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UNITED STATES DISTRICT COURT
THE DISTRICT OF COLORADO

Civil Action No. 25-cv-3062

JAVIER DE DOMINGO CAMPOS,

Petitioner

v.

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

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

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

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

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

Respondents

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Respondents unlawfully incarcerate[1] Petitioner Javier de Domingo Campos Ceballos ("Mr. Campos") at Immigration and Customs Enforcement's ("ICE") Denver Contract Detention Facility in Aurora, Colorado. On August 14, 2025, an Immigration Judge granted Mr. Campos' release on a $10,000 bond finding that Mr. Campos met his burden to demonstrate he is neither a risk of flight nor a danger to the community. Nevertheless, ICE unlawfully invoked the automatic stay regulation, 8 C.F.R. § 1003.19(i)(2), erroneously claiming that Mr. Campos is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). As dozens of Courts across the country overwhelming hold, ICE's authority to jail Mr. Campos is governed by 8 U.S.C. § 1226(a), not 1225(b)(2). Moreover, ICE's automatic stay violates Mr. Campos' constitutional rights to procedural and substantive due process and exceeds the statutory authority Congress granted the Department of Homeland Security (DHS"). Mr. Campos is entitled to a writ of habeas corpus to end his unlawful incarceration.

I. INTRODUCTION

1. Petitioner Mr. Campos entered the United States almost thirty years ago and has not left since. Mr. Campos has been married to his spouse for almost 30 years, and together they have raised four U.S. citizen children ages 7, 20, 27, and 29.
2. Mr. Campos has lived at the same address in Denver, Colorado, since 1999, where he owns his family home. He has owned and operated his own concrete business since 2006 and has consistently paid taxes since 1999. He is the primary financial provider for his family and

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

the caretaker of his youngest son, who has been diagnosed with adjustment disorder with anxiety and attention-deficit/hyperactivity disorder.

3. On July 18, 2025, while driving to work in Denver, Mr. Campos was stopped by plainclothes officers in unmarked vehicles who identified themselves as immigration agents. The officers questioned him about his immigration status, asked for identification, and informed him that his driver's license was not valid for federal purposes. Without providing further explanation, the officers placed Mr. Campos under arrest, handcuffing and shackling him before transporting him to immigration custody. Following his arrest, ICE initiated removal proceedings, and Mr. Campos has remained detained at the Aurora Contract Detention Facility since that date.

4. On August 14, 2025, Mr. Campos appeared before the Aurora Immigration Court for a custody redetermination hearing. The Immigration Judge ("IJ") rejected DHS's argument that detention was authorized under 8 U.S.C. § 1225(b), finding instead that Mr. Campos is detained pursuant to § 1226(a) and therefore eligible for bond. The IJ further determined that Mr. Campos met his burden to show he is not a danger to the community nor a flight risk and accordingly ordered his release on a $10,000 bond.

5. Despite the IJ's bond grant, on August 14, 2025—the very day of the custody hearing—Respondents invoked the automatic stay provision at 8 C.F.R. § 1003.19(i)(2), which provides for an automatic 10-day stay of an IJ's bond order to allow DHS to decide whether to appeal. Respondents used this provision to immediately prevent Mr. Campos's release. On August 27, 2025, DHS filed a notice of appeal with the Board of Immigration Appeals ("BIA"), thereby triggering the extended automatic stay under 8 C.F.R. § 1003.6(c). As a result, Mr. Campos remains detained indefinitely pending the BIA's adjudication of DHS's

appeal, despite the IJ's finding that § 1226(a) governs his custody and that he should be released on bond. *See* 8 C.F.R. §§ 1003.6(c)–(d); *Sampiao v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2607924, at *3–4 (D. Mass. Sept. 9, 2025) (detailing ICE's ability to significantly extend mandatory detention pursuant to the auto-stay regulation).

6. ICE's actions violate Mr. Campos' constitutional rights to procedural and substantive due process and exceed the statutory authority Congress granted DHS. As a result, Mr. Campos is entitled to a writ of habeas corpus to end his continued and unconstitutional incarceration.

II. PARTIES

PETITIONER

7. ICE jails Mr. Campos at the Aurora Facility in Aurora, Colorado. Mr. Campos has lived in the United States for nearly thirty years along with his wife, his four United States Citizen children who are ages 7, 20, 27, and 29. He and his family have lived in Colorado since 1996.

RESPONDENTS

8. Juan Baltazar is the Warden of the Aurora Facility where ICE jails Mr. Campos, and is an employee of the GEO Group, the for-profit prison company that operates the facility. Mr. Baltazar is a legal custodian of Mr. Campos. He is sued in his official capacity.
9. Robert Guadian is the ICE Field Office Director of the Denver ICE Field Office and is sued in his official capacity. Mr. Guadian is the immediate custodian of Mr. Campos and is responsible for Mr. Campos' detention and removal.
10. Kristi Noem is the Secretary of the Department of Homeland Security (DHS). Ms. Noem is responsible for the implementation and enforcement of the Immigration and Nationality

Act ("INA"). DHS is the parent agency of ICE, and thus Ms. Noem also oversees ICE, which is responsible for Mr. Campos' illegal incarceration. Ms. Noem has ultimate custodial authority over Mr. Campos and is sued in her official capacity.

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

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

III. JURISDICTION AND VENUE

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

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

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

16. Venue is proper under 28 U.S.C. § 1391 because Respondents imprison Mr. Campos in Aurora, Colorado, within the jurisdiction of this Court. Likewise, Mr. Campos is a resident of this District, his counsel is located in this District, and a substantial part of the events giving rise to the claims in this action took place within this District.

IV. FACTUAL BACKGROUND

A. Legal Authority for Immigration Detention.

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

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

19. The statute also provides for mandatory detention of a limited class of noncitizens subject to an expedited removal pursuant to § 1225(b) and for other noncitizen "applicants for

admission" to the U.S. who are apprehended at the border or port of entry. *See* 8 U.S.C. § 1225(b)(2). Section 1225 focuses on noncitizens "arriv[ing]" "whether or not at a designated port of arrival," and applies to people like those who were "interdicted in international or United State waters" (§ 1225(a)(1)), are "stowaways" (§ 1225(a)(2)), and who are otherwise "applicants for admission" into the U.S. (§ 1225(a)(3)). In contrast to § 1226, § 1225 discusses matters such as "screening" "claims for asylum" (§ 1225(b)(1)(A)(i)-(ii)) at the border, "inspection" by an immigration officer to determine if a noncitizen "is … clearly and beyond a doubt entitled to be admitted" (§ 1225(b)(2) & (d)), and "removal" of "an arriving [noncitizen]" (§ 1225(c)(1)).

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

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

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

23. Both the § 1226 and § 1225 detention provisions were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently amended in early 2025 by the Laken Riley Act (LRA), Pub. L. No. 119-1, 139 Stat. 3 (2025).

24. Following the enactment of the IIRIRA in 1996, EOIR wrote regulations applicable to proceedings before IJs explaining that, in general, people who entered the country without inspection were *not* detainable under § 1225 and instead could only be detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination"). Those regulations remain largely unchanged, limiting an IJ's jurisdiction for people ICE jails in removal proceedings in limited circumstances irrelevant here. *See* 8 C.F.R. § 1003.19(h)(2)(i)(A)–(E).

25. Thus, in the following decades, people who entered without inspection and did not have certain criminal legal contacts could receive § 1226(a) bond hearings when placed in § 1229a proceedings. That practice was consistent with additional decades of pre-IIRIRA practice, in which noncitizens who were not "arriving" or seeking entry into the United States were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting the new § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

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

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

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

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

30. The federal courts have since resoundingly rejected Respondents' position. *See Rodriguez-Vazquez v. Bostock*, No. 779 F.Supp.3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, *8 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp.3d ---, 2025 WL 2084238, *9 (D. Mass. July 24, 2025);

Maldonado Bautista v. Santacruz, No. 5:25-cv-01874-SSS-BFM, *13 (C.D. Cal. July 28, 2025); *Escalante v. Bondi*, No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025) (report and recommendation to grant preliminary relief, adopted *sub nom O.E. v. Bondi*, 2025 WL 2235056 (D. Minn. Aug. 4, 2025)); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D. N.Y. Aug. 8, 2025); *de Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and recommendation to grant *habeas* relief, adopted without objection at 2025 WL 2349133 (D. Ariz. Aug. 13, 2025)); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Aquilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug 15, 2025); *Romero v. Hyde*, --- F.Supp.3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, Doc. 20 (D. Md. Aug. 24, 2025); *Benitez v. Noem*, No. 5:25-cv-02190, Doc. 11 (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump*, No. 3:25-dcv-01093-JE, Doc. 20 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, --- F.Supp.3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, --- F.Supp.3d --- , 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Palma Perez v. Berg*, --- F.Supp.3d --- , 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *Cortes Fernandez v. Lyons*, No. 8:25-cv-506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25-cv-3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110 (N.D. Cal Sept. 3, 2025); *Vasquez Garcia et al. v. Noem*, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Doe v. Moniz*, No. 1:25-cv-12094-IT, 2025 WL 2576819 (D. Mass. Sept. 5, 2025).

31. The federal courts' overwhelming rejection of Respondents' position continues unabated after *Matter of Yajure Hurtado*. *See e.g., Zaragoza Mosqueda v. Noem*, No. 5:25-cv-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Sampiao v. Hyde*, --- F.Supp.3d ---, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizzaro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Cuevas Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO (HC), 2025 WL 2617256, (E.D. Cal. Sept. 9, 2025); *Hinestroza v. Kaiser*, No. 25-cv-07559-JD, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden et al.*, --- F.Supp.3d ---, 2025 WL 2639390 (D.N.H. Sept. 9, 2025) ; *Lopez Santos v. Noem*, 3:25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Kaiser et al.*, No 25-cv-06924-EMC (EMC), 2025 WL 2637503 (N.D. Ca. Sept. 12, 2025); *Velasquez Salazar v. Dedos*, No. 1:25-cv-835, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Barrera v. Tindall*, No. 3:25-cv-00541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chafla et al. v. Scott*, 2:25-cv-00437-SDN, 2025 WL 2688541, at *6 (D. Me. Sept. 21, 2025). *See also Hinestroza v. Kaiser*, No. 25-cv-07559-JD, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden et al.*, --- F.Supp.3d ---, 2025 WL 2639390 (D. N.H. Sept. 9, 2025); *Lamidi v. FCI Berlin*, No. 25-cv-297-LM-TSM, ECF 14 (D. N.H. Sept. 15, 2025); *Maldonado Vasquez v. Feeley*, 2:25-cv-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Lopez-Arevelo v. Ripa*, 2025 WL 2631828 (W.D. Tex. Sept. 22, 2025); *Lepe v. Andrews*, --- F.Supp.3d ----, No. 1:25-cv-01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Lepe v. Andrews*, --- F.Supp.3d ---, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, --- F.Supp.3d ---, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025).

32. The District of Colorado joined the chorus on September 16, 2025 when Judge Sweeney explained, *inter alia*, that the Government's argument for § 1225(b)(2) detention must fail

when a noncitizen is not "seeking admission" into the United States. *Garcia Cortes v. Noem et al.*, No. 1:25-cv-02677-CNS, 2025 WL 2652880 at *3 (D. of Colo. Sept. 16 2025) ("Because Petitioner is not, nor was he at the time he was arrested, seeking admission, § 1225(b)(2)(A)'s mandatory detention requirement does not apply").

33. As evidenced by the federal court decisions, Respondents' interpretation that § 1225(b) governs detention in this case defies the plain language of the Immigration and Nationality Act ("INA"), fundamental canons of statutory construction, and the agency's long-extant implementing regulations.

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

35. Notably, the plain language of § 1226 applies to people charged as inadmissible for entering without inspection. *E.g.*, 8 U.S.C. §§ 1226(c)(1)(A), (D), (E). Subparagraph (E)'s reference, for example, to inadmissible individuals makes clear that, by default, inadmissible individuals not subject to subparagraph (E)(ii) are entitled to a bond hearing under subjection (a). As the *Rodriguez-Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez-Vazquez*, 779 F.Supp.3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

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

37. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the U.S. and are encountered at or near the border. Section 1225's entire framework is premised around inspection at the border of people who are "seeking admission" to the U.S. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a [noncitizen] seeking to enter the country is admissible." *Jennings*, 582 U.S. at 287.

38. Accordingly, contrary to Respondents' novel interpretation of the statute, the mandatory detention provisions of § 1225(b)(2) do not apply to people like Mr. Campos who long-ago "arrived" in the country and has now resided in Colorado for years before ICE jailed them.

B. The Automatic Stay Regulation Cannot Justify Mr. Campos's Continued Detention

39. As evidenced by the overwhelming number of decisions, federal courts have rejected with equal muster Respondents' use of the auto-stay provision to pursue its unlawful interpretation of § 1225(b)(2)(A). *See e.g.*, *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Arce v. Trump*, No. 8:25CV520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Palma v. Trump*, No. 4:25CV3176, 2025 WL 2624385 (D. Neb. Sept. 11, 2025); *Carlon v. Kramer*, No. 4:25CV3178, 2025 WL 2624386 (D. Neb. Sept. 11, 2025); *Perez v. Kramer*, No. 4:25CV3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Sampiao*, 2025 WL 2607924; *Martinez v. Secretary of Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025); *Herrera Torralba v. Knight*, No. 2:25-CV-01366-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Carmona-Lorenzo v. Trump*, 2025 WL 2531521; *Fernandez v. Lyons*, 2025 WL

2531539; *Perez v. Berg*, 2025 WL 2531566; *Leal-Hernandez v. Noem*, 2025 WL 2430025; *Jacinto v. Trump*, No. 4:25CV3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Garcia Jimenez v. Kramer*, No. 4:25CV3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, No. 4:25CV3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Mohammed H. v. Trump*, No. CV 25-1576, 2025 WL 1692739, at *5–6 (D. Minn. June 17, 2025); *Günaydin v. Trump*, 784 F. Supp. 3d 1175 (D. Minn. 2025). This Court should do the same.

a. The Automatic Stay Violates Procedural Due Process

39. The automatic stay regulation, 8 C.F.R. § 1003.19(i)(2), violates procedural due process because it strips Mr. Campos of his liberty without adequate justification or safeguards. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. The Supreme Court has long-established that noncitizens are afforded due process rights. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

40. To determine whether civil detention violates an individual's procedural due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts weigh three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

41. Courts recognize that DHS's use of the automatic stay is not simply a continuation of the petitioner's original detention. Instead, it constitutes a second act of detention that must independently satisfy due process. *Herrera Torralba v. Knight*, 2025 WL 2581792 *9-. Once an IJ has found—after a full adversarial proceeding—that an individual is not a flight risk or a danger to the community, that person has secured a liberty interest in release. The automatic stay nullifies that determination without any new hearing, findings, or process. By allowing DHS, the losing party, to overturn a neutral adjudicator's decision unilaterally, the regulation converts individualized determinations into imprisonment without process.

42. The first *Mathews* factor requires consideration of the private interest affected by Respondents' invocation of the automatic stay provision. That factor weighs heavily in Mr. Campos' favor. First, the private interest at stake—liberty—is among the most fundamental recognized under the Constitution. "[B]eing free from physical detention by one's own government is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The Supreme Court has repeatedly emphasized that "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *see also Zadvydas v. Davis*, 533 U.S. at 690 ("Freedom from imprisonment … lies at the heart of the liberty that [the Due Process] Clause protects."). Civil commitment or detention "for any purpose constitutes a significant deprivation of liberty that requires due process protections." *Addington v. Texas*, 441 U.S. 418, 425 (1979).

43. As *Herrera Torralba* observed, the automatic stay necessarily infringes on this liberty interest, tearing individuals from their families, depriving them of employment, and impeding their ability to prepare their defense. 2025 WL 2581792, at *10. Mr. Campos's

circumstances exemplify these harms: he is the sole financial provider for his family, caretaker of his seven-year-old son with special medical and educational needs, and a long-time homeowner and business owner in Denver. The automatic stay has stripped him of these roles despite a judicial finding that he poses no danger and no flight risk.

44. Mr. Campos has a significant liberty interest in being free from detention—especially where an IJ determined after a full hearing that he was entitled to release on bond. Mr. Campos was found to not be a danger or a flight risk, yet he remains imprisoned since July, separated from his wife and U.S. citizen children. While Mr. Campos remains in detention, he is unable to support his family or be present in his children's lives, depriving them of the daily comfort, guidance, and stability that he provides.

45. Furthermore, the automatic stay threatens to significantly prolong Mr. Campos' detention. Once DHS invokes § 1003.19(i)(2), detention is automatically extended for at least 90 days pending BIA review and may continue for months through extensions and referrals to the Attorney General. *See* 8 C.F.R. §§ 1003.6(c)(4)–(5), 1003.6(d). Thus, even after a neutral IJ found him neither dangerous nor a flight risk, Mr. Campos faces ongoing incarceration based solely on DHS's unilateral action. This factor therefore weighs heavily in Mr. Campos' favor.

46. The second *Mathews* factor concerns the risk of erroneous deprivation of Mr. Campos' liberty interest by virtue of the automatic stay regulation's procedures, and the degree to which alternative procedures may ameliorate that risk. *Mathews*, 424 U.S. at 335. This factor, too, weighs heavily in Mr. Campos' favor. The automatic stay provisions present a significant risk of erroneous deprivation of Mr. Campos' liberty interest. First, the regulation applies only to those noncitizens who have already prevailed in an adversarial

bond hearing. Following an individualized assessment of evidence, a neutral adjudicator concluded that Petitioner was not a danger to the community nor a flight risk and therefore ordered his release. *See Sampiao* 2025 WL 2374223, at *3. Yet the automatic stay empowers DHS—the losing party at that hearing—to unilaterally override the IJ's determination. Courts have recognized that this procedure "renders the Immigration Judge's bail determination an empty gesture" and "creates a patently unfair situation" by shifting adjudicatory power to the prosecutor. *Günaydin v. Trump*, 784 F. Supp. 3d at 1188; *see also Ashley v. Ridge*, 288 F. Supp. 2d 662, 671 (D.N.J. 2003); *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1078 (N.D. Cal. 2004).

47. Second, the regulation requires no individualized findings, no particularized justification, and imposes no standards on DHS when invoking the stay. By contrast, the IJ's bond order must be based on a careful assessment of the evidence regarding danger and flight risk. *Günaydın*, 784 F. Supp. 3d, at 1187. This regulation therefore deprives individuals of liberty without any neutral oversight.

48. Third, the automatic stay conflates prosecutorial and adjudicatory functions, a constitutional defect long disfavored by the courts. *See Leal-Hernandez v. Noem*, 2025 WL 2430025, at *14 (automatic stay "permits DHS—the losing party—to automatically stay an IJ's bond order without individualized review"); *Zavala*, 310 F. Supp. 2d at 1078 (noting conflation of adjudicator and prosecutor roles). Even the requirement of a DHS certification under 8 C.F.R. § 1003.6(c)(1)(ii) provides "cold comfort," as it comes from the same agency aligned with ICE's prosecutorial interests. *Sampiao*, 2025 WL 2374223, at *11.

49. Fourth, the automatic stay regime departs sharply from ordinary stay procedures. Under *Nken v. Holder*, a party seeking a stay must make a strong showing of likelihood of success on the merits and irreparable injury. 556 U.S. 418, 433–34 (2009). Here, however, ICE shoulders no burden at all; it receives a stay as of right. Courts have noted that this "flips well-established procedural principles on their heads" and "carries a significant risk of erroneous deprivation." *Günaydın*, 784 F. Supp. 3d at 1189.

50. Finally, less burdensome alternatives exist that may satisfy the government's interests while reducing the risk of error. For example, under 8 C.F.R. § 1003.19(i)(1), DHS may request an emergency discretionary stay from the BIA, which must then assess "the individual circumstances and merits of the case." This safeguard "mitigates the concern about DHS usurping the neutral adjudicatory role and provides additional safeguards that the automatic stay provision lacks." *Garcia Jimenez v. Kramer*, 2025 WL 2374223, at *4; *see also Günaydın*, 784 F. Supp. 3d at 1190; *Bezmen v. Ashcroft*, 245 F. Supp. 2d 446, 451 (D. Conn. 2003). Accordingly, the automatic stay regulation creates a substantial risk of erroneous deprivation of liberty, and the second *Mathews* factor strongly supports Mr. Campos' claim.

51. Finally, under the third *Matthews* test factor, the government cannot show any legitimate interest in detaining individuals who have already been determined by a neutral adjudicator to be neither dangerous nor a flight risk. As *Mayo Anicasio v. Kramer* explained, detention in this context serves no regulatory purpose and instead appears punitive. No. 4:25-cv-03158, 2025 WL 2374224, at *4 (D. Neb. Aug. 14, 2025). Similarly, *Herrera Torralba* emphasized that when detention continues despite an IJ's release order it is questionable "whether the detention is not to facilitate deportation, or to protect against risk of flight or

dangerousness, but to incarcerate for other reasons..." 2025 WL 2581792, at *11 (quoting *Demore*, 538 U.S. at532–33 (Kennedy, J., concurring)).

52. Here, there is no significant governmental interest in keeping Mr. Campos detained. To the extent that the government has an interest in ensuring Mr. Campos is not a danger and will appear at future immigration hearings, the IJ already determined that he is not a flight risk or a danger to the community.

53. Moreover, imposing alternative procedural requirements will not burden Respondents. 8 C.F.R. § 1003.19(i)(1) sets forth procedures for Respondents to request a discretionary stay pending appeal of an IJ's bond decision. This provision "follows a more traditional process of requesting a stay from the appellate court and considers whether a stay is warranted based on the individual circumstances and merits of the case." *Kordia v. Noem*, No. 3:25-cv-01072-L-BT, 2025 U.S. Dist. LEXIS 136346, at *16-17 (N.D. Tex. June 27, 2025) (internal quotation omitted).

54. Courts have repeatedly recognized that the automatic stay regulation does not meaningfully advance the government's interests. In *Günaydin*, the court found that DHS identified "no other legitimate purpose" for continued detention once an IJ had ordered release and emphasized that existing safeguards—such as the ability to request an emergency stay—already protect public safety. 784 F. Supp. 3d at 1190. Similarly, in *Sampiao*, the court concluded that the regulation "appears to impose more costs on the government" by requiring it to continue funding detention, rather than releasing the individual under bond, and that "unnecessary detention imposes substantial societal costs" by tearing families and communities apart. 2025 WL 1987456, at *12. Taken together, these cases confirm that the government's interest in preserving the automatic stay is insubstantial. Any legitimate

concern may be addressed through the existing mechanism for discretionary stays, and the automatic stay instead imposes unnecessary costs on both the government and the public. Thus, the third *Mathews* factor also weighs heavily in favor of Mr. Campos' claim.

55. Balancing the *Mathews* factors, the conclusion is clear. The liberty interest in release is immense; the risk of erroneous deprivation under the automatic stay is extreme; and the government's asserted interest is minimal and already safeguarded by existing discretionary stay procedures. For these reasons, courts across the country have held the automatic stay unconstitutional under the Due Process Clause. *See, e.g., Herrera Torralba*,2025 WL 2581792; *Carmona-Lorenzo*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Fernandez*, 2025 WL 2531539; *Perez v. Berg*, 2025 WL 2531566; *Leal-Hernandez*,2025 WL 2430025; *Jacinto v. Trump*,2025 WL 2402271; *Garcia Jimenez*, 2025 WL 2374223; *Anicasio v. Kramer*, No. 4:25CV3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Ashley v. Ridge*, 288 F. Supp. 2d at 670; *Zavala*, 310 F. Supp. 2d at1077–78; *Mohammed H. v. Trump*,2025 U.S. Dist. LEXIS 117197, at *15; *Günaydin v. Trump,* 784 F. Supp. 3d1175; *Maldonado v. Olson*, 2025 WL 2374411; *Nguyen v. Scott*, -- F. Supp. 3d --, 2025 WL 2419288, at *18–19 (W.D. Wash. Aug. 21, 2025); *Sampiao v. Hyde*, 2025 WL 2607924, at *9 (D. Mass. Sept. 9, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 ; *Alvarez-Martinez*, 2025 WL 2598379, at *4 (W.D. Tex. Sept. 8, 2025); *Bezmen v. Ashcroft*, 245 F. Supp. 2d at 451. This Court should do the same and hold that DHS cannot rely on § 1003.19(i)(2) to continue Mr. Campos's detention.

a. <u>The Automatic Stay Violates Substantive Due Process</u>

56. Mr. Campos is entitled to substantive due process under the Fifth Amendment, which guarantees that no person shall be deprived of liberty without due process of law. U.S.

Const. Amend. V. As the Supreme Court has recognized, "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas* 533 U.S. at 690. This right extends to all persons within the United States, including noncitizens, regardless of whether their presence is lawful or unlawful. *Id.* at 693; *see also Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (recognizing the "weighty" liberty interest of noncitizens in living and working in the United States).

57. Government detention violates substantive due process unless it occurs in a *criminal* proceeding with adequate procedural safeguards or in narrow, nonpunitive circumstances where a special justification outweighs the individual's constitutionally protected interest in liberty. *Zadvydas*, 533 U.S. at 690; *see also Zavala*, 310 F. Supp. 2d 1071at1076 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)); *Leal-Hernandez*, 2025 WL 2430025, at *12–13.

58. Here, the automatic stay provision, 8 C.F.R. § 1003.19(i)(2), permits the government to unilaterally detain Mr. Campos even after a neutral adjudicator found him eligible for release on bond. The government has not articulated any "special justification" or compelling interest that outweighs Mr. Campos' liberty interest. Indeed, the only purported interest is its pursuit of an unlawful interpretation of the statute. *See* ¶¶ 52 *supra*. Moreover, the Immigration Judge's decision that Mr. Campos should be released on bond satisfies DHS' legitimate interest in ensuring that Mr. Campos appears for future court dates. *See Leal-Hernandez*, 2025 WL 2430025, at * 13. The automatic stay undermines the authority and determinations of the IJ, converting an individualized bond determination into a meaningless formality. In other words, the automatic-stay regulation renders "the IJ's

custody redetermination order an 'empty gesture'" *Leal-Hernandez*, 2025 WL 2430025, at *13 (citation omitted).

59. Federal Courts overwhelmingly agree. *See e.g.*, *Ashley*, 288 F. Supp. 2d at669; *Mohammed H.*, 2025 WL 1692739, at *5; *Jacinto*, 2025 WL 2402271; *Herrera Torralba*, 2025 WL 2581792, at *13; *Carmona-Lorenzo*, 2025 WL 2531521; *Fernandez v. Lyons*, No. 8:25-CV-506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Perez v. Berg*, 2025 WL 2531566; *Leal-Hernandez*, 2025 WL 2430025;; *Garcia Jimenez*, 2025 WL 2374223 ; *Anicasio v. Kramer*, No. 4:25-CV-3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025);; *Zavala*, 310 F. Supp. 2d at1077–78;; *Günaydin*, 784 F. Supp. 3d 1175*Maldonado v. Olson*, 2025 WL 2374411; *Nguyen v. Scott*, 2025 WL 2419288, at *18-19; *Sampiao* , 2025 WL 2607924, at *9; *Arrazola-Gonzalez*, 2025 WL 2379285 ; *Alvarez-Martinez*, 2025 WL 2598379, at *4; *Bezmen*, 245 F. Supp. 2d at 451.

60. The government cannot rely on generalized immigration enforcement interests to override the liberty of individuals who are already subject to release conditions set by a neutral adjudicator. Automatic detention in these circumstances is arbitrary and punitive in effect, violates the substantive component of the Fifth Amendment's due process guarantee, and fails even under the regulation's own procedural framework. *Herrera* 2025 WL 2581792, at *13 (automatic stay violates substantive due process where detention continues despite IJ's bond determination); *Leal-Hernandez*, 2025 WL 2430025, at *13

61. Accordingly, Mr. Campos's continued detention pursuant to the automatic stay provision constitutes an arbitrary deprivation of liberty, in direct contravention of the Fifth Amendment. The regulation's unilateral and blanket application, without individualized consideration or demonstrated governmental necessity, deprives Mr. Campos of his

fundamental constitutional right to freedom from physical restraint absent compelling justification. For these reasons, the Court should find that the automatic stay provision violates Mr. Campos's substantive due process rights and order his immediate release in accordance with the IJ's bond determination.

a. DHS's Use of the Automatic Stay Is Ultra Vires and Unauthorized by the INA

62. The automatic stay regulation, 8 C.F.R. § 1003.19(i)(2), is ultra vires because it purports to give DHS authority that Congress vested in the Attorney General and—where delegation is appropriate—only to officers and adjudicators within the Department of Justice ("DOJ"). The Administrative Procedure Act (APA) requires courts to hold unlawful and set aside agency action found to be "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C). An agency action that exceeds the authority Congress has granted is ultra vires and must be set aside. *See U.S. ex rel. O'Keefe v. McDonnell Douglas Corp.*, 132 F.3d 1252, 1257 (8th Cir. 1998) ("Agency actions beyond delegated authority are 'ultra vires'"); *see also Romero v. INS*, 39 F.3d 977, 980 (9th Cir. 1994) (invalidating an immigration regulation inconsistent with the statutory scheme).

63. First, the statutory scheme plainly vests bond-and-detention decision making in the Attorney General, who may delegate that authority to officers of the DOJ. *See* 8 U.S.C. § 1226(a) (authorizing the Attorney General to arrest and detain or release on bond); 28 U.S.C. § 510 (permitting the Attorney General to delegate to "any other officer, employee, or agency of the Department of Justice"). Immigration judges are DOJ appointees and therefore properly exercise delegated authority on behalf of the Attorney General. *See* 8 U.S.C. § 1101(b)(4). By contrast, DHS is a separate executive department, created by Congress and is statutorily distinct from DOJ. *See* 6 U.S.C. § 111. Nothing in the INA

authorizes DHS to assume the Attorney General's delegated bond-and-detention functions or to nullify judicial custody determinations made pursuant to that delegation by immigration judges.

64. Second, the automatic-stay regulation operates as a direct and impermissible circumvention of the statutory bond scheme. Under § 1003.19(i)(2), DHS can stay a grant of bond simply by filing an appeal, thereby converting a discretionary release ordered by an IJ into a de facto mandatory detention imposed by DHS pending appeal. That "back-ended" truncation of IJ authority effectively rewrites § 1226(a) by eliminating the IJ's discretion to release on conditions and by allowing a litigant (DHS) to veto a neutral adjudicator's individualized custody determination. Courts have recognized that an agency regulation that nullifies statutory allocation of authority and renders a congressionally conferred discretion illusory is invalid as beyond the agency's statutory authority. *See Zavala*, 310 F. Supp. 2d at 1079 (regulation that converts IJ's discretionary release into mandatory detention "flouts the express intent of Congress and is ultra vires to the statute").

65. Third, multiple district courts applying the statutory text and delegation principles have concluded that application of § 1003.19(i)(2) in this context is ultra vires. Those decisions hold that where detention is governed by § 1226(a) and an IJ — acting under authority delegated from the Attorney General — has exercised discretion to grant bond, DHS's automatic stay provision nullifies the statutory scheme and the IJ's delegated authority. *See*, e.g., *Mayo Anicasio*, 2025 WL 2374224; *Jacinto*, 2025 WL 2402271; *Leal-Hernandez*, 2025 WL 2430025; *Carmona-Lorenzo*, 2025 WL 2531521. Those courts reasoned that the regulation "exceeds the statutory authority Congress gave to the Attorney General" by

permitting DHS — an executive department outside of DOJ — to unilaterally perpetuate detention contrary to an IJ's ruling.

66. Fourth, the regulatory practice cannot be justified by any plausible reading of the INA's delegation structure. Congress's decision to centralize bond review authority within the DOJ adjudicatory apparatus (and to permit the Attorney General to delegate that authority within DOJ) reflects deliberate structural choices about who decides custody and how individualized determinations are made. Section 1003.19(i)(2) rewrites that allocation by allowing DHS to short-circuit the delegated decisionmaker whenever DHS files an appeal. Because the regulation conflicts with the statutory allocation of authority, it is not a valid exercise of agency rulemaking power and must be declared invalid as applied to Mr. Campos. *See Romero v. INS*, 39 F.3d at 980; *O'Keefe*, 132 F.3d at 1257.

67. Finally, the consequences of accepting DHS's claimed authority would be profound: every IJ bond grant could be rendered meaningless the moment DHS files an appeal, thereby converting discretionary releases into automatic, indefinite detention. That result contradicts the statutory text, the statute's structure, and longstanding administrative practice. Where, as here, the IJ properly exercised delegated authority under § 1226(a) and ordered bond, continued detention premised solely on an automatic stay is an unlawful assertion of power by DHS. The Court should therefore hold that application of 8 C.F.R. § 1003.19(i)(2) to Mr. Campos is ultra vires, set aside Respondents' reliance on that regulation, and order relief consistent with the IJ's bond determination.

V. CLAIMS FOR RELIEF

COUNT I
VIOLATION OF 8 U.S.C. § 1226(A)

68. Mr. Campos incorporates by reference the allegations of fact set forth in the preceding paragraphs.

69. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Mr. Campos because he was present and residing in the U.S. prior to detention, was placed in § 1229a removal proceedings, and was charged under 8 U.S.C. § 1182. Section 1225(b)(2) governs only individuals seeking initial admission to the United States, not those like Mr. Campos who previously entered and have established residence. Therefore, his detention may only be authorized under § 1226(a), which explicitly provides for bond hearings to assess flight risk or danger to the community.

70. Applying § 1225(b)(2) to Mr. Campos unlawfully mandates his continued detention and violates 8 U.S.C. § 1226(a)

COUNT II
VIOLATION OF THE INA BOND REGULATIONS (8 C.F.R. §§ 236.1, 1236.1 & 1003.19)

71. Mr. Campos incorporates by reference the allegations of fact set forth in the preceding paragraphs.

72. Respondent EOIR and the then Immigration and Naturalization Service issued a rule to interpret and apply the IIRIRA under the heading "Apprehension, Custody, and Detention of [Noncitizens]," which explained: "Despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond." 62 Fed. Reg. at 10323 (emphasis added). Respondents thus long-ago made clear that people like Mr.

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

73. Nonetheless, Respondents here deemed Mr. Campos subject to mandatory detention under § 1225.

74. Applying § 1225 to Mr. Campos instead unlawfully mandates his continued detention under § 1225(b)(2).

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

COUNT III
VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT (5 U.S.C. § 706(2))

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

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

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

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

COUNT IV
FIFTH AMENDMENT DUE PROCESS VIOLATION
(Procedural Due Process)

80. Mr. Campos incorporates by reference the allegations of fact set forth in the preceding paragraphs.

81. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. The Supreme Court has long-established that noncitizens are afforded due process rights. *Reno v. Flores*, 507 U.S. at 306; *Demore*, 538 U.S. at 523.

82. To determine whether civil detention violates an individual's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*. Under *Mathews*, courts weigh three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

83. Mr. Campos has a significant liberty interest in release from detention, especially where an IJ, after a full hearing, found he is neither a danger nor a flight risk. Despite this determination, he has remained detained since July, separated from his wife and U.S. citizen children, unable to support or care for them.

84. The automatic stay regulation creates a substantial risk of erroneous deprivation by nullifying the IJ's individualized bond determination and mandating detention solely on DHS's notice of appeal. *See Romero v. Hyde*, 2025 WL 2403827, at *1–2.

85. The government has no legitimate interest in continued detention where the IJ already found Mr. Campos is not a flight risk or danger.

86. Less burdensome alternatives exist. Under 8 C.F.R. § 1003.19(i)(1), DHS may request a discretionary stay pending appeal, which requires consideration of the individual circumstances. *See Kordia v. Noem*, 2025 U.S. Dist. LEXIS 136346, at *16–17.

87. By subjecting Mr. Campos to prolonged detention under the automatic stay provision, Respondents have violated his right to procedural due process under the Fifth Amendment.

COUNT V

FIFTH AMENDMENT DUE PROCESS VIOLATION
(Substantive Due Process)

88. Mr. Campos incorporates by reference the allegations of fact set forth in the preceding paragraphs.

89. Due process "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas,* 533 U.S. at 693.

90. Mr. Campos has lived in the United States continuously since 1996 and has significant ties to this country. After a full hearing on August 14, 2025, an IJ properly determined that Mr. Campos is subject to detention under 8 U.S.C. § 1226(a) and granted his release on bond.

91. Respondents appealed the bond decision based on a legally unsupported interpretation of 8 U.S.C. § 1225(b)(2), unilaterally invoked the automatic stay provisions, and subject Petitioner to continued detention. Mr. Campos has no meaningful avenue to challenge his continued detention following the order granting release on bond.

92. Mr. Campos' continued detention after a finding that he is neither dangerous, nor a flight risk does not serve a compelling governmental interest.

93. Respondents' actions violate Petitioner's substantive due process rights.

COUNT VI

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT
(Ultra Vires Agency Action)

94. The Administrative Procedure Act (APA) requires courts to hold unlawful and set aside agency action found to be "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C).

95. Under Section 1226(a) and its implementing regulations, IJs have discretionary authority to release noncitizens pending a decision on removal. 8 U.S.C. § 1226(a), 8 C.F.R. § 1236.1(d) ("except as otherwise provided in this chapter, the immigration judge is authorized to exercise the authority in section 236 of the Act.")

96. The automatic stay provisions in 8 C.F.R. §§ 1003.19(i)(2) and 1003.6 exceed the statutory detention framework in 8 U.S.C. § 1226(a) and eliminate IJs' discretionary authority to release noncitizens subject to discretionary detention under Section 1226(a).

Respondents' reliance on these regulatory provisions to continue detaining Petitioner after an IJ's favorable bond determination exceeds the authority Congress granted under Section 1226(a) and effectively imposes mandatory detention on Mr. Campos where Section 1226(a) does not.

97. The automatic stay provisions and Respondents' reliance on them to subject Mr. Campos to continued and unwarranted detention is a violation of the APA.

PRAYER FOR RELIEF

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

1) Assume jurisdiction over this matter;

2) Enjoin respondents from transferring Mr. Campos outside the jurisdiction of the District of Colorado pending resolution of this case;

3) Declare that Mr. Campos' continued detention violates 8 U.S.C. § 1226(a); the Administrative Procedure Act, 5 U.S.C. § 706(2)(C); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

4) Issue a writ of habeas corpus directing Respondents to immediately release Mr. Campos or in the alternative, order his release on a bond of $10,000 that the IJ previously set.

5) Issue injunctive and declaratory relief declaring that the automatic stay regulation, 8 C.F.R. § 1003.19(i)(2), cannot be used to prevent or delay release of Mr. Campos and enjoining Respondents from relying on the automatic stay to override the IJ's bond determination;

6) Award Mr. Campos attorneys' fees and costs under the Equal Access to Justice Act ("EAJA") as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

7) Grand such further relief as the Court deems just and proper.

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VERIFICATION

I, Anahi Quezada-Villa, declare as follows:

1. I am a law clerk at the Meyer Law Office, P.C., in Denver, Colorado.

2. Because many of the allegations in this petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

3. I have read the foregoing Petition for Writ of *Habeas Corpus* and know the contents thereof to be true to my knowledge, information, and belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 30, 2025.

/s/ Anahi Quezada-Villa
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CERTIFICATE OF SERVICE

I, Hans Meyer, hereby certify that on September 30, 2025, I filed the foregoing with the Clerk of Court using the CM/ECF system. I, Anahi Quezada-Villa, hereby certify that I have mailed a hard copy of the document to the individuals identified below pursuant to Fed.R.Civ.P. 4 via certified mail on September 30, 2025.

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