

JS 44 (Rev. 09/23)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jose Rodriguez Mendoza and
Guillermo Acevedo Diaz

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Brian Hoffman
PO Box 181247, Cleveland Heights, OH 44118
(330) 539-3932

DEFENDANTS

Kevin Raycraft, Dir. of Detroit Field Office for ICE; Todd Lyons, Dir. of ICE; Kristi Noem, Sec. of DHS; Pamela Bondi, Attorney General of the U.S.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff

☐ 3 Federal Question (U.S. Government Not a Party)

☒ 2 U.S. Government Defendant

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes

REAL PROPERTY

☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 296 All Other Real Property

CIVIL RIGHTS

☐ 440 Other Civil Rights
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/Accommodations
☐ 445 Amer. w/Disabilities - Employment
☐ 446 Amer. w/Disabilities - Other
☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:

☒ 463 Alien Detainee
☐ 510 Motions to Vacate Sentence
☐ 530 General
☐ 535 Death Penalty

Other:

☐ 540 Mandamus & Other
☐ 550 Civil Rights
☐ 555 Prison Condition
☐ 560 Civil Detainee - Conditions of Confinement

V. ORIGIN (Place an "X" in One Box Only)

☐ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District (specify)

☐ 6 Multidistrict Litigation - Transfer

☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 2241(c)(5)

Brief description of cause: Joint habeas petition for two unlawfully detained individuals in ICE custody

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 10/13/2025 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

1. ☒ General Civil
2. ☐ Administrative Review/Social Security
3. ☐ Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. **RELATED OR REFILED CASES** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: ☐ is RELATED to another PENDING civil case ☐ is a REFILED case ☐ was PREVIOUSLY REMANDED

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

COUNTY:

Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY:

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

☐
☐
☒

AKRON

CLEVELAND

YOUNGSTOWN

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)

(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)

(Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

☐

TOLEDO

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

**JOSE RODRIGUEZ MENDOZA and
GUILLERMO ACEVEDO DIAZ,**

Petitioners-Plaintiffs,

v.

KEVIN RAYCRAFT, Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement, in his official capacity; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; **KRISTI NOEM**, Secretary of the U.S. Department of Homeland Security, in her official capacity; **PAMELA BONDI**, Attorney General of the United States, in her official capacity,

Respondents-Defendants.

Case No. 25-2183

Hon.
Mag.

**PETITION FOR WRIT OF HABEAS CORPUS
AND DECLARATORY AND INJUNCTIVE RELIEF**

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. Petitioner Jose Alfredo Rodriguez Mendoza is a native and citizen of Honduras. Exhibits D, E. He is a resident of Canton, Ohio, and the father of two children. He came to the United States from Honduras on or about August 18, 2023, and has lived and worked here ever since. Exhibits D, E.
3. Petitioner Guillermo E. Acevedo Diaz is allegedly a native and citizen of Colombia. Exhibits K, L. He is a resident of Dayton, Ohio. He allegedly came to the United States from Colombia on or about December 29, 2023. Exhibits K, L. Both Petitioners have resided in Ohio and worked here since their respective arrivals.
4. Shortly after their entries, both Petitioners were briefly detained by the Department of Homeland Security (DHS). Petitioner Rodriguez Mendoza was released on August 19, 2023, "pursuant to the authority contained in section 236 of the Immigration and Nationality Act," specifically determining that he was subject to the detention provisions of 8 U.S.C. § 1226(a). Exhibit A. Petitioner Acevedo Diaz was similarly released on December 31, 2023, "pursuant to the authority contained in section 236 of the Immigration and Nationality Act," likewise determining that he was subject to the detention provisions of 8 U.S.C. § 1226(a). Exhibit H. DHS charged both Petitioners as persons "present in the United States who have not been

admitted or paroled" for having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i); Exhibits D, K.

5. Under 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond, Petitioners are entitled to bond determinations. 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), DHS and the 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.
6. However, both Petitioners were detained in August 2025 and are being unlawfully held without bond. Petitioner Rodriguez Mendoza was detained on or about August 6, 2025, during a workplace raid, despite having valid work authorization and a pending asylum application before the Cleveland Immigration Court. Exhibits B, F. Petitioner Acevedo Diaz was detained on August 13, 2025, while leaving the Cleveland Immigration Court after appearing for a scheduled hearing—despite having filed a pro se motion requesting a virtual hearing because he could not afford transportation, which the Immigration Judge (IJ) denied. Exhibits N, O. Both Petitioners have now been detained for over two months at the Northeast Ohio Correctional Center ("NEOCC") in Youngstown, Ohio. However, Petitioners are being unlawfully detained without bond because U.S. Immigration and Customs Enforcement (ICE) and the IJ have decided that they are instead subject to mandatory detention under a different statutory provision, 8 U.S.C. § 1225(b)(2)(A), which has historically applied to recent arrivals at the U.S. border. This is consistent with a new policy issued on July 8, 2025, instructing all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged 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), no matter how long they have resided in the United States.

7. Both Petitioners sought bond hearings before an IJ in the Cleveland Immigration Court, but on September 25, 2025, the IJ decided that Petitioners were statutorily ineligible to seek bond. The IJ based these decisions on the same legal analysis contained in the new policy. Indeed, the policy states it was issued "in coordination with the Department of Justice (DOJ)." The IJ made no factual findings that either Petitioner is a flight risk or danger. Instead, the IJ concluded that notwithstanding Petitioner Rodriguez Mendoza's two years of residing in the United States—during which DHS had already determined he was not a flight risk or danger when it released him under § 1226(a) in 2023—and notwithstanding Petitioner Acevedo Diaz's nearly two years of residing in the United States—during which DHS had already determined he was not a flight risk or danger when it released him under § 1226(a) in 2023—they are nevertheless "applicants for admission" who are "seeking admission" and subject to mandatory detention without the possibility of bond under § 1225(b)(2)(A).
8. Respondents' new legal interpretation, which has caused Petitioners to be detained 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. Moreover, this interpretation contradicts DHS's own previous determinations that both Petitioners should be subject to § 1226(a) detention authority.

9. The United States District Court for the Eastern District of Michigan—like this Court, within the Sixth Circuit—recently addressed this precise issue and forcefully rejected the government's interpretation, holding that the “recent shift to use the mandatory detention framework under Section 1225(b)(2)(A) is not only wrong but also fundamentally unfair.” *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *25 (E.D. Mich. Aug. 29, 2025).
10. This Court should follow the Eastern District of Michigan's analysis and reach the same conclusion.
11. Accordingly, Petitioners seek a writ of habeas corpus requiring that they be immediately released from custody unless Respondents provide them bond hearings at which the government bears the burden of proof as to flight risk and danger, and/or under § 1226(a) within seven days.
12. 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

13. Petitioners Jose Alfredo Rodriguez Mendoza and Guillermo E. Acevedo Diaz are in the physical custody of Respondents. Both Petitioners are detained at the Northeast Ohio Correctional Center in Youngstown, Ohio.
14. 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).
15. 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

16. Venue is proper in the Northern District of Ohio under 28 U.S.C. § 2241 and 28 U.S.C. § 1391.

Petitioners are detained at the direction, and are in the immediate custody, of Respondents. See *Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

17. Venue is also proper 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 Northern District of Ohio.

REQUIREMENTS OF 28 U.S.C. § 2243

18. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioners are 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.*

19. 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

20. Petitioner Jose Alfredo Rodriguez Mendoza is a citizen of Honduras who has resided in the United States since at least August 18, 2023. Exhibits D, E. Petitioner has been in immigration detention at the Northeast Ohio Correctional Center in Youngstown, Ohio, since on or about

August 6, 2025. Exhibit B. After taking custody of Petitioner on the most recent occasion, ICE did not set bond. Petitioner requested review of his custody by an immigration judge. Exhibit B. On September 25, 2025, Petitioner was denied bond by an immigration judge at the Cleveland Immigration Court because he was deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Exhibit C.

21. Petitioner Guillermo E. Acevedo Diaz is allegedly a citizen of Colombia who has resided in the United States since at least December 29, 2023. Exhibits K, L. Petitioner Acevedo Diaz has been in immigration detention at the Northeast Ohio Correctional Center in Youngstown, Ohio, since on or about August 13, 2025. Exhibit I. After taking custody of Petitioner Acevedo Diaz, ICE did not set bond. Petitioner Acevedo Diaz requested review of his custody by an immigration judge. Exhibit I. On September 25, 2025, Petitioner Acevedo Diaz was denied bond by an immigration judge at the Cleveland Immigration Court because he was deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Exhibit J.
22. 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 Petitioner's detention and removal. He is named in his official capacity.
23. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). In this capacity, Acting Director Lyons oversees the administration, management, and enforcement of immigration detention and removal operations nationwide. He has ultimate supervisory authority over ICE Field Office Directors, including Respondent Raycraft, and is responsible for the policies and practices governing Petitioner's detention. He is sued in his official capacity.

24. 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.
25. 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 is a component agency. She is sued in her official capacity.

STATEMENT OF FACTS

Petitioner Jose Alfredo Rodriguez Mendoza

26. Petitioner Jose Alfredo Rodriguez Mendoza has resided in the United States since on or about August 18, 2023, and lives in Canton, Ohio. Exhibits D, E.
27. Petitioner is 34 years old. He is married to Ruth Sabillon, with whom he has been in a committed relationship for twelve years. They were married in 2022 in the Catholic Church. Exhibit B. Petitioner is the father of two children, Jose Anthony and Jose David, both eleven years old, who deeply love and depend on their father. *Id.* To support his family, Petitioner has legally and consistently worked since shortly after arriving in the United States. He has no criminal history whatsoever. Given his two years of continuous presence in Canton, Petitioner has developed deep and significant ties to his local community beyond his immediate family. In particular, he is heavily involved at St. Francis of Assisi Parish, where he serves as a lector, Eucharistic minister, and member of the Pastoral Council. *Id.* Through his church, Petitioner volunteers at weekly services, participates in spiritual and social events including Palm

Sunday, Easter Vigil, and food festivals, and has served as a mentor and godparent for individuals receiving sacraments. *Id.*

28. On August 19, 2023, shortly after his entry into the United States, Petitioner was briefly detained by U.S. Customs and Border Protection. Exhibit A. DHS then released Petitioner the same day pursuant to section 236 of the Immigration and Nationality Act. *Id.* This release determination demonstrates that DHS concluded Petitioner was subject to the detention provisions of 8 U.S.C. § 1226(a) and that he posed neither a flight risk nor a danger to the community. *Id.*
29. DHS placed Petitioner in removal proceedings before the Cleveland Immigration Court pursuant to 8 U.S.C. § 1229a. Exhibit D. ICE charged Petitioner as "an alien present in the United States who has not been admitted or paroled" under 8 U.S.C. § 1182(a)(6)(A)(i) for having entered the United States without inspection. *Id.*
30. On or about July 10, 2024, Petitioner filed an application for asylum with the Cleveland Immigration Court. Exhibit F. Petitioner is fearful of being deported to Honduras because of a lengthy and escalating pattern of specific threats to kidnap and sell his twin sons that persisted despite attempts by the family to relocate within Honduras. *Id.* Petitioner's asylum application remains pending before the Cleveland Immigration Court. *Id.*
31. Petitioner obtained valid employment authorization from the U.S. government, effective March 6, 2025. Exhibit B. This work authorization demonstrates Petitioner's lawful ability to work in the United States and his compliance with U.S. immigration procedures.
32. On or about August 6, 2025, Petitioner was detained during a workplace raid by ICE, despite having valid work authorization and a pending asylum application. Exhibits B, F. Petitioner

has been detained at the Northeast Ohio Correctional Center in Youngstown, Ohio, ever since.

Petitioner has now been in continuous detention for over two months.

33. Following Petitioner's detention, ICE either did not conduct a custody determination or chose to continue Petitioner's detention without an opportunity to post bond or be released on other conditions. Petitioner subsequently requested a bond hearing before an IJ. Exhibit B. In support of his request for bond, Petitioner submitted numerous statements of support from his church, family members, and community members. *Id.* This evidence compels the conclusion that Petitioner is neither a flight risk nor a danger to the community.

34. On September 25, 2025, an IJ issued a decision that the court lacked jurisdiction to conduct a bond hearing because Petitioner was an applicant for admission under 8 U.S.C. § 1225(b)(2)(A). Exhibit C. The Court did not make any factual findings regarding flight risk or danger. *Id.* (Counsel requested that, even if the IJ found he lacked jurisdiction, he make alternative findings of fact regarding flight risk and danger, but the request was declined.)

35. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his wife and children, as well as from his church and broader community. Petitioner has strong claims for immigration relief based on his family ties, his community connections, and his fear of return to Honduras, and is working with his immigration attorney to pursue asylum and other relief options. Exhibit F.

36. Petitioner has appealed the denial of bond to the Board of Immigration Appeals, but does not expect an adjudication soon enough to vindicate his fundamental liberty interest.

Petitioner Guillermo E. Acevedo Diaz

37. Petitioner Guillermo E. Acevedo Diaz has allegedly resided in the United States since on or about December 29, 2023, and lives in Dayton, Ohio. Exhibits K, L.

38. Petitioner Acevedo Diaz is 24 years old. He has no criminal record anywhere in the world.

Petitioner Acevedo Diaz supports his family, including a disabled brother who relies on him for financial assistance. Exhibit I. Given his nearly two years of continuous presence in Dayton, Petitioner Acevedo Diaz has developed significant ties to his local community. Over a dozen Dayton community members have submitted letters of support on his behalf, attesting to his character and his importance to the community. *Id.*

39. On December 31, 2023, shortly after his alleged entry into the United States, Petitioner Acevedo Diaz was briefly detained by DHS. Exhibit H. DHS then released Petitioner Acevedo Diaz the same day pursuant to section 236 of the Immigration and Nationality Act. *Id.* This release determination demonstrates that DHS concluded Petitioner Acevedo Diaz was subject to the detention provisions of 8 U.S.C. § 1226(a) and that he posed neither a flight risk nor a danger to the community. *Id.*

40. DHS placed Petitioner Acevedo Diaz in removal proceedings before the Cleveland Immigration Court pursuant to 8 U.S.C. § 1229a. Exhibit K. ICE charged Petitioner Acevedo Diaz as "an alien present in the United States who has not been admitted or paroled" under 8 U.S.C. § 1182(a)(6)(A)(i) for having allegedly entered the United States without inspection. *Id.*

41. On or about July 16, 2025, Petitioner Acevedo Diaz filed an application for asylum with the Cleveland Immigration Court. Exhibit L. Petitioner Acevedo Diaz is fearful of being deported to Colombia because of threats from paramilitary groups who stalk and threaten police trainees. *Id.* Petitioner Acevedo Diaz took police training courses in Colombia from February 2022 to February 2023, during which he was forced to handle contraband and was watched by paramilitary groups. *Id.* He fears that gangs who stalk police officers will find his family and

attack, threaten, beat, extort, or kill them, and that the military will also attack or kill them because he trained to serve as a police officer. *Id.* In 2023, fighting between the military and paramilitary groups forced his parents, brothers, and himself out of their neighborhood. *Id.* Petitioner Acevedo Diaz's asylum application remains pending before the Cleveland Immigration Court. *Id.*

42. On July 14, 2025, Petitioner Acevedo Diaz filed a pro se motion for a virtual hearing regarding his scheduled hearing on August 13, 2025. Exhibit N. In his pro se motion, Petitioner Acevedo Diaz stated that he was "unable to travel to Cleveland on August 13th, 2025" because he did "not have a car and cannot afford alternate transportation because I am not working." *Id.* On July 24, 2025, the IJ denied Petitioner Acevedo Diaz's pro se motion, stating only "good cause not shown." Exhibit O.

43. On or about August 13, 2025, Petitioner Acevedo Diaz was detained by ICE while leaving the Cleveland Immigration Court after appearing for his scheduled hearing—the very hearing for which his request for a virtual appearance had been denied. Exhibit I. Petitioner Acevedo Diaz was detained despite having a pending asylum application and despite having complied with all requirements to appear for his hearing. *Id.* Petitioner Acevedo Diaz has been detained at the Northeast Ohio Correctional Center in Youngstown, Ohio, ever since. Petitioner Acevedo Diaz has now been in continuous detention for over two months.

44. Following Petitioner Acevedo Diaz's detention, ICE either did not conduct a custody determination or chose to continue Petitioner Acevedo Diaz's detention without an opportunity to post bond or be released on other conditions. Petitioner Acevedo Diaz subsequently requested a bond hearing before an IJ. Exhibit I. In support of his request for bond, Petitioner Acevedo Diaz submitted numerous statements of support from community members, including

his father, who confirmed that if released, Petitioner Acevedo Diaz would live with him at 317 Kenilworth Ave, Dayton, OH 45405. *Id.* This evidence compels the conclusion that Petitioner Acevedo Diaz is neither a flight risk nor a danger to the community.

45. On September 25, 2025, an IJ issued a decision that the court lacked jurisdiction to conduct a bond hearing because Petitioner Acevedo Diaz was an applicant for admission under 8 U.S.C. § 1225(b)(2)(A). Exhibit J. The Court did not make any factual findings regarding flight risk or danger. *Id.*
46. As a result, Petitioner Acevedo Diaz remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family, including his disabled brother who depends on him for support. Petitioner Acevedo Diaz has strong claims for immigration relief based on his fear of return to Colombia and is working with his immigration attorney to pursue asylum and other relief options. Exhibit L.
47. Petitioner has appealed the denial of bond to the Board of Immigration Appeals, but does not expect an adjudication soon enough to vindicate his fundamental liberty interest.

LEGAL BACKGROUND¹

48. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.
49. 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),

¹ Grateful appreciation is given to the American Civil Liberties Union Fund of Michigan for much of the language and arguments contained in this and subsequent sections.

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 Petitioners who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

50. 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 Petitioners.

51. 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.

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

53. 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).

54. 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

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.

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.”).

55. 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)).

56. 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.³

57. 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.

³ In light of the fact that DHS is the opposing party in removal proceedings and DOJ is the agency that houses the immigration courts, joint development of litigation positions by those two agencies in concert with one another raises serious questions about whether the immigration courts are actually impartial arbiters of fact and law.

58. In a May 22, 2025, unpublished decision from the Board of Immigration Appeals (BIA), EOIR adopted this same position.⁴ That decision holds that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an immigration judge.

59. Respondents have adopted this position even though federal courts have rejected this exact conclusion. Most importantly, the United States District Court for the Eastern District of Michigan—like this Court, within the Sixth Circuit—recently addressed this precise issue in *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025). The Eastern District of Michigan forcefully rejected the government's interpretation:

Section 1226(a) of the INA recognizes that the core and "most elemental of liberty interests" is to be free from restraint and physical detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). For centuries, the Government has acted in accordance with these principles. The recent shift to use the mandatory detention framework under Section 1225(b)(2)(A) is not only wrong but also fundamentally unfair. In a nation of laws vetted and implemented by Congress, we don't get to arbitrarily choose which laws we feel like following when they best suit our interests. It is clear to this Court that the plain language of both Section 1226(a) and Section 1225(b)(2)(A) mandate a finding that Lopez-Campos is entitled to a detention hearing pending his removal proceedings. *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025).

60. Other district courts have reached the same conclusion. After IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for people who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025) (granting preliminary injunction). See also *Gomes v. Hyde*, No. 1:25-

⁴ Available at <https://nwirp.org/our-work/impact-litigation/assets/vazquez/591%20ex%20A%20decision.pdf> [<https://perma.cc/Z8V4-QDYX>].

CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (finding detention unlawful based on same conclusion); Order, *Bautista et al. v. Santacruz Jr. et al.*, No. 5:25-CV-1873-BFM (C.D. Cal. July 28, 2025), Dkt. 14 at *7-8 (granting temporary restraining order based on same conclusion); Opinion & Order, *Benitez v. Francis*, No. 1:25-CV5937-DEH (S.D.N.Y. August 8, 2025), Dkt. 14 at *10-18, 31 (granting habeas petition and directly ordering release from custody based on same conclusion).

61. 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 Petitioners.
62. 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]."
63. 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)).
64. 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.

65. 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.").
66. 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 at the time they were apprehended by immigration authorities and detained.
67. Thus, the IJ erroneously applied § 1225(b)(2) to Petitioners and denied them eligibility for bond. Petitioners have already appealed to the BIA, but that process has proven futile in many other cases. Exhibits G, M. By the time the BIA could even issue decisions—a process that typically takes approximately six months, *Rodriguez Vazquez*, 2025 WL 1193850, at *3—the harm of their unlawful detention will be impossible to remediate. Nor will the downstream effects of continued detention be remediable: Petitioner Rodriguez Mendoza's continued separation from his wife, Ruth Sabillon, to whom he has been married for twelve years, and his two eleven-year-old sons, Jose Anthony and Jose David, causes irreparable harm to his family unit. Exhibit B. His absence deprives his children of their father during critical formative years, including their preparation for First Communion at St. Francis of Assisi Parish. *Id.* His detention also severs his deep ties to his faith community, where he serves as a lector, Eucharistic minister, and member of the Pastoral Council. *Id.* These losses—the daily presence of a devoted husband and father, the spiritual leadership he provides to his children and church community, and the financial support he offers his family—cannot be restored or

adequately compensated after months or years of wrongful detention. Similarly, Petitioner Acevedo Diaz's continued separation from his family, including his disabled brother who depends on him for financial support, causes irreparable harm. Exhibit I. His detention deprives his family of critical support and leaves his disabled brother without the assistance he needs. *Id.* These losses cannot be restored or adequately compensated after months or years of wrongful detention.

68. Further, the position of the BIA is clear. 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, as noted, the most recent unpublished BIA decision on this issue (erroneously) held that persons like Petitioners are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioners are applicants for admission and subject to detention under § 1225(b)(2)(A). See Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27--31.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

69. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

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

71. 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 detained by Respondents in August 2025.
72. Instead, Petitioners are plainly subject to the detention provisions of § 1226(a) and are therefore entitled to custody determinations by ICE, and if custody is continued, to custody redeterminations (i.e., bond hearings) by an IJ.
73. The application of § 1225(b)(2) to Petitioners unlawfully mandates their continued detention without bond and violates the INA.

COUNT II

Violation of Due Process

74. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
75. 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).
76. Petitioners have a fundamental interest in liberty and being free from official restraint.
77. The government’s detention of Petitioners without an opportunity for a custody determination or bond hearing to decide whether Petitioners are a flight risk or danger to others violates Petitioners’ 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 a writ of habeas corpus requiring that Respondents release Petitioners from custody or, in the alternative, provide Petitioners with a bond hearing at which Respondents bear the burden of proof as to flight risk and danger, and/or 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 a recent arrival “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 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
- f. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,



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Counsel for Petitioners

Dated: 13 October 2025

PETITIONER-PLAINTIFFS' INDEX OF EXHIBITS

- Exhibit (A) Petitioner Jose Rodriguez Mendoza's DHS Form I-286, Notice of Custody Determination (August 19, 2023)
- Exhibit (B) Petitioner Jose Rodriguez Mendoza's Bond Motion Submitted to Cleveland Immigration Court (September 9, 2025)
- Exhibit (C) Immigration Judge Order Denying Bond Petitioner Jose Rodriguez Mendoza (September 25, 2025)
- Exhibit (D) Petitioner Jose Rodriguez Mendoza's DHS Form I-862, Notice to Appear (August 19, 2023)
- Exhibit (E) Petitioner Jose Rodriguez Mendoza's Written Pleadings in Cleveland Immigration Court (November 7, 2024)
- Exhibit (F) Petitioner Jose Rodriguez Mendoza's Form I-589, Application for Asylum and Withholding of Removal, DHS (October 17, 2024)
- Exhibit (G) Petitioner Jose Rodriguez Mendoza's Notice of Appeal from a Decision of an Immigration Judge, Form EOIR-26 (October 7, 2025), filed with the Board of Immigration Appeals, appealing the immigration judge's denial of bond eligibility
- Exhibit (H) Petitioner Guillermo Acevedo Diaz's DHS Form I-286, Notice of Custody Determination (December 31, 2023)
- Exhibit (I) Petitioner Guillermo Acevedo Diaz's Bond Motion Submitted to Cleveland Immigration Court (September 3, 2025)
- Exhibit (J) Immigration Judge Order Denying Bond to Petitioner Guillermo Acevedo Diaz (September 25, 2025)
- Exhibit (K) Petitioner Guillermo Acevedo Diaz's DHS Form I-862, Notice to Appear (December 31, 2023)
- Exhibit (L) Petitioner Guillermo Acevedo Diaz's Form I-589, Application for Asylum and Withholding of Removal, DHS (July 16, 2025)
- Exhibit (M) Petitioner Guillermo Acevedo Diaz's Notice of Appeal from a Decision of an Immigration Judge, Form EOIR-26 (October 7, 2025), filed with the Board of Immigration Appeals, appealing the immigration judge's denial of bond eligibility

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioners in this matter and submit this verification on their behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.



Brian J. Hoffman, Esq.
OCSILiO

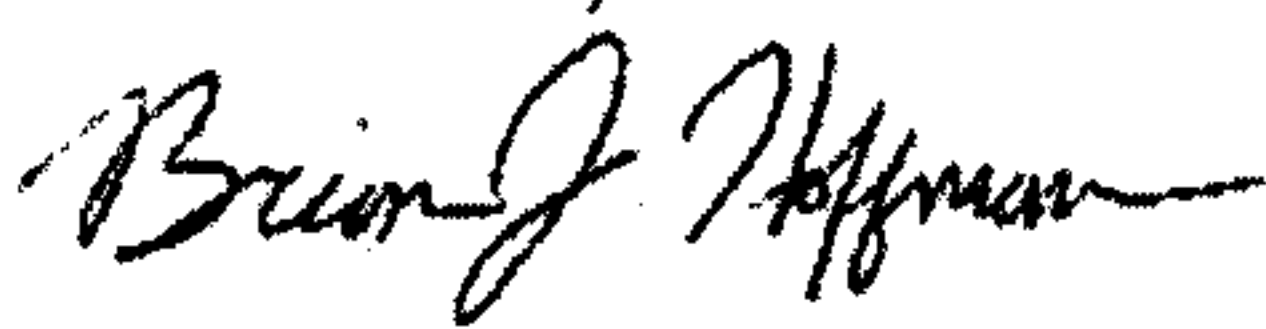
Dated: 13 October 2025

CERTIFICATE OF SERVICE

I hereby certify that on 13 October 2025, a true and correct copy of the foregoing document was electronically filed via the Court's CM/ECF system which sends notice of electronic filing to all counsel of record. I provided copies of the foregoing complaint via regular mail to the U.S. Attorney's Office, Northern District of Ohio to:

**Office of the United States Attorney
801 West Superior Avenue; Suite 400
Cleveland, Ohio 44113-1852**

Respectfully submitted,



Brian J. Hoffman, Esq.
OCSILiO
Counsel for Petitioners

Dated: 13 October 2025