UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

FRANCISCO JUAREZ VELAZQUEZ,
(Alien Registration # [redacted]

Petitioner,

v.

DAVID O'NEILL, in his official capacity as ICE Deputy Field Office Director; KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement, JAMAL LAWRENCE Warden of the Philadelphia Federal Detention Center, and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Case No.:

VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Francisco Juarez Velazquez is a native and citizen of Mexico who entered the United States without inspection twenty years ago and has not left the United States since then.

2. Mr. Francisco Juarez Velazquez (Mr. Juarez) is eligible for Cancellation of Removal of a Non-Permanent Resident, having entered the United States when he was around 23 years old, continuously residing in the United States for two decades, having never been arrested or convicted of any criminal matter, and being the father of 3 US citizen children, ages 18, 15 and 12 years old.

3. On Wednesday October 29, 2025, Mr. Juarez was leaving Home Depot in South Philadelphia, to go to work in Philadelphia, Pennsylvania. He was arrested along with three of his

coworkers by Agents of Immigration and Customs Enforcement ("ICE"). At the time this petition was filed, Mr. Juarez is detained at the Federal Detention Center in Philadelphia, Pennsylvania;

4. On or about September 5, 2025, the Board of Immigration Appeals (the "Board") has issued decisions, including *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which have said that that those who are classified as "entry without inspection" are now "applicants for admission" under 8 U.S.C. § 1225(b) and not eligible to apply for bond in front of an immigration judge, even if they are not caught near the border and have been in the United States for an extended period of time. Historically, these individuals were subject to the detention rules under 8 U.S.C. § 1226(a), which permitted them to apply for a bond in front of an immigration judge.

5. Mr. Juarez, who would otherwise be eligible to apply for a bond in front of an immigration judge, is now not eligible for any bond and must stay detained for the duration of his immigration court proceedings, including any appeal if he loses.

6. In addition, DHS violated Mr. Juarez's due process rights under the Fifth Amendment of the U.S. Constitution by detaining him without conducting an individualized assessment to determine if his detention was warranted. Detention for those detained under 8 U.S.C. § 1226(a) is used to ensure that an individual will show up to court and is not a danger to persons or property. DHS has not demonstrated that Mr. Juarez, who did not require detention before under either of those categories now poses a flight risk or is a danger to persons or property.

7. For these reasons, Mr. Juarez requests that the Court declare that DHS has violated Mr. Juarez's due process rights by detaining him under 8 U.S.C. § 1225(b) and declare that he is detained under 8 U.S.C. § 1226(a) and either (1) order his immediate release as DHS has violated his due process rights, (2) order that he receive a bond hearing with the burden on the government to prove by clear and convincing evidence that he is either a danger persons or property and/or a

flight risk and that there is no combination of alternatives to detention that could mitigate those risks.

JURISDICTION

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

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

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is proper because Petitioner was detained at the Philadelphia Federal Detention Center ("FDC") in Philadelphia, Pennsylvania, which is within the jurisdiction of this District when this action was originally filed.

12. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, and Petitioner resides in this District. There is no real property involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a

return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

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

EXHAUSTION OF ADMINSTRATIVE REMEDIES

15. To the extent required, Petitioner has exhausted his administrative remedies as required by law and his only remedy is by way of this judicial action. In addition, the administrative agency has already predetermined that Petitioner is not eligible for any relief through the agency. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Therefore, any attempt to seek relief through the agency would be futile.

PARTIES

16. Petitioner is currently detained by the Department of Homeland Security. He was at the FDC when he filed his habeas petition with this Court.

17. Respondent, David O'Neill, is the ICE Deputy Field Office Director for the ICE Philadelphia Field Office. He was the Petitioner's immediate custodian at the time this habeas was filed, and, upon information and belief, resides in the Eastern District of Pennsylvania.

18. Respondent Todd Lyons is sued in his official capacity as Acting Director of the United States Immigration and Customs Enforcement. In this capacity, Respondent Lyons oversees all detention of noncitizens held in ICE custody and is a legal custodian of petitioner with the authority to release him.

19. Respondent Kristi Noem is sued in her official capacity as Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, the component agency responsible for Petitioner's detention and custody. Respondent Noem is a legal custodian of Petitioner.

20. Respondent Jamal Lawrence is the Warden of the Federal Detention Center in Philadelphia, Pennsylvania. Respondent is a legal custodian of Petitioner.

21. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals.

STATEMENT OF FACTS

22. Petitioner is a native and citizen of Mexico

23. Petitioner entered the United States without inspection around 2005, when he was 23 years old.

24. Upon information and belief, on or about October 29, 2025, Petitioner was arrested in Philadelphia, Pennsylvania outside a Home Depot by U.S. Immigration and Customs Enforcement ("ICE") and/or other federal agents acting on ICE's behalf.

25. Upon information and belief, agents surround Petitioner's work vehicle and arrested him along with three other individuals.

26. Upon information and belief, Petitioner is currently being held in ICE's custody in the Eastern District of Pennsylvania at the Federal Detention Center or was at the FDC when this

habeas petition was required.

27. Upon information and belief, Petitioner is eligible for bond and is eligible for relief in immigration court 42(b) Non-Lawful Permanent Resident Cancellation for Removal.

28. Upon information and belief, Petitioner does not have a criminal record.

29. Upon information and belief, Petition is the husband of Clara Sandoval Sanchez (Mrs. Sandoval), a Lawful Permanent Resident of the United States. See Exhibit B. Mrs. Sandoval received her Lawful Permanent Residence through an approved U Visa. See Exhibit C.

30. Upon information and belief, neither DHS nor its sub-agencies have made any claim that he is a danger to persons or property or a flight risk.

31. Upon information and belief, DHS did not perform an individual assessment prior to or contemporaneously with the decision to detain Petitioner.

LEGAL BACKGROUND

PETITIONER'S DETENTION VIOLATES PETITIONER'S DUE PROCESS RIGHTS UNDER THE FIFTH AMENDMENT OF THE U.S. CONSTITUTION.

I. This Court has jurisdiction to hear this matter.

32. As noted above, "Federal courts have jurisdiction to review habeas petitioners filed by immigration detainees who assert that they are 'in custody in violation of the Constitution or laws or treaties of the United States.'" *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 U.S. Dist. LEXIS 196847, at *8 (E.D.N.Y. Oct. 5, 2025) quoting 28 U.S.C. § 2241(c)(3). Therefore, this Court has jurisdiction to hear this matter.

II. Petitioner is not required to exhaust his administrative remedies.

33. Petitioner is not required to exhaust his administrative remedies by seeking a bond or requesting discretionary parole.

34. While courts generally require exhaustion of administrative remedies before detainees may challenge their detention in court via a petition for a writ of habeas corpus, exhaustion is a prudential matter, not a statutory requirement. *Artiga*, 2025 U.S. Dist. LEXIS 196847, at *8-9.

35. Further, the Board of Immigration Appeals (BIA) does not have jurisdiction to adjudicate constitutional issues. See Qatanani v. Att'y Gen. of the *US*, 144 F 4th 485, 500 (3d Cir. 2025). Therefore, any administrative proceedings would be futile because Petitioner raises a constitutional due process claim. *Qatanani*, 144 F 4th at 500.

36. Exhaustion of administrative remedies in certain circumstances, including when "(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) citing *Able v. U.S.*, 88 F.3d 1280, 1288 (2d Cir. 1996).

37. Here, two of these exceptions apply. First, any attempt to seek administrative remedy will be futile. In *Matter of Yajure Hurtado*, the Board of Immigration Appeals (the "Board") ruled for the first time that anyone who is classified as an "inadmissible alien who establishes that he or she has been present in the United States for over 2 years" can be detained under 8 U.S.C. § 1225(b)(2) and "shall be detained for a proceeding under section 240." *Id.* at 219-220. The consequence of this decision is that individuals who were historically classified as entry without inspection or EWI and eligible to apply for a bond before an immigration judge under 8 U.S.C. 1226(a) are now ineligible for an immigration judge-issued bond. Therefore, any attempt to seek release before an immigration judge would be futile.

38. Second, this petition raises a substantial constitution question, i.e., whether DHS has violated his due process rights under the U.S. Constitution in detaining him. Therefore, Petitioner should not be required to exhaust his administrative remedies.

III. PETITIONER IS DETAINED UDNER 8 U.S.C. § 1226(a).

39. The next issue is to determine what section of the Immigration and Nationality Act ("INA") governs Petitioner's detention.

40. Petitioner's detention is governed by 8 U.S.C. § 1226(a).

A. Background of 8 U.S.C. §§ 1225 and 1226.

41. Two sections of Immigration and Nationality Act govern detention of non-citizens who have not received a final order of removal: 8 U.S.C. § 1225 and 8 U.S.C. § 1226.

42. 8 U.S.C. § 1225 governs those who are considered "applicants for admission." 8 U.S.C. § 1225(a)(1). This section states that "[a]n alien present in the United States who has not been admitted or who arrives in the United States. . . shall be deemed for purposes of this chapter an applicant for admission."

43. Applicants for admission under 8 U.S.C. § 1225 are divided into two subsections: those covered by 8 U.S.C. § 1225(b)(1) and those covered by 8 U.S.C. § 1225(b)(2).

44. 8 U.S.C. § 1225(b)(1) generally applies to those noncitizens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." This section also applies to other aliens who receive a special designation by the Attorney General of the United States. 8 U.S.C. § 1225(b)(1)(A)(iii). These individuals are subject to what is commonly known as "expedited removal."

45. Noncitizens who fall under 8 U.S.C. § 1225(b)(1) are subject to immediate removal unless they make a fear-based claim. Upon making that claim, if they pass a credible fear interview,

they are put into removal proceedings where their fear-based application is considered. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Noncitizens who either do not make a fear-based claim or do not make a credible fear-based claim are detained until removal. 8 U.S.C. §§ 1225(b)(1)(A)(ii), (B)(iii)(IV). Those who make a fear-based claim are detained while an immigration court considers the non-citizen's claim. *Jennings*, 583 U.S. at 287 citing 8 U.S.C. § 1225(b)(1)(B)(ii).

46. The next category of individuals fall under 8 U.S.C. § 1225(b)(2). This is a general "'catchall provision' that applies to all other applicants." *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 U.S. Dist. LEXIS 191630, at *12 (E.D.N.Y. Sep. 29, 2025) quoting *Jennings*, 583 U.S. at 285. Those detained under this section are commonly known as "arriving aliens."

47. 8 U.S.C. § 1225(b)(2)(A) provides that: "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained" while the non-citizen is in removal proceedings under 8 U.S.C. § 1229a.

48. Detention is mandatory under 8 U.S.C. § 1225. But DHS may grant anyone who falls under 8 U.S.C. § 1225(b) temporary parole on a case-by-case and individualized basis. But when the purposes of the parole have been accomplished and/or the terms of that parole are concluded, the individual is returned to detention. *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *13-14. Those designated as applicants for admission are not eligible to apply for a bond from an immigration judge.

49. Historically, these individuals are noncitizens who go to a border checkpoint crossing and request entry.

50. The next category of individuals fall under 8 U.S.C. § 1226. Noncitizens detained

under this section are then classified under one of two subsections here as well: 8 U.S.C. § 1226(a) and 8 U.S.C. § 1226(c).

51. "Section 1226(a) governs a separate non-mandatory detention scheme and provides for the 'default rule' for detaining and removing aliens 'already present in the United States.'" *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *14 quoting *Jennings*, 583 U.S. at 303.

52. This section provides that "on a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a).

53. "While that decision is pending, the Attorney General may "continue to detain the arrested alien," "release the alien on bond of at least $1,500," or "release the alien on conditional parole." 8 U.S.C. § 1226(a)(1)-(2).

54. 8 U.S.C. § 1226(c) contains several "exceptions [to 8 U.S.C. § 1226(a)] for persons 'who fall[ ] into one of the enumerated categories involving criminal offenses and terrorist activities.'" *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *14 quoting *Jennings*, 583 U.S. at 303. Detention is mandatory for those who fall under 8 U.S.C. § 1226(c).

55. But even those detained under 8 U.S.C. § 1226(c) can file a petition for a writ of habeas corpus for prolonged detention in violation of the Due Process Clause of the Fifth Amendment of the U.S. Constitution. A federal judge can then order that an immigration judge conduct a bond hearing with the burden on the government to show by clear and convincing evidence that the individual is a danger to persons or property or a flight risk and that no alternatives to detention exist that could mitigate that risk for the detention to continue. *See Black v. Dir. Thomas Decker*, 103 F.4th 133 (2d Cir. 2024); *Cantor v. Freden*, 761 F. Supp. 3d 630, 635-41 (W.D.N.Y. 2025).

56. An NTA issued by the DHS can indicate the non-citizen's detention status. The NTA has specific boxes for those who fall under 8 U.S.C. § 1225(b)(1) and (b)(2). Those under 8 U.S.C. § 1225(b)(1) fall under the box that states, "Section 235(b)(1) order was vacated pursuant to: [ ] 8 CFR 208.30 [ ] 8 CFR 235.3(b)(5)(iv)." Those under 8 U.S.C. 1225(b)(2) fall under the box that states, "You are an arriving alien." Finally, those who fall under 8 U.S.C. § 1226(a) fall under the box entitled "You are an alien present in the United States who has not been admitted or paroled."

B. Petitioner is detained pursuant to 8 U.S.C. § 1226(a).

57. Petitioner is detained pursuant to 8 U.S.C. § 1226(a) for several reasons.

58. Petitioner has been in the United States since 2005. He was not detained within 2 years of his entry into the United States nor was he detained at a port of entry.

59. Petitioner, to our knowledge, has never committed an aggravated felony that would subject him to mandatory detention nor is he subject to mandatory detention provisions under the Laken Riley Act.

60. In addition, Petitioner does not fall into any other category.

61. DHS makes no allegation that he ever was under expedited removal under 8 U.S.C. § 1225(b)(1), which is referred to generally as "expedited removal." In addition, since he arrived in 2002, he cannot be subject to expedited removal as a noncitizen must be in the country for less than two years to qualify for expedited removal. *See Make the Road New York v. Noem*, No. 25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).

62. In addition, Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because he has already in the United States several years and is not presently "seeking admission" to the United States. *See Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *30-

31 (S.D.N.Y. Sep. 9, 2025) (explaining that the terms "arriving" and "seeking admission" are present-tense words and do not apply to an individuals who have been in the country for several years) citing *Benitez v. Francis*, 2025 U.S. Dist. LEXIS 157214, at *21-23 (S.D.N.Y. Aug. 8, 2025) (also holding that expanding detention under 1225(b) would greatly expand mandatory detention beyond what how DHS has traditionally treated this statute and that enforcing it this way would negate 8 U.S.C § 1226(a)).

63. To the extent that Respondent argues that Petitioner is detained under 8 U.S.C. § 1225(b) as an applicant for admission pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), this argument fails.

64. In *Yajure Hurtado*, the Board of Immigration Appeals held that anyone who is classified as an "inadmissible alien who establishes that he or she has been present in the United States for over 2 years" can be detained under 8 U.S.C. § 1225(b)(2) and "shall be detained for a proceeding under section 240." *Id.* at 219-220. The consequence of this decision is that individuals who were historically classified as entry without inspection or EWI and eligible to apply for a bond before an immigration judge under 8 U.S.C. 1226(a) are now ineligible for an immigration judge-issued bond. But the Board's reversal of historical practice and newly revised interpretation of the detention statutes are not entitled to any deference. *See Loper Bright Ent. v. Raimondo*, 603 U.S. 369, 412-13 (2024). Numerous courts around the country have rejected the reasoning in Yajure Hurtado and held that those who have been in the United States longer than two years are classified under 8 U.S.C. § 1226(a) were, at minimum, entitled to a bond hearing before an immigration judge. *Artiga*, 2025 U.S. Dist. LEXIS 196847, at *15-24; *Orellana v. Moniz*, Civil Action No. 25-cv-12664-PBS, 2025 U.S. Dist. LEXIS 196282, at *13-14 (D. Mass. Oct. 3, 2025) (collecting cases).

65. Furthermore, the government's policy in *Yajure Hurtado* renders other statutes, e.g., 8 U.S.C. §1226(c) and the Laken Riley Act, superfluous. *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *22-24.

66. Upon information and belief, Petitioner was not, at the time of arrest, paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and, therefore, Petitioner could not "be returned" under that provision to mandatory custody under 8 U.S.C. § 1225(b). Petitioner is therefore not subject to mandatory detention under § 1225 for this reason as well.

67. In addition, Petitioner is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because he has not been convicted of any crime that triggers such detention. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).

68. Accordingly, Petitioner is subject to discretionary detention under 8 U.S.C. § 1226(a) based on Respondents' treatment of Petitioner and the plain text of the statue.

69. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a custody redetermination hearing (colloquially called a "bond hearing") with strong procedural protections. 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

70. If the Court does not release Petitioner outright, Petitioner respectfully requests a bond hearing with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger. *Cantor v. Freden*, 761 F. Supp. 3d 630, 635-41 (W.D.N.Y. 2025).

IV. Petitioner's Arrest and Detention Violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

71. The Due Process Clause of the Fifth Amendment of the U.S. Constitution prevents

the "Government from depriving any person of 'life liberty or property, without due process of law.'" *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *27. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

72. It is well-established that the Due Process clause "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.

73. DHS arrested and detained Petitioner without an individualized assessment as to whether he is a flight risk and/or a danger to the community in violation of the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

V. Petitioner Can Show Due Process Violations Through the *Matthews v. Eldridge* test.

74. The Second Circuit has held the *Mathews v. Eldridge* three-factor balancing test to determine whether there is adequate due process in civil immigration confinement. *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). This test requires courts to consider (1) the private interest that will be affected by the government action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the government's interest. *Mathews*, 424 U.S. at 335.

75. Because Petitioner is detained under 8 U.S.C. § 1226(a), he is not subject to mandatory detention.

76. With respect to the first factor, "the most significant liberty interest there is, is the interest in being free from imprisonment." *Velasco Lopez*, 978 F.3d at 851.

77. Petitioner was arrested and detained without an individualized determination. A DHS agent saw him at a Home Depot and detained him without any assessment of his

individualized case.

78. Upon information and belief, Mr. Juarez' detention was not approved by a statutorily authorized individual.

79. Therefore, Petitioner has established his liberty interest, and this factor weighs heavily in favor of Petitioner.

80. As to the second factor, again, DHS is detaining him without an individualized assessment either prior to or contemporaneously made with the decision by the DHS agent to detain him. In addition, Respondents cannot show any meaningful change in circumstances between the time it issued Petitioner his NTA and the time it detained him. In addition, upon information and belief, no authorized individual approved his detention.

81. Given DHS's complete disregard of Petitioner's due process rights, Petitioner can show a high risk of erroneous deprivation. This factor also weighs heavily in favor of Petitioner.

82. As to the third factor, the government has a high interest in ensuring that individuals in removal proceedings are not a danger to the public and not a flight risk.

83. But the government cannot show that he is either a flight risk or a danger to persons or property.

84. He currently has no immigration case.

85. Therefore, Petitioner is not a danger or a flight risk and his detention cannot be justified. Therefore, this factor also heavily favors Petitioner as well.

86. As all three factors strongly favor the Petitioner, and DHS's ongoing detention of Petitioner violates his due process rights.

87. The proper remedy here is Petitioner's immediate release, and in the alternative. A bond hearing with the burden on the government to prove by clear and convincing evidence that

he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger or on conditions the Court deems just and proper.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process
(Unlawful Arrest and Detention)

88. Petitioner alleges and incorporates all prior paragraphs above.

89. DHS detained Petitioner with no process, no showing of changed circumstances and no opportunity for Petitioner to respond to its decision to detain him.

90. This violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

91. Petitioner's arrest and continued detention is therefore unlawful.

92. Petitioner's continuing detention is therefore unlawful.

93. Therefore, Petitioner requests immediate release from custody.

COUNT TWO

Violation of Fifth Amendment Right to Due Process
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))

94. Petitioner alleges and incorporates all prior paragraphs above.

95. Because Petitioner is a person arrested inside the United States and is subject to detention, if at all, under 8 U.S.C. § 1226(a).

96. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

97. Petitioner's continued detention is therefore unlawful.

98. Under the Due Process Clause of the Fifth Amendment to the United States

Constitution, 8 U.S.C. § 1226(a), and 8 C.F.R. 236.1(d) & 1003.19(a)-(f), if the Court does not order Petitioner's immediate release, he is entitled to receive a bond hearing before an immigration judge with strong procedural protections.

99. Therefore, if the Court does not release Petitioner outright, Petitioner requests a court order that he is entitled to a bond hearing in front of an immigration judge with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger or on conditions the Court deems just and proper.

COUNT THREE

EOIR 42B Cancellation of Removal

100. Petitioner is the father of three U.S. Citizen children ages 18, 15, and 12 years old.

101. Petitioner entered the United States in or around 2005 and has remained in the United States for twenty years, well exceeding the ten (10) years required for an alien to apply for Cancellation of Removal.

102. As defined in section 101(f) of the INA, and in Counsel's legal opinion, Petitioner qualifies as an alien with "Good Moral Character."

103. To our knowledge, the petitioner has not been arrested or charged with any crime or misdemeanor while residing in the United States.

104. Upon information and belief, Petitioner's removal would result in extreme and unusual hardship to his three (3) U.S. Citizen children and his Lawful Permanent Resident wife.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;

2. Order that Petitioner shall not be transferred outside this District;

3. Adjudicate this petition pursuant to 28 U.S.C. § 1657 which requires that the Court expedite consideration of any action brought under 28 U.S.C. Chapter 153, which governs habeas petitions.

4. Declare that Petitioner's detention is unlawful.

5. Issue an order requiring Respondents to release Petitioner immediately, or, in the alternative, to provide Petitioner with a bond hearing with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger or on conditions the Court deems just and proper.

6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

7. Grant any further relief this Court deems just and proper.

Dated: October 30th, 2025
Philadelphia, PA

Respectfully submitted,

s/ *Adam Solow*

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