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). 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—like some Petitioners—for decades or since infancy.

108. In decision after decision, federal courts—both nationwide and here in the Eastern District of Michigan—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See, e.g., Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 25-CV-11571, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, --- F. Supp. 3d. ---, 2025 WL 2084238 (D. Mass. July 24, 2025); Order, *Bautista v. Santacruz Jr.*, No. 25-CV-1873 (C.D. Cal. July 28, 2025), Dkt. 14;[3] *Rosado v. Figueroa et al.*, No. 25-CV-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, --- F. Supp. 3d. ---, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); Order, *Gonzalez v. Noem*, 25-CV-2054 (C.D. Cal. Aug. 13, 2025), Dkt. 12; *Dos Santos v. Noem*, No. 25-CV-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, --- F. Supp. 3d. ---, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-CV-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, --- F. Supp. 3d. ---, 2025 WL

[3] *Bautista et al. v. Santacruz Jr. et al.* is also a putative class action seeking only declaratory relief for the class. The proposed class, which would include the Petitioners, has not yet been certified. Ultimately, however, the Petitioners would still require a writ of habeas corpus from this Court even if they obtain declaratory relief in *Baustista*.

2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce,* No. 25 Civ. 6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Leal-Hernandez v. Noem*, No. 25-CV-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); Order, *Ruben Benitez et al. v. Noem et al.*, 25-CV-2190 (C.D. Cal. Aug. 26, 2025), Dkt. 11; *Larysa Kostak v. Trump et al.*, 25-CV-1093 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Diaz Diaz v. Mattivelo*, No. 25-CV-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025); *Francisco T. v. Bondi*, No. 25-CV-03219, 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *Lopez-Campos v. Raycraft*, --- F.Supp.3d. ---, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Garcia v. Noem*, No. 25-CV-02180, 2025 WL 2549431 (S.D. Ca. Sept. 3, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921, 2025 WL 2533110 (N.D. Cal., Sept. 3, 2025); *Doe v. Moniz*, No. 25-CV-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-CV-326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Mosqueda v. Noem*, No. 25-CV-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Hinestroza v. Kaiser*, No. 25-CV-07559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, No. 25-CV-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Guzman v. Andrews*, No. 25-CV-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Polly Kaiser et al.*, No. 25-CV-5624,

2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); Order, *Lamidi v. FCI Berlin, Warden*, No. 25-CV-297 (D.N.H. Sept. 15, 2025), Dkt. 14; *Garcia Cortes, v. Noem et al.*, No. 25-CV-02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Maldonado Vazquez v. Feeley et al.*, No. 25-CV-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Velasquez Salazar v. Dedos et al.*, No. 25-CV-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Hasan v. Crawford*, No. 25-CV-1408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Beltran Barrera v. Tindall*, No. 25-CV-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chogllo Chafla v. Scott*, No. 25-CV-00437, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Giron Reyes v. Lyons*, No. 25-CV-4048, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Brito Barrajas v. Noem et al.*, No. 25-CV-00322, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Lepe v. Andrews*, No. 25-CV-01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-07492, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025).[4]

109. This list is undoubtedly incomplete. As the media has reported, the government's new no-bond policy has "led to dozens of recent rulings from gobsmacked judges who say the administration has violated the law and due process rights . . . . The pile up of decisions is growing daily." Kyle Cheney and Myah Ward,

[4] *But see Chavez v. Noem*, No. 25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (denying request for *ex parte* temporary restraining order on grounds that the petitioners' motion did not raise "serious questions going to the merits.").

Trump's New Detention Policy Targets Millions Of Immigrants. Judges Keep Saying It's Illegal, Politico (Sept. 20, 2025, at 4:00 PM ET), https://www.politico.com/news/2025/09/20/ice-detention-immigration-policy-00573850.

110. In the past month, the Eastern District of Michigan has twice rejected Respondents' interpretation of the INA and granted writs of habeas corpus to detained noncitizens to whom Respondents denied a bond hearing. On August 29, 2025, Judge Brandy McMillion granted a writ of habeas corpus to an identically situated petitioner, concluding that "There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for . . . years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border." *Lopez-Campos*, --- F.Supp.3d. ---, 2025 WL 2496379, at *8. And on September 9, 2025, Judge Robert White issued the same relief to another identically situated petitioner, reasoning that "the legislative history and agency guidance . . . in conjunction with the statutory interpretation" clearly entitles the petitioner to a bond hearing under § 1226(a). *Pizarro Reyes*, No. 25-CV-12546, 2025 WL 2609425, at *8.

111. On September 5, 2025, the BIA issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision held that all noncitizens who

entered the United States without admission or parole are ineligible for bond hearings before an IJ.

112. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As Judge Robert White wrote—after noting that federal district courts are not bound by agency interpretations of statutes—the BIA's reasoning is unpersuasive and "at odds with every District Court that has been confronted with the same question of statutory interpretation." *Pizarro Reyes*, 2025 WL 2609425, at *7. *See also Sampiao*, 2025 WL 2607924, at *8 n.11 (noting court's disagreement with BIA's analysis in *Yajure Hurtado*); *Beltran Barrera*, No. 25-CV-541, 2025 WL 2690565, at *5 (same); *Chogllo Chafla*, No. 25-CV-00437, 2025 WL 2688541, at *7-8 (same).

113. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioners.

114. 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]."

115. 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). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256–57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

116. 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.

117. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who 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 Jennings*, 583 U.S. at 287 (explaining 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.").

118. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people who have already entered and were residing in the United States (perhaps, like some Petitioners, for decades) at the time they were apprehended by

immigration authorities and detained. Because § 1226(a), not § 1225(b), is the applicable statute, Petitioners' detention without eligibility for bond is unlawful.

119. Petitioners seek relief from this Court because any months-long appeal to the BIA of an IJ's decision denying bond would be futile. A new request for a bond hearing is likewise futile. First, the agency's position is clear: both IJs and future panels of the BIA must follow the *Yajure Hurtado* decision. Further, the new governmental policy was issued "in coordination with DOJ," which oversees the immigration courts, including the BIA—up to and including the ability of the Attorney General to modify or overrule decisions of the BIA, *see* 8 C.F.R. § 1003.1(h). It is therefore unsurprising that the BIA has (erroneously) held that persons like Petitioners are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Moreover, in the numerous identical habeas corpus petitions that have been filed nationwide, EOIR and the Attorney General are often respondents and have consistently affirmed via briefing and oral argument that individuals like Petitioners are applicants for admission and subject to detention under § 1225(b)(2)(A). *See, e.g.,* Resp. to Pet., *Lopez Campos v. Raycraft*, No. 25-CV-12546 (E.D. Mich. Aug. 9, 2025), Dkt. 9; Resp. to Pet., *Pizarro Reyes v. Raycraft*, No. 25-CV-12546 (E.D. Mich. Aug. 27, 2025), Dkt. 4.

120. Second, by the time the BIA could even issue an appeal—a process that typically takes at least six months, *Rodriguez*, 779 F. Supp. 3d at 1245, and in many

cases roughly a year, *id.*—the harm of Petitioners' unlawful detention will be impossible to remediate. Nor will the downstream effects of continued detention be remediable: Petitioners' families and communities will be left without caretakers, breadwinners, and contributors for months.

121. Third, neither IJs nor the BIA have the authority to decide constitutional claims. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006). Here, Petitioners claim not only that Respondents are unlawfully detaining them without bond hearings under an inapplicable statute, but also that such detention violates their constitutional right to due process if the government seeks to deprive them of their liberty.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

122. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein

123. Respondents are unlawfully detaining Petitioners without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

124. Section 1225(b)(2) does not apply to Petitioners, who previously entered the country and have long been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents.

125. Instead, Petitioners should be subject to the detention provisions of 8 U.S.C. § 1226(a) and are therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

126. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioners results in their unlawful detention without the opportunity for a bond hearing and violates the INA.

COUNT II

Violation of Due Process

127. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

128. 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 Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

129. Petitioners have a fundamental interest in liberty and being free from official restraint.

130. The government's detention of Petitioners without an opportunity for a custody determination or bond hearing to decide whether each of them is a flight risk or danger violates their right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue writs of habeas corpus requiring that Respondents release each Petitioner from custody or, in the alternative, provide each Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days;

c. Enjoin Respondents from transferring Petitioners from the jurisdiction of this District pending these proceedings;

d. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) — is the appropriate statutory provision that governs Petitioners' detention and eligibility for bond because they are not recent arrivals "seeking admission" to the United States, and instead were already residing in the United States when they were apprehended and charged as inadmissible for having allegedly entered the United States without inspection;

e. Award Petitioners fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Respectfully submitted,

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