IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDUARDO PEREZ-JASSO Petitioner, v. Robert Lynch, DETROIT FIELD OFFICE DIRECTOR FOR U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; Rich Martin, LAKE COUNTY SHERIFF; Marcos Charles, ACTING EXECUTIVE ASSOCIATE DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS; Todd M. Lyons, ACTING DIRECTOR, IMMIGRATION CUSTOMS ENFORCEMENT, Madison Sheahan, DEPUTY DIRECTOR, IMMIGRATION CUSTOMS ENFORCEMENT; Kristi Noem, SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY; Pam Bondi, ATTORNEY GENERAL OF THE UNITED STATES; Donald J. Trump, PRESIDENT OF THE UNITED STATES; Respondents	Case No. 1:25-cv-01345 Honorable Judge **PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION** **Expedited Hearing Requested**

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

NOW COMES, Petitioner Eduardo Perez Jasso (Petitioner), by and through his attorney William Gaston McLean III, of the Law Office of William Gaston McLean III, P.C., respectfully submits this Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 to challenge his unlawful and prolonged detention by the Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE). Petitioner has been detained without lawful statutory authority, without a meaningful opportunity to challenge his custody, and in violation of the Constitution and the immigration laws of the United States.

INTRODUCTION

1. Petitioner is a national and citizen of Mexico who entered the United States without inspection (EWI) in or about 1990 through the United States-Mexico border on foot.

2. Petitioner has resided continuously in the United States for approximately thirty-five (35) years and currently resides at [redacted]

3. On October 19, 2025, at approximately 9:00 a.m., ICE officers in unmarked vehicles arrested Petitioner outside a local market near his residence in Rolling Meadows, Illinois.

4. According to information obtained by counsel, no judicial warrant was presented at the time of arrest.

5. Petitioner was initially detained at the ICE Broadview facility for approximately forty-eight (48) hours before being transferred to the North Lake Correctional Facility in Michigan.

6. As of the date of this filing, Petitioner remains detained under the custody and control of ICE, apparently pursuant to the expedited removal authority under 8 U.S.C. § 1225(b), despite his long-term residence, family ties, and the absence of any prior removal order or recent border encounter.

7. Respondents, on information and belief, are charging Petitioner with having entered the United States without admission or inspection under 8 U.S.C. § 1182(a)(6)(A)(i), despite his long-term residence, family ties, and the absence of any prior removal order or recent border encounter.

8. DHS policy instructs all ICE employees to consider any noncitizen inadmissible under that statute, i.e., those who entered the United States without admission or inspection, to be

ineligible for an immigration bond under 8 U.S.C. § 1225(b)(2)(A). *See* ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission, issued July 8, 2025.

9. A significant Board of Immigration Appeals (BIA) precedent decision, binding on every Immigration Judge (IJ) nationwide, holds that an IJ has no jurisdiction to consider immigration bond requests for any noncitizen who entered the United States without admission or inspection. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

10. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice of instead applying 8 U.S.C. 1226(a), which allows for release on conditional parole or allows for an IJ to consider bond requests or make bond redeterminations.

11. Respondents' detention of Petitioner under 8 U.S.C. § 1225(b)(2)(A) violates the plain language of the Immigration and Nationality Act because that statute does not apply to noncitizens like Petitioner who entered the United States without admission or inspection more than 35 years ago, and who reside permanently in the United States.

12. Petitioner has not been afforded an individualized custody determination or the opportunity to seek release on bond. Because he is detained outside the jurisdiction of the Seventh Circuit, access to judicial review is severely limited, rendering habeas corpus relief his only available mechanism to challenge the legality of his detention.

13. Petitioner respectfully requests that this Court find his detention unlawful under 8 U.S.C. § 1225(b) and order his release, or in the alternative, direct that he be placed into standard removal proceedings under 8 U.S.C. § 1229a, consistent with the due process principles established in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Landon v. Plasencia*, 459 U.S. 21

(1982), and require that Petitioner be released unless Respondents provide Petitioner an immigration bond hearing under 8 U.S.C. 1226(a) within seven days.

PARTIES

14. Petitioner is a native and citizen of Mexico who has resided in the United States since approximately 1990 and was arrested by ICE on October 19, 2025. Petitioner is currently detained by U.S. ICE at the North Lake Correctional Facility in Baldwin, Michigan, within the jurisdiction of this Court.

15. Respondents are the federal officials responsible for Petitioner's custody and the enforcement of immigration detention authority. Robert Lynch, Detroit Field Office Director for U.S. Immigration and Customs Enforcement, is the immediate custodial official responsible for Petitioner's detention within the jurisdiction of this Court. Acting under delegated authority are Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; Todd M. Lyons, Acting Director of Immigration and Customs Enforcement; and Madison Sheahan, Deputy Director of Immigration and Customs Enforcement. Kristi Noem, Secretary of the Department of Homeland Security, Pam Bondi, Attorney General of the United States, and Donald J. Trump, President of the United States.

JURISDICTION AND VENUE

16. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant habeas relief to individuals who are "in custody in violation of the Constitution or laws or treaties of the United States."

17. Petitioner is currently detained within this District at the North Lake Correctional Facility in Baldwin, Michigan, and therefore, jurisdiction is proper in this Court. *See Rumsfeld v.*

Padilla, 542 U.S. 426, 443 (2004) (a habeas petition must be filed in the district of confinement and name the immediate custodian).

18. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No 104-208, 110 Stat. 1570. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition, and under 28 U.S.C. § 1331 because this action arises under federal law, including the INA, 8 U.S.C. § 1101, *et seq.*, and the Administrative Procedure Act, 5 U.S.C. § 551, *et seq.* In sum, 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.

20. Congress has stripped district courts of habeas jurisdiction in many immigration provisions, *e.g.*, 8 U.S.C. § 1252, but those provisions are inapplicable in this case. Even though Congress has the power to deprive district courts of habeas jurisdiction, that power is strictly construed. *See, e.g., Reno v. American-Arab Anti-Discrimination Comm.,* 525 U.S. 483-84 (1999) (finding it "implausible" that listing three discrete actions is Congress' way to refer to all claims arising from removal proceedings); see also *Jennings v. Rodriguez*, 138 S. Ct. 830, 840-841 (2018) (observing that, historically, when confronted with "capacious" phrases, the Court has rejected "uncritical literalism"). Because the great majority of jurisdiction-stripping provisions do not mention challenges to detention decisions, they do not deprive this Court of habeas jurisdiction over Petitioner's challenge to detention decisions; they do not deprive this Court of habeas

jurisdiction over Petitioner's challenges to their detention. See, e.g., 8 U.S.C. § 1252(a)(2)(A) (depriving district courts of habeas jurisdiction to review expedited order of removal); 8 U.S.C. § 1252(a)(2)(B) (depriving district courts of habeas jurisdiction over certain forms of deportation relief).

21. The only provision that conceivably applies to Petitioner's challenges is 8 U.S.C. § 1226(e), which purports to deprive district courts of jurisdiction over "discretionary" detention decisions. However, that provision does not apply to challenges brought within a petition for habeas corpus. As the Supreme Court has explained, because immigration law has historically used "judicial review" and "habeas corpus" to mean different things, a jurisdiction-stripping provision in the INA must explicitly reference "habeas corpus" or "28 U.S.C. § 2241" to deprive district courts of habeas jurisdiction at all. *INS v. St. Cyr*, 533 U.S. 289, 311-13 (2001).

22. The inapplicability of 8 U.S.C. § 1226(e) to habeas challenges is confirmed by the statutory history of the INA. Prior to the Supreme Court's decision in *INS v. St. Cyr*, the INA's jurisdiction-stripping provisions did not specifically mention "habeas corpus." *See, e.g.*, 8 U.S.C. § 1252(a)(2)(A) (no mention of habeas corpus). The Supreme Court then concluded that, because they did not specifically mention habeas corpus, all issues remained reviewable in habeas corpus proceedings. *See INS v. St. Cyr*, 533 U.S. 289 at 312-13. Congress then amended the INA to include references to habeas corpus in several jurisdiction-stripping provisions specifically. *Compare, e.g.*, 8 U.S.C. § 1252(a)(2)(A) (2000) (no mention of habeas corpus) with 8 U.S.C. § 1252(a)(2)(A) (2020) (mentioning habeas corpus). This was done in direct response to the Court's decision in *St. Cyr*. H.R. Rept. No. 109-72, 173-76 (2005) (explaining Supreme Court's ruling in *St. Cyr*, discussing its impact, and describing how changes to the INA are intended to mitigate and resolve perceived issues).

23. At that time, Congress did not amend 8 U.S.C. § 1226(e) to include a reference to habeas corpus, and it still has not. Compare, for example, 8 U.S.C. § 1252(a)(2)(A) (2005) (mentioning habeas corpus) with 8 U.S.C. § 1226(e) (2005) (no mention of habeas corpus) and 8 U.S.C. § 1226(e) (2020) (still no mention of habeas corpus). This observation strongly supports the notion that Congress intended for § 1226(e) to leave habeas review intact. See also H.R. Rept. No. 109-72, 175 (2005) (amendments "would not preclude habeas review over challenges to detention… independent of challenges to removal orders. Instead, the bill would eliminate habeas review only over challenges to removal orders.")

24. Canons of statutory construction support that conclusion. "When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect." *St one v. INS*, 514 U.S. 386, 397 (1995) (citing *Reiter v. Sonotone Corp.*, 442 U.S. 330, 339 (1979), and *Moskal v. United States*, 498 U.S. 103, 109-11 (1990)). Reasoning by contrapositive, it follows that when Congress intends no change to occur, it will not amend a statute. Therefore, by leaving § 1226(e) unchanged, it indicates that Congress intended to preserve the district courts' habeas corpus jurisdiction over challenges to detention decisions by immigration enforcement agencies.

25. Furthermore, even if § 1226(e) applied to petitions for habeas corpus generally, it would not pertain to Petitioner's specific claims. Section 1226(e) only claims to strip district courts of jurisdiction to review the agency's "discretionary judgment." Administrative agencies lack the discretion to violate the Constitution, so decisions that do so are, by definition, not "discretionary judgments." *See* 8 U.S.C. 1226(e). Therefore, as a matter of statutory interpretation, 8 U.S.C. § 1226(e) cannot be said to apply to constitutional claims challenging detention.

26. Therefore, this Court holds the jurisdiction to review this habeas petition on behalf of Petitioner.

VENUE

27. The Western District of Michigan has confirmed that 8 U.S.C. § 1252(g) does not bar judicial review when a petitioner seeks only release from unlawful detention, as in this case, because such claims do not challenge the commencement or adjudication of removal proceedings but instead contest the legality of custody itself. *See, e.g., Puerto-Hernandez v. Lynch*, No. 1:25-cv-1097 (W.D. Mich. Oct. 28, 2025) (holding that § 1252(g) does not preclude habeas jurisdiction to review continued detention and ordering release).

28. 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 occurred in the Western District of Michigan.

29. The venue is therefore proper in this District, as the Petitioner is detained here and the immediate custodian responsible for his detention is located within this District.

REQUIREMENTS OF 28 U.S.C. § 2243

30. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless 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).

31. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. Habeas corpus is "perhaps the most important writ known to 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).

LEGAL FRAMEWORK

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

33. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ ("IJ"). See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

34. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

35. Lastly, the INA also provides for the detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, as seen in 8 U.S.C. § 1231(a)–(b).

36. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

37. 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, which was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

38. Following the enactment of the IIRIRA, EOIR drafted new regulations clarifying

that, in general, individuals who entered the country without inspection were not considered detained under § 1225 and 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. 10312, 10323 (Mar. 6, 1997).

39. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). 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)).

40. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

41. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision 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.

42. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the BIA held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

43. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

44. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, 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*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

45. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV- 11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted.

46. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

47. 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]."

48. 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*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Gomes*, 2025 WL 1869299, at *7.

49. 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.

50. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. That 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). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a [] [noncitizen] seeking to enter the country is admissible." *Jenning v. Rodriguez*, 583 U.S. 281, 287 (2018).

51. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

52. Exhaustion of administrative remedies is not required in this case. 28 U.S.C. § 2241 contains no statutory exhaustion requirement, and courts apply only a prudential exhaustion

doctrine in immigration habeas matters. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) (exhaustion not required where not mandated by statute); *Hernandez v. Gonzales*, 424 F.3d 42, 49 (1st Cir. 2005) (no exhaustion required for challenges to detention authority). Where, as here, a petitioner challenges the statutory and constitutional authority for detention, exhaustion is not required because administrative agencies cannot adjudicate constitutional claims and lack the power to grant habeas relief. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006) (BIA lacks authority to decide constitutional issues).

53. Moreover, exhaustion would be futile because neither the IJ nor the Board of Immigration Appeals can review DHS's claim that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b), nor can they order release where DHS invokes that statute. Administrative procedures, therefore, cannot provide the relief sought, release from unlawful detention. *See McCarthy*, 503 U.S. at 146–49** (exhaustion excused where agency remedies are inadequate or would cause irreparable injury).

54. The United States District Court for the Western District of Michigan has recently held that exhaustion is not required where an ICE detainee challenges unlawful detention and lack of a bond hearing, explaining that habeas relief is appropriate where "the government has detained a person while exceeding its statutory authority and without constitutionally sufficient procedures" and where the agency "cannot provide adequate relief.". That order further recognized that requiring exhaustion would improperly extend unlawful detention and deprive the petitioner of meaningful review, precisely the circumstances here.

55. Because the administrative process cannot remedy Petitioner's unlawful and unconstitutional detention, and because delay would result in continued unlawful custody and irreparable harm, prudential exhaustion is properly excused.

CLAIM ONE

Detention Violates the Immigration and Nationality Act (INA)

56. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

57. The government is unlawfully detaining Petitioner pursuant to 8 U.S.C. § 1225(b), despite the fact that § 1225(b) applies only to individuals seeking admission at the border or who are apprehended shortly after entry. Petitioner is not such an individual; rather, he entered the United States in approximately 1990 and has lived here continuously for more than thirty-five (35) years. The statutory framework and decades of established agency practice make clear that individuals who entered long ago and were not apprehended at or near the border are detained, if at all, under 8 U.S.C. § 1226, which allows for discretionary custody and provides the right to a bond hearing.

58. The government's effort to classify Petitioner as an "applicant for admission" subject to mandatory detention under § 1225(b) is contrary to the plain language of the statute, congressional intent, and longstanding legal interpretation. Nothing in the INA authorizes DHS to treat long-term residents as recent entrants for purposes of mandatory detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 837 (2018) (mandatory detention applies in the context of individuals "seeking admission"); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (attempting to expand § 1225(b) detention, currently being rejected nationwide). Federal courts have repeatedly held that § 1226, not § 1225(b), governs the detention of individuals long residing in the United States.

59. The United States District Court for the Western District of Michigan has recently reaffirmed that detention exceeding statutory authority and without proper procedural protections

is unlawful and subject to habeas relief, holding that the government "cannot detain a person while exceeding its statutory authority and without constitutionally sufficient procedures." (Order, W.D. Mich., 2025). Likewise, district courts across the country have invalidated DHS's recent attempt to subject long-term U.S. residents to § 1225(b) mandatory detention. See, e.g., *Rodriguez-Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025).

60. Because Petitioner is not subject to detention under § 1225(b), his continued detention without access to a custody redetermination hearing violates the INA, exceeds DHS's statutory authority, and is unlawful. Petitioner is entitled to habeas relief, including immediate release, or in the alternative, a constitutionally compliant bond hearing under 8 U.S.C. § 1226(a).

CLAIM TWO

Violation of the Due Process Clause of the Fifth Amendment

61. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

62. Petitioner's continued detention without a bond hearing or individualized determination of flight risk or danger violates the Due Process Clause of the Fifth Amendment. The government asserts that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b), even though he has resided in the United States for over thirty-five (35) years, is deeply embedded in his community, and has not been apprehended at or near the border. Treating Petitioner as an "applicant for admission" and subjecting him to indefinite, mandatory detention without procedural safeguards is arbitrary, punitive, and contrary to the basic guarantees of due process.

63. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Even where the

government has authority to detain for immigration purposes, detention must bear a reasonable relation to its purpose and must be accompanied by adequate procedural protections. *Demore v. Kim*, 538 U.S. 510, 531 (2003). Here, Petitioner's detention is not reasonably related to any legitimate immigration purpose because he is not a recent entrant, has longstanding ties, and DHS cannot justify treating him as if he arrived yesterday in an expedited removal context.

64. Moreover, the Western District of Michigan has recently held that continued detention without constitutionally sufficient procedural protections constitutes a due process violation, requiring the government to either justify the detention or release the individual. The court emphasized that the Constitution prohibits the government from detaining an individual "while exceeding its statutory authority and without constitutionally sufficient procedures." (Order, W.D. Mich., 2025). That rationale applies squarely here. The government provides no mechanism for Petitioner to contest his detention or seek release, resulting in effectively indefinite detention without process, which the Supreme Court has repeatedly condemned. *See Zadvydas*, 533 U.S. at 690–92; *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005).

65. Accordingly, Petitioner's continued detention violates the Fifth Amendment, and this Court should grant habeas relief and order Petitioner's immediate release, or, at a minimum, a prompt bond hearing with the government bearing the burden to justify continued detention by clear and convincing evidence.

CLAIM THREE

Violation of the Suspension Clause of the U.S. Constitution

66. Petitioner incorporates by reference all preceding paragraphs. The Suspension Clause, U.S. Const. art. I, § 9, cl. 2, guarantees that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may

require it." Petitioner's continued detention, without access to judicial review or a mechanism to challenge the legality of custody, violates this constitutional guarantee. By asserting mandatory detention authority under 8 U.S.C. § 1225(b) and denying Petitioner any opportunity to seek release or a bond hearing, the government has effectively extinguished the core function of the writ, to test the legality of restraint on personal liberty.

67. The Supreme Court has long held that habeas relief remains available to noncitizens seeking to challenge unlawful executive detention. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001)** ("At the absolute minimum, the Suspension Clause protects the writ as it existed in 1789."). The writ cannot be withdrawn where, as here, the Executive detains an individual without statutory authority and without due process safeguards. *See Boumediene v. Bush*, 553 U.S. 723, 797 (2008) (inadequate substitutes cannot replace habeas; detainees must have a meaningful opportunity to challenge detention).

68. The government's position, that Petitioner is mandatorily detained and cannot seek release, denies him a meaningful forum to challenge the legality of his detention and would suspend the constitutional right to judicial review. The Western District of Michigan has recently confirmed that the government may not detain a person "while exceeding its statutory authority and without constitutionally sufficient procedures," and that habeas jurisdiction exists to prevent unlawful detention (W.D. Mich. Order, 2025). Absent habeas review, Petitioner would remain indefinitely incarcerated without legal recourse, in direct violation of the Suspension Clause.

69. Because Petitioner's detention without access to meaningful judicial review of his custody constitutes an effective suspension of the writ of habeas corpus, this Court must exercise jurisdiction and grant relief. Petitioner respectfully requests an order directing his immediate

release, or, in the alternative, a prompt individualized custody hearing at which the government must justify continued detention by clear and convincing evidence.

CLAIM FOUR

Entitlement to Attorneys' Fees and Costs

70. Petitioner incorporates all preceding paragraphs as if fully set forth herein. Petitioner respectfully asserts his entitlement to attorneys' fees and costs incurred in litigating this action. Under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, a prevailing party in litigation against the United States may recover fees and costs unless the government's position was substantially justified. Petitioner brings this habeas action to remedy unlawful detention, enforce constitutional protections, and vindicate fundamental statutory rights. The government's detention of Petitioner under 8 U.S.C. § 1225(b), despite his longstanding residence and eligibility for custody review under § 1226(a), is contrary to established law, lacks a reasonable legal basis, and has been rejected by federal courts, including within this District.

71. Given that Petitioner has been forced to seek judicial relief solely due to the government's unlawful and unconstitutional conduct, and because the government lacks a substantial justification for its position, Petitioner is entitled to reasonable attorneys' fees and costs pursuant to EAJA, as well as any other applicable authority. Additionally, equitable principles support an award of fees in order to ensure that Petitioner is made whole and that no barriers deter similarly situated individuals from asserting their constitutional and statutory rights.

72. Petitioner therefore respectfully requests that, should he prevail in this action, this Court award attorneys' fees and costs as permitted by law.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;

b. Issue a Writ of Habeas Corpus directing Respondents to immediately release Petitioner Eduardo Perez Jasso from immigration detention;

c. In the alternative, order that Petitioner be provided a prompt, individualized custody hearing before a neutral adjudicator, at which the government bears the burden of establishing by clear and convincing evidence that continued detention is necessary to ensure his appearance or protect the community;

d. Enjoin Respondents from re-detaining Petitioner absent lawful statutory authority and constitutionally sufficient procedures;

e. Declare that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b) and is entitled to custody review under 8 U.S.C. § 1226(a);

f. Award reasonable attorneys' fees and costs as permitted by law; and

g. Grant such other and further relief as the Court deems just and proper in equity and under the circumstances.

Respectfully Submitted,

/s/ *William Gaston McLean III*
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ATTORNEY FOR PETITIONER
Dated: November 3, 2025

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 reviewed relevant documentation of the events described in this Petition and Complaint reasonably available to me prior to and at the time of filing. On the basis of those documents and discussions with individuals whom Petitioner authorized to speak on his behalf, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Respectfully Submitted,

/s/ *William Gaston McLean III*
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ATTORNEY FOR PETITIONER
Dated: November 3, 2025

CERTIFICATE OF SERVICE

I, the undersigned counsel, hereby certify that on this date I filed the Petition for Writ of Habeas Corpus and all accompanying attachments through the CM/ECF system. Upon receipt of the issued, stamped summons, I will promptly serve a copy of the petition and summons by U.S. Certified Priority Mail with Return Receipt Requested on each of the following individuals:

Robert Lynch
Field Office Director
Immigration Customs and
Enforcement
985 Michigan Avenue, Suite 207
Detroit, MI 48226

Kristi Noem
Secretary of the Department of Homeland Security
Office of the General Counsel
2707 Martin Luther King Jr. Ave SE
Washington, D.C. 20528

Todd M. Lyons
Field Office Director
Immigration Customs and Enforcement
Acting Director
North Lake Processing Center
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Detroit, MI 48226

Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Ave NW
Washington, D.C. 20500

Pam Bondi
Attorney General of the United States
United States Department of Justice
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Madison Sheahan
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Marcos Charles
Acting Executive Associate Director
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Kalen Hart Pruss
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330 Ionia Ave., NW
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Rich Martin
Sheriff of Lake County
North Lake Processing Center
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Respectfully Submitted,

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Dated: November 3, 2025