

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

FRANKLIN EZEQUIEL
SALGADO BUSTOS,

Petitioner,

Case No. 25-cv- 25-13202
Hon.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Kevin RAYCRAFT, in his official capacity as 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,

ORAL ARGUMENT REQUESTED

Respondents.

INTRODUCTION

1. This petition arises from the U.S. government's new policies which violate the Immigration and Nationality Act (INA), contradicts decades of agency practice, and violate Petitioner's due process rights under the U.S. Constitution.

2. Petitioner Franklin Ezequiel Salgado Bustos came to the United States from Nicaragua approximately three years ago, sought asylum from persecution in

his home country, and has lived and worked in the United States ever since, following all that was required of him, including attending ICE check-ins.

3. On September 12, 2025, Petitioner was arrested by Immigration and Customs Enforcement (ICE) in Detroit, Michigan while attending an ICE check-in and transferred to the physical custody of Respondents at North Lake Correctional Facility, located in Baldwin, Michigan, which falls under the purview of ICE's Detroit Field Office.

4. Respondents have not issued Petitioner a Notice to Appear ("NTA") or placed him in removal proceedings. Yet, Respondents detained Petitioner and are holding him in physical custody in violation of the INA, its own regulations, and in violation of Petitioner's due process rights.

5. Ordinarily, persons arrested by ICE are served with a Notice to Appear ("NTA") and placed into removal proceedings in an Immigration Court.

6. To date, Respondents have not issued or served any NTA on Petitioner, meaning Petitioner is not currently in any immigration proceedings before an Immigration Judge.

7. Instead, Petitioner is detained in limbo and potentially facing mandatory detention while he adjudicates his asylum claim with United States Citizenship and Immigration Services ("USCIS").

8. On October 8, 2025, Petitioner was called into credible fear interview (“CFI”) with a USCIS officer while in Respondents’ custody. Petitioner’s CFI was rescheduled for a later unspecified time. If Petitioner fails his CFI then USCIS may refer him for removal proceedings.

9. Any attempts by Respondents to subject Petitioner to expedited removal proceedings or mandatory detention under 8 U.S.C. § 1225 violates the INA and accompanying regulations because Petitioner has been in the U.S. for over two years. *See* 8 U.S.C. 1225(b)(1)(A)(iii)(II) (expedited removal limited to noncitizens who, among other things, have “not affirmatively shown, to the satisfaction of an immigration officer, that the [noncitizen] has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this paragraph”).

10. Petitioner was granted conditional parole and that parole expired before Respondents issued any NTA or began any formal removal proceedings. Respondents cannot now attempt to proceed with expedited removal or subject Petitioner to mandatory detention under 8 U.S.C. § 1225. *Dilipbhai Patel v. Tindall*, Civil Action No. 3:25-cv-373-RGJ, 2025 U.S. Dist. LEXIS 196325, at *9 (W.D. Ky. Oct. 3, 2025) (finding due process violations and ordering habeas relief where individual who had been paroled without first having been placed in expedited removal and had pending affirmative asylum application could not be subject to

expedited removal and mandatory detention). *See also, Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 U.S. Dist. LEXIS 183811, at *16 (E.D. Cal. Sep. 18, 2025) (agreeing with the reasoning that “applying the expedited removal process set forth in 8 U.S.C. § 1225(b)(1) to noncitizens detained within the interior of the United States (i.e., in all locations not within 100 air miles of a land border) violates Due Process.”); *Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *30-31 (S.D.N.Y. Sep. 9, 2025) (holding that “§ 1225 does not authorize expedited removal of individuals who have ever been paroled into the U.S. under either of its provisions: § 1225(b)(1)(A)(i), which applies to individuals “arriving in” the U.S., or § 1225(b)(1)(A)(iii)(II), which applies to individuals who “ha[ve] not been admitted or paroled” into the U.S. *and* cannot show that they have been “physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility.”) (emphasis added); *Make the Rd. N.Y. v. Noem*, No. 25-cv-190 (JMC), 2025 U.S. Dist. LEXIS 169432 (D.D.C. Aug. 29, 2025) (holding that due process must be afforded to individuals living in the interior who have not previously been subjected to expedited removal).

11. Petitioner has been physically present in the United States for longer than two years, therefore, it is unlawful for the government to order him to be subjected expedited removal or continue to hold Petitioner in custody without any due process.

12. Petitioner has not been issued an NTA leaving him in limbo without any means to contest his indefinite detention or any denial of asylum through the administrative process.

13. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from custody.

14. Petitioner is not challenging his expiration or revocation of parole; he is challenging Respondents mandatory detention of him based on his parole expiring or not being renewed.

15. Petitioner is not using this forum to challenge any decision made by USCIS during his credible fear interview or his underlying affirmative asylum application; he is challenging any attempts by Respondents to now apply the expedited removal procedures and mandatory detention provisions under 8 U.S.C. 1225 to him.

16. Petitioner is also not challenging any discretionary denial of bond; he is challenging the legal determination that he is not eligible for bond under 8 U.S.C. § 1226(a) in the first place.

17. Respondents are holding Petitioner in physical custody without following their own regulations and the INA and in violation of Petitioner's due process rights under the U.S. Constitution. Therefore, this court should order Petitioner's immediate release.

JURISDICTION

18. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

19. 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

20. Venue is proper in the Eastern District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction, and is in the immediate custody, of Respondent Kevin Raycraft, Field Office Director of Enforcement and Removal Operations, Detroit Field Office. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

21. 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

22. The Court must grant the petition for 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.*

23. 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

24. Petitioner Franklin Ezequiel Salgado Bustos is an asylum seeker from Nicaragua who has been in immigration detention since September 29, 2025. Mr. Salgado is currently detained at North Lake Correctional Facility, in Michigan.

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 Petitioner’s immediate custodian and is responsible for Mr. Salgado’s 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 Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

27. Respondent U.S. 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 (EOIR) and the immigration system it operates is a component agency. She is sued in her official capacity.

FACTS

29. Petitioner Franklin Ezequiel Salgado Bustos is a citizen of Nicaragua.

30. Mr. Salgado has resided continuously in the United States, Ann Arbor, Michigan, since November 2022.

31. On November 22, 2022, Respondents granted Mr. Salgado parole under INA 212(d)(5), released him, and issued him a Form I-385 Notice to Report, which required him to report to an ICE office near his final destination within 60 days.

32. Respondents did not issue Mr. Salgado a Notice to Appear at the time of his apprehension in November 2022.

33. Respondents did not subject Mr. Salgado to expedited removal in November 2022 or at any point to date.

34. Mr. Salgado complied with the terms of the Notice to Report and reported to an ICE Detroit office on January 20, 2023.

35. On January 20, 2023, Mr. Salgado received a DHS Form G-56, Call-In Letter, which asked him to present himself to a Detroit ICE office on March 26, 2025, for “processing and issue NTA.”

36. On November 20, 2023, Mr. Salgado applied for asylum with U.S. Citizenship and Immigration Services (“USCIS”).

37. On May 18, 2024, USCIS approved Mr. Salgado’s application for Employment Authorization Document (EAD) (i.e. work permit).

38. On March 26, 2025, Mr. Salgado reported to an ICE office located at 985 Michigan Avenue, Detroit, Michigan based on a call-in letter he received on January 1, 2023.

39. On March 26, 2025, ICE officers told him to return for a follow up check in on September 28, 2025.

40. Mr. Salgado went to the ICE Detroit office on Sunday, September 28, 2025 but the office was closed.

41. On September 29, 2025, Mr. Salgado returned to the ICE office located at 985 Michigan Avenue, Detroit, Michigan.

42. On September 29, 2025, a male ICE officer, whose name he does not know, asked Mr. Salgado to show him his documents. Mr. Salgado showed the ICE

officer his asylum application, a photo of his work permit, which was valid through 2029, and his passport.

43. The male ICE officer told Mr. Salgado that his “case” was not in immigration court that he had to arrest him.

44. The male ICE officer told Mr. Salgado that they had given him parole before, and they could take it away. No document or opportunity to contest parole was provided.

45. The male ICE officer asked Mr. Salgado if he was afraid to return to his home country and he said yes. The ICE officer then told Mr. Salgado that he would have to “fight” his asylum claim while detained.

46. Mr. Salgado asked if he could be released on bond and the ICE officer told him no.

47. The ICE officer took possession of Mr. Salgado’s personal items, including all of his immigration documents, personal documents, such as car title, financial documents, passport, wallet with his Michigan driver’s license, debit card and credit cards.

48. The ICE officer had Mr. Salgado take off his belt, shoe laces, and handcuffed him. He was taken to a different room with additional ICE officers.

49. He was presented with a document in English and Spanish that he did not understand. He signed the English and Spanish copy of the form but was not provided a copy of the form he signed.

50. ICE officers moved Mr. Salgado to various cells and eventually was placed on a bus, along with approximately 24 other individuals to the immigration detention facility, North Lake, located in Baldwin, Michigan.

51. At the time of his arrest, Mr. Salgado had a pending asylum application with USCIS and no credible fear interview had been conducted.

52. On October 8, 2025, a female at North Lake brought Mr. Salgado to a room where a phone call was made and a man speaking in English answered and told him that he was an official and was going to conduct a credible fear interview. Mr. Salgado requested to have his attorney present and eventually the official obtained consent to adjourn the credible fear interview. The official told Mr. Salgado that his immigration attorney had to file a G-28 and that he would be interviewed in the next two days whether his attorney was present or not.

53. At the time of his arrest, Respondents did not provide Mr. Salgado any reason for why they were arresting him and subjecting him to mandatory detention.

54. To date, ICE has not provided a basis for detaining Mr. Salgado while his asylum application is pending.

55. On information and belief, Mr. Salgado will be placed in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a or improperly placed in expedited removal proceedings under 8 U.S.C. § 1225.

56. ICE will likely charge Mr. Salgado with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

57. As it has done with countless other individuals such as Mr. Salgado, following the initiation of removal proceedings, ICE will either not conduct a custody determination or will chose to continue detaining Mr. Salgado without providing an opportunity to post bond or be released under other conditions.

58. Any attempts by Mr. Salgado to seek a bond hearing would be futile because Detroit Immigration Judges, like many across the country, are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. 1225(b)(2).

59. Mr. Salgado is neither a flight risk nor a danger to the community. He has lived in Ann Arbor, Michigan since November 2022, almost three years.

60. Mr. Salgado has a valid work permit, a state driver's license, a social security card. He has complied with all requirements imposed by ICE and has no criminal history or record.

61. Without relief from this court, Mr. Salgado faces the prospect of months, or even years, in immigration custody, separated from his partner and community. His detention is emotionally devastating for himself as he has never been incarcerated before and currently finds himself in indefinite detention.

LEGAL FRAMEWORK

Affirmative Asylum Applicants

62. The INA, including 8 U.S.C. §§ 1158 and 1225(b)(1)(A), and its implementing regulations, 8 C.F.R. §208.1, et seq., grant noncitizens in the United States who are not in removal proceedings the right to file their asylum application with USCIS. Such applications are known as “affirmative” asylum applications, in contrast to “defensive” asylum applications that are filed in removal proceedings.

63. Noncitizens who properly file an affirmative application is entitled to present their claim before a USCIS officer in a non-adversarial setting, and to have that claim adjudicated. 8 C.F.R. §208.2(a)(1) (“USCIS shall have initial jurisdiction over” any “asylum application filed by an alien physically present in the United States.”).

64. The regulations further provide that “USCIS shall adjudicate the claim of each asylum applicant whose application is complete,” id. 208.9(a)(emphasis added), by means of an interview by an asylum officer, id. 208.9(b).

65. If an USCIS officer denies an asylum application, at that point the noncitizen may be referred to removal proceedings by referring it to an Immigration Judge. 8 C.F.R. 208.14(c)(1).

Removal Proceedings under Section 1225 v. 1229a

66. 8 U.S.C. 1225(b) governs the process of expedited removal, which affords the government the ability to quickly deport an individual. Expedited removal orders are issued by an immigration enforcement official, not by an Immigration Judge. The orders are not subject to appeal to the BIA and U.S. Court of Appeals, but there is a limited review of an expedited removal order via habeas with respect to certain limited questions. 8 U.S.C. § 1225(b)(1)(C), 1252(a), and 1252(e). The potential forms of relief from the expedited removal process are much narrower and essentially require a showing of credible fear of return to the destination country, and adverse findings on credible fear are subject only to a limited review by an Immigration Judge without further review by the BIA. See 8 U.S.C. § 1225(b). The Immigration and Nationality Act (INA) provides that persons in expedited removal proceedings are not eligible for a bond hearing but are mandatorily detained. See 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

67. Expedited removal only applies to noncitizens who are inadmissible on one of two specified grounds: 8 U.S.C. § 1182(a)(6)(C)¹, which applies to those who

¹ This provision does not apply to Petitioner.

seek to procure immigration status or citizenship via fraud or false representations, or 1182(a)(7), which applies to noncitizens who “at the time of application for admission” fail to satisfy documentation requirements. 8 U.S.C. 1225(b)(1)(A)(1). If removal of noncitizens is sought based on other grounds, they must afford the noncitizen a full hearing before an immigration judge. *See* 8 C.F.R. 235.3(b)(1), (3).

68. In contrast, removal proceedings under 8 U.S.C. § 1229a take place before an Immigration Judge (IJ), an employee of the Department of Justice (DOJ) who must be a licensed attorney and has a duty to develop the record in cases before them. *See* 8 U.S.C. § 1229a(a)(1), (b)(1) (“The immigration judge shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the alien and any witnesses.”).

69. Removal proceedings under 8 U.S.C. § 1229a are adversarial proceedings in which the noncitizen has the right to hire counsel, examine and present evidence, and cross-examine witnesses. 8 U.S.C. § 1229a(b)(4). The hearings are recorded, and a transcript is made available if a party appeals the decision. *Id.* § 1229a(b)(4)(C). Proceedings under 8 U.S.C. § 1229a typically take place over the course of multiple hearings due to the built-in procedures. This allows time for noncitizens to both gather evidence in support of petitions for relief available in immigration court (like asylum and certain adjustments of status) and seek collateral relief from other components of DHS (like adjustment of status on the basis of

marriage or family). Upon a decision by the IJ, either party may appeal to the Board of Immigration Appeals (BIA). 8 C.F.R. §§ 1240.15, 1003.1. If the BIA upholds a removal order, the noncitizen may then appeal that decision to a U.S. court of appeals. 8 U.S.C. § 1252.

Mandatory Detention Provisions under the INA

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

71. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. 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 a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d).² *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”). Section 1226(a) is the statute that, for decades, has been applied to people like Mr. Salgado who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

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 is not relevant here.

72. 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 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 Mr. Salgado.

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

74. This case concerns Respondents’ lack of due process and their erroneous decision to subject Mr. Salgado to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a) and that Respondent may unlawfully attempt to subject Mr. Salgado to expedited removal under 8 U.S.C. § 1225.

75. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

76. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 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.”).

77. 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)).

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

79. 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 decades.

80. 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. *Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS 175767, at *19-20 (E.D. Mich. Sep. 9, 2025) (“...[T]he BIA’s decision to pivot from three decades of consistent statutory interpretation and call for [petitioner’s] detention under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question of statutory interpretation. At least a dozen federal courts concur generally with this Court’s interpretation of the statutory language as applied in this context.”) (internal citations omitted); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *23, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (holding that “[t]here 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 over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border.”).

81. DHS’s and DOJ’s interpretation defies the INA. As the aforementioned courts explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Mr. Salgado.

82. 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].”

83. 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 Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

84. 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.

85. 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.”).

86. Accordingly, the mandatory detention provision of § 1225(b)(2) and expedited removal procedures in § 1225 do not apply to people who have already entered and were residing in the United States at the time they were apprehended by immigration authorities.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA, 8 U.S.C. 1225(b)

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

88. The INA, § 1225(b)(1)(A)(i), § 1225(b)(1)(A)(iii)(II), and its implementing regulations, 8 C.F.R. §208.1, do not permit the expedited removal of noncitizens who entered without inspection, were not subjected to expedited removal at the border, were released on parole, filed affirmative asylum applications with USCIS, and have lived in the U.S. for more than two years.

89. At the time Petitioner was arrested by ICE and placed in detention, he was not seeking admission, he was complying with ICE check in requirements.

90. At the time Petitioner was arrested by ICE and through the date of this filing, Petitioner's asylum application remains pending with USCIS.

91. At the time Petitioner was arrested by ICE, he had been living in the United States for over two years.

92. The expedited removal provisions of 8 U.S.C. § 1225 do not apply to all noncitizens residing in the United States whose parole has expired and who have not been placed in removal proceedings. Such noncitizens are subject to 8 U.S.C. 1229a.

93. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

94. The application of § 1225 to Mr. Salgado unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of Due Process
Fifth Amendment and Administrative Procedures Act (“APA”)

95. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

96. 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

97. The government’s detention of Mr. Salgado without issuing an NTA, with attempts to unlawfully subject him to expedited removal, or without a bond hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Mr. Salgado prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that Respondents release Mr. Salgado from custody or, in the alternative, provide Mr. Salgado with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days;

- c. Enjoin Respondents from transferring the Mr. Salgado from the jurisdiction of this District pending these proceedings;
- d. Declare that 8 U.S.C. § 1229a and not 8 U.S.C. § 1225 applies to Mr. Salgado;
- e. 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 Mr. Salgado’s detention and eligibility for bond because he is not a recent arrival “seeking admission” to the United States, and instead was already residing in the United States when he was apprehended;
- f. Award Mr. Salgado attorney’s 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
- g. Grant any other and further relief that this Court deems just and proper.

Dated: October 9, 2025

Respectfully submitted,

/s/ Diana E. Marin

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Dated: October 9, 2025,

/s/ Diana E. Marin

Diana E. Marin (P81514)
BLANCHARD & WALKER PLLC
Attorney for Petitioner