

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

MARCARIO SOTO BELTRAN

Petitioner,

v.

KEVIN RAYCRAFT, Field Office Director,
DETROIT Field Office, Immigration and
Customs Enforcement, in his official capacity;

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

PAMELA BONDI, U.S. Attorney General, in
her official capacity;

TODD M. LYONS, Acting Director of U.S.
Immigration and Customs Enforcement, in his
official capacity;

RODNEY S. SCOTT, Commissioner of U.S.
Customs and Border Protection, in his official
capacity;

WARDEN JOHN DOE, Facility Administrator,
NORTH LAKE PROCESSING CENTER, in
his/her official capacity,

Respondents.

Case No. 1:25 CV 1352

**PETITION FOR A WRIT OF
HABEAS CORPUS AND EMERGENCY
STAY**

INTRODUCTION

1. Petitioner, MACARIO SOTO BELTRAN, is in the physical custody of Respondents at the North Lake Processing Center run by The Geo Group, Inc in Baldwin, Michigan. He currently faces unlawful detention, so he seeks an emergency stay and release based upon a continued breach of the Settlement in *Castañon Nava v. Dept. of Homeland Security*, 18-cv-3757-RRP based upon information and belief.

2. In the alternative, the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) of the Department of Justice (DOJ) erroneously conclude that Petitioner is subject to mandatory detention under U.S.C. § 1225(b)(2). Therefore, the decision to file for a Motion for Bond Redetermination will prove futile.

3. Respondent's warrantless search, without reasonable suspicion, appears in direct violation of the *Castañon Nava* Settlement currently in effect based upon information and belief. See *Castañon Nava v. Dept. of Homeland Security*, 18-cv-3757-RRP (ILND).

4. Petitioner has continuously resided in the United States for 29 years. On October 9, 2025, Petitioner was detained by DHS on private commercial property next to the Econo Coin laundromat at 6541 N. Clark Street, Chicago, Illinois based solely upon a random illegal stop in violation of the *Castañon Nava* Settlement, without reasonable suspicion other than Petitioner's Hispanic racial facial features based upon information and belief.

5. The warrant for Petitioner's October 9, 2025, arrest warrant was issued after Respondent was taken into custody; he was kept in the Broadview Service Staging Area (BSSA) at 1930 Beach Street, Broadview, Illinois in violation of 8 USC §1226a. **See Exh. A.** The Notice to Appear was served on October 11, 2025, when Respondent was detained in the BSSA. **See Exh. B.**

6. The respondent has three U.S. citizen children, was gainfully employed, and had numerous community connections. He is without any known criminal history.

7. Petitioner was placed in physical restraints, then transferred 290 miles by prison bus away from his attorney, family, and residence on Monday, October 13, 2025. Some of the dates on the forms appear out of order based upon information and belief. See Exh. A – D.

8. He was eventually placed in removal proceedings in Detroit, Michigan, where he is charged with, *inter alia*, having entered the United States without inspection based upon information and belief. 8 U.S.C. § 1182(a)(6)(A)(i). He is represented by counsel in his removal proceedings. If found subject to removal, Petitioner is otherwise eligible and can apply for non-LPR cancellation of relief based upon INA 240A(b).

9. Petitioner was scheduled for a master calendar hearing on November 18, 2025, but that date was suddenly changed to Friday, November 7, 2025, which gives Petitioner's Attorney little time to work with Petitioner to prepare or file for any relief. **See Exh. B, D.**

10. Respondent's decision to move Petitioner more than 290 miles away from where he has resided deprives him, his witnesses, and his attorney a court venue where they can plan, appear and testify in immigration court. The Detroit, Michigan Executive Office of Immigration Review (Immigration Court) is more than 290 miles away from qualifying relatives who would otherwise testify in person on his behalf.

11. On July 8, 2025, DHS issued a new policy instructing all Immigration and Customs Enforcement (ICE) employees to consider 'anyone inadmissible' under Section 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for admission" under Section 1225(b)(2)(A) and therefore subject to mandatory

detention. Consistent with this policy, DHS has denied Petitioner release from immigration custody.

12. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act (INA). Section 1225(b)(2) does not apply to individuals like the Petitioner, who entered the United States twenty-nine years ago and who was apprehended hundreds of miles from any border or port of entry. Instead, such individuals are subject to discretionary detention under Section 1226(a), which allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

13. Respondents' new legal interpretation is plainly contrary to the statutory text, statutory framework, Congressional intent, decades of agency practice, and decisions of federal courts across the nation, which apply Section 1226(a) to people like Petitioner. Further, Respondents' detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

14. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released, or in the alternative, that he be provided a prompt bond hearing under Section 1226(a).

JURISDICTION

15. Petitioner is now in the physical custody of Respondents. Petitioner is detained at North Lake Processing Center at 1805 W. 32nd Street, Baldwin, Michigan.

16. 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).

17. 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

18. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the WESTERN DISTRICT OF MICHIGAN the judicial district in which Petitioner currently is detained.

19. 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 this claim, that is Petitioner's detention, occurs in the WESTERN DISTRICT OF MICHIGAN.

REQUIREMENTS OF 28 U.S.C. § 2243

20. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

21. 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

22. Petitioner MACARIO SOTO BELTRAN has resided in the United States since 1995. He has been in immigration detention since October 9, 2025.

23. Respondent KEVIN RAYCRAFT is the ICE Field Office Director for the DETROIT FIELD OFFICE which includes MICHIGAN. As such, KEVIN RAYCRAFT is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named 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 Immigration and Nationality Act (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.

26. Respondent TODD M. LYONS is the Acting Director of Immigration and Customs Enforcement. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

27. Respondent Rodney S. Scott is the Commissioner of Customs and Border Protection (CBP). As the head of CBP, he is responsible for decisions related to the detention, and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

28. Respondent WARDEN JOHN DOE is the FACILITY ADMINISTRATOR for North Lake Processing Center where Petitioner is currently detained. He is an immediate custodian of Petitioner. He is sued in his official capacity.

FACTUAL BACKGROUND

29. Petitioner is a 49-year-old national of MEXICO. He entered the United States in 1995 and has lived here ever since. He lived in CHICAGO, ILLINOIS prior to his detention.

30. He has three U.S. citizen children born in Chicago, Illinois. He has worked in the Chicago of Chicago for over 29 years. The mother of two of his children lives in Chicago, Illinois. Marcario has significant ties to the Rogers Park Community on the north side of Chicago. He has no criminal history.

31. On October 9, 2025, Petitioner was arrested by DHS on commercial private property directly in front of the Econo Coin laundromat located at 6541 N. Clark Street, Chicago, Illinois without a warrant. The subsequent arrest warrant, issued by DHS in the BSSA after Petitioner's warrantless arrest, states that he was detained pursuant to 8 U.S.C. § 1226(a) based upon information and belief. Petitioner is now detained at North Lake Processing Center in Baldwin, Michigan. Petitioner was also issued a Notice of Custody Determination, which further indicated he was detained pursuant to Section 1226(a). See **Exh. A - D**.

32. After arresting Marcario, DHS placed Petitioner in removal proceedings before the Immigration Court in Detroit, Michigan pursuant to 8 U.S.C. § 1229a by filing a Notice to Appear with the Court. See **Exh. B**. ICE charged Petitioner with, *inter alia*, being inadmissible under U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection. *Id.*

33. Petitioner is represented by counsel in his removal proceedings. He is eligible, and if found removable, despite the manner of the stop and arrest, will apply for non-LPR cancellation of removal based upon 8 USC §1229b(b). He meets the requirements to file for relief. He has yet to attend any immigration court hearings, because they have been delayed for nearly than a month due to the lack of immigration judges.

34. Pursuant to Respondents' new policy, discussed *infra*, Petitioner remains in mandatory detention. Absent relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community without ever receiving an individualized hearing justifying his detention in violation of the INA and Due Process.

EXHAUSTION OF REMEDIES

35. No statutory requirement of administrative exhaustion applies to Petitioner's case. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81 (2006).

36. In particular, DHS has taken the position that a noncitizen like Petitioner, who entered without inspection, is subject to mandatory detention under 8 U.S.C. § 1225, and the Immigration Court (EOIR) has affirmed that view. In a published decision, the Board of Immigration Appeals recently held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, Respondent

will be found ineligible for bond as a noncitizen who entered the United States without inspection upon determination of reasonable suspicion for arrest. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief. *See Singh v. Lewis*, No. 4:25-CV-96-RGJ, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025) (“[t]he United States has made clear their position on Section 1225, and it is being applied at all levels within the DHS. Therefore, it is unlikely that any administrative review would lead to the United States changing its position and precluding judicial review”); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025) (“Because exhaustion would be futile and unable to provide Lopez-Campos with the relief he requests in a timely manner, the Court waives administrative exhaustion and will address the merits of the habeas petition.”).

37. Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner’s constitutional claims. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) (“[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.”); *see also Gonzalez v. O’Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that “the BIA has no jurisdiction to adjudicate constitutional issues”).

LEGAL FRAMEWORK

I. Arrest Authority and Respondent’s Efforts to Expand Warrantless Search.

38. The regulations governing arrest and detention by the Department of Homeland Security (DHS) are primarily outlined in various statutes and regulations. Under 40 USC § 1315, DHS officers are authorized to make arrests without a warrant for

offenses committed in their presence or for felonies if they have reasonable grounds to believe the person has committed or is committing a felony. They are also empowered to enforce federal laws, carry firearms, and conduct investigations related to federal property and persons on such property. 40 USCS § 1315.

39. Additionally, 8 USCS § 1357. grants immigration officers the authority to arrest aliens without a warrant if they have reason to believe the alien is in violation of immigration laws and is likely to escape before a warrant can be obtained.

40. Arrests must be conducted without unnecessary delay, and the individual must be brought before an officer for examination. 8 USCS § 1357. Regulations under 8 CFR § 287.8 Standards for enforcement activities further specify that arrests must be based on reasonable belief of an offense and require officers to identify themselves and state the reason for the arrest. 8 CFR § 287.8(b)(1) Standards for enforcement activities allow an officer to ask, not to target and coerce an answer that encourages the subject to believe that he is not free to leave.

41. The standard for arrest and detention by DHS is rooted in the Fourth Amendment's reasonableness requirement. For example, in *Illinois Migrant Council v. Pilliod*, the Northern District of Illinois held that detentions during area control operations must be based on reasonable suspicion supported by specific, articulable facts that the individual is unlawfully present in the United States.

42. The court permanently enjoined DHS (formerly I.N.S) from detaining individuals without a valid warrant, probable cause, or reasonable suspicion. *Illinois Migrant Council v. Pilliod*, 531 F. Supp. 1011, 1022-1024. Similarly, in *Hyung Seok Koh v. Graf*, 307 F. Supp. 3d 827, the court emphasized that an arrest occurs when a reasonable person *would*

believe they are not free to leave, applying an objective standard. *Hyung Seok Koh v. Graf*, 307 F. Supp. 3d 827.

43. Examples of illegal arrests by DHS include cases where detentions were conducted without reasonable suspicion or probable cause. In *Illinois Migrant Council v. Pilliod*, the court found that detaining individuals based solely on their appearance or racial ancestry without specific evidence of unlawful presence violated constitutional protections. *Illinois Migrant Council v. Pilliod*, 531 F. Supp. 1011.

44. In *Khorrami v. Rolince*, 493 F. Supp. 2d 1061, allegations of physical and psychological abuse during detention and the use of false information to prolong detention were deemed outside the scope of discretionary actions protected by law, highlighting potential constitutional violations. *Khorrami v. Rolince*, 493 F. Supp. 2d 1061.

45. In *United States v. Williams*, 702 F. Supp. 2d 1021. The court reiterated that consent obtained during an illegal detention is *presumptively invalid*, and evidence obtained as a result may be inadmissible unless the taint of the illegal conduct is dissipated. *United States v. Williams*, 702 F. Supp. 2d 1021.

46. These cases and statutes collectively underscore the legal framework and limitations on DHS's authority to arrest and detain individuals, ensuring compliance with constitutional standards and protections against unlawful actions.

II. Detention Authority and Respondent's Efforts to Expand Mandatory Detention

47. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings.

48. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens “already in the country.” *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) “sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of a [noncitizen] ‘pending a decision on whether the [noncitizen] is to be removed from the United States.’” *Id.* at 288 (quoting § 1226(a)). Individuals in Section 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. *See* § 1226(a)(2); 8 C.F.R. §§ 1003.19(a), 1236.1(c)(8), (d)(1); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1247 (W.D. Wash. 2025) (“those detained under Section 1226(a) are entitled to a bond hearing before an [immigration judge] at any time before entry of a final removal order.”).

49. Section 1226(c) “carves out a statutory category” of noncitizens from Section 1226(a) for whom detention is mandatory, comprised of individuals who have committed certain “enumerated ... criminal offenses [or] terrorist activities.” *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)). Among the individuals carved out and subject to mandatory detention are certain categories of “inadmissible” noncitizens. § 1226(c)(1)(A), (D), (E). Reference to such inadmissible noncitizens makes clear that, by default, people who are applicants for admission but encountered in the interior are afforded a bond hearing under subsection 1226(a). Courts have recently confirmed this understanding of Section 1226. *See 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)) (“When Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.”); *see also, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *6 (D. Mass. July 7, 2025) (“inadmissibility on one of the three grounds specified in Section 1226(c)(1)(E)(i) is not by itself sufficient to except [a noncitizen] from Section 1226(a)’s discretionary detention framework”).

50. Second, the INA provides for mandatory detention of certain categories of noncitizens “seeking entry into the United States” under 8 U.S.C. § 1225(b). *Jennings*, 583 U.S. at 297; *see* § 1225(b) (“Inspection of applicants for admission”).

51. In *Jennings*, the Supreme Court explained that this mandatory 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 inadmissible.” *Jennings*, 583 U.S. at 287 (emphasis added). Noncitizens subject to mandatory detention under Section 1225 may not be released except “for urgent humanitarian reasons or significant public benefit” under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). *See id.* at 300.

52. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility *and* placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)(i). Meanwhile, Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry. *See infra* ¶¶ 44-58.

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

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

55. Respondents have recently taken various steps seeking to expand their use of mandatory detention under Section 1225(b)(2) beyond its plain language.

56. 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. *See* U.S. Immigration and Customs Enforcement, Interim Guidance Regarding

Detention Authority for Applicants for Admission (July 8, 2025), <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

57. The new policy claims that all persons who entered the United States without inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225 and therefore are subject to mandatory detention 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.

58. On September 5, 2025, the Board of Immigration Appeals (BIA) issued a published decision adopting this same position. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

I. Respondent’s Policy on Section 1225(b)(2) Is Incorrect

59. Respondent’s policy, that all undocumented noncitizens who entered without inspection are considered applicants for admission and subject to mandatory detention under Section 1225(b)(2)(A), is incorrect. Instead, the statutory text, the statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation – including this one – limit Section 1225(b)(2)’s scope to recently arrived noncitizens seeking admission at a border or port of entry.

a. Statutory Text

60. The text of Section 1225, along with its placement in the overall detention scheme of the INA, make clear that the terms “applicant for admission” and “seeking admission” in

Section 1225(b)(2) do not include individuals who have entered without inspection and are apprehended when already inside the United States.

61. Section 1225 is titled: “Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing.” (emphasis added). As courts have recognized, “[t]he added word of ‘arriving’ indicates that the statute governs ‘arriving’ noncitizens, not those present already.” *Beltran Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025) (citing *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025)). This limitation is particularly clear when compared to Section 1226’s general title: “Apprehension and detention of aliens.”

62. Further, Section 1225(b)(2)’s specific subheading, “Inspection of Other Aliens,” subsection 1225(b)(2)(B)’s mention of “crew[m]e[n]” and “stowaway[s],” and subsection 1225(b)(2)(C)’s use of the active language “arriving,” reinforce the limited scope of Section 1225(b)(2)’s applicability to those who have recently arrived at a border or port of entry.

63. Finally, the term “seeking” in “seeking admission” “implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection.” *Lopez-Campos*, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025); *see also Beltran Barrera*, 2025 WL 2690565, at *4. Noncitizens who are present in the country for years are not “seeking admission.” *Lopez-Campos*, at *6; *Beltran Barrera*, at *4.

b. Statutory Framework

64. The statutory framework further supports that Section 1225(b)(2) does not apply to noncitizens, like Petitioner, who have lived in the United States for years and who were apprehended while residing within the United States.

65. The INA’s entire framework is premised on Section 1225 governing detention of “arriving [noncitizens]” while Section 1226 “applies to [noncitizens] already present in the United States.” *Jennings*, 583 U.S. at 288, 301; *see also Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025) (“[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens ‘seeking admission into the country,’ whereas section 1226 governs detention of non-citizens ‘already in the country.’”) (cleaned up) (citing *Jennings*, 583 U.S. at 288-89); *Martinez v. Hyde*, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (“The idea that a different detention scheme would apply to non-citizens ‘already in the country,’ as compared to those ‘seeking admission into the country,’ is consonant with the core logic of our immigration system”) (cleaned up) (citing *Jennings*, 583 U.S. at 289).

66. A fundamental principle of statutory construction is that courts must interpret statutes to give meaning to all provisions and avoid reading out or rendering superfluous any single provision. *Corley v. United States*, 556 U.S. 303, 314 (2009) (“one of the most basic interpretive canons . . . [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]”) (cleaned up). The government’s current reading of Section 1225(b)(2) violates this principle.

67. Section 1226(c) includes carve outs for certain categories of inadmissible noncitizens, who would otherwise fall under Section 1226(a), that are instead subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(A), (D), (E). The inclusion of these carve outs in Section 1226(c) indicates that, contrary to Respondents’ interpretation, there are noncitizens who have not been admitted and that are not governed by Section 1225’s mandatory detention

scheme. Indeed, if the government's interpretation were correct, it would render these portions of Section 1226(c) superfluous since those same individuals would already be subject to mandatory detention under Section 1225(b)(2).

68. The recent amendment to Section 1226(c) confirms this statutory framework. Just this year, Congress passed the Laken Riley Act, which added additional categories of Section 1226(a) carve outs that are now subject to mandatory detention under Section 1226(c). Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E). Specifically, the Laken Riley Act mandates the detention of noncitizens who are inadmissible under §§ 1182(a)(6)(A) (noncitizens "present in the United States without being admitted or paroled"), 1182(a)(6)(C) (misrepresentation), or 1182(a)(7) (lacking valid documentation) and who have been arrested for, charged with, or convicted of certain crimes. *Id.* Again, if Section 1225(b)(2) were already meant to subject these groups of inadmissible noncitizens to mandatory detention, it would render this portion of the Laken Riley Act redundant. *See Beltran Barrera*, 2025 WL 2690565, at *4; *Lopez-Campos*, 2025 WL 2496379, at *8.

c. Congressional Intent and Longstanding Agency Practice

69. Congressional intent and longstanding historical practice underscore Petitioner's reading of the statute.

70. The current detention system has been in place since the passage 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.

71. Following the enactment of the IIRIRA, the Executive Office for Immigration Review drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under Section 1225 and that they were instead

detained under Section 1226(a) and eligible for bond and bond redetermination. *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

72. In the decades that followed, most people who entered without inspection and were apprehended inside the United States were detained under Section 1226(a) and received bond hearings, 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 immigration judge 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 Section 1226(a) simply “restates” the detention authority previously found at Section 1252(a)).

d. Recent Federal Court Decisions Confirming Petitioner’s Position

73. Numerous federal courts have reached conclusions consistent with Petitioner’s position. For example, after immigration judges in the Tacoma, Washington, stopped providing bond hearings for persons who entered the United States without inspection, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that Section 1226(a), not Section 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239. Other courts have reached the same conclusion, rejecting Respondent’s erroneous interpretation of the INA both prior to and since ICE implemented its July 8, 2025, interim guidance. *See, e.g., Gomes v. Hyde*, 2025 WL 1869299, at *8; *Martinez*, 2025 WL 2084238; *Lopez Benitez*, 2025 WL 2371588; *Garcia Jimenez v. Kramer*, No. 4:25-cv-03162-JFB-RCC, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v Noem*, 5:25-cv-

01789-ODW-DFM, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Jacinto v. Trump, et al.*, 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 (D. Neb. August 19, 2025); *Leal-Hernandez v. Noem*, 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos*, 2025 WL 2496379; *Herrera Torralba v. Knight*, 2:25-cv-03166-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025).

74. The BIA's decision in *Yajure Hurtado* has not slowed the steady flow of decisions rejecting Respondents' position. *See, e.g., Singh v. Lewis*, 2025 WL 2699219, at *3 (disagreeing with BIA's analysis and according no deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024)); *Beltran Barrera*, 2025 WL 2690565, at *5 (same); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *6-8 (same); *Sampiao v. Hyde*, 2025 WL 2607924, at *8 n.11 (D. Mass. Sept. 9, 2025) (same); *Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503, at *9 (N.D. Cal. Sept. 12, 2025) (same).

II. Petitioner's Detention Violates the INA

75. Petitioner's detention is not authorized under Section 1225(b)(2).

76. As discussed above, mandatory detention under Section 1225(b)(2) applies only to recently arrived noncitizens seeking admission at a border or port of entry, not individuals who entered without inspection and were later detained inside the country.

77. Here, "there is nothing in the record to suggest that [Petitioner] ever attempted to gain lawful entry." *Lopez-Campos*, 2025 WL 2496379, at *6. Petitioner entered without inspection, never encountered a DHS official, and lived continuously in the United States for 29 years prior to being detained. As such, Petitioner is not subject to mandatory detention under Section 1225(b)(2).

78. Petitioner's detention is not authorized under Section 1226(a), either. As discussed above, Section 1226(a)'s discretionary detention framework requires a bond hearing to make an individualized custody determination based on Petitioner's risk of flight or dangerousness. Here, Respondents have failed to provide such a hearing. Further, there is no information indicating that Petitioner is a flight risk or danger to the community.

79. Lacking any statutory basis for her detention, Respondent must release Petitioner or, in the alternative, promptly hold a bond hearing to determine whether he should remain in custody.

III. Due Process Clause

80. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

81. Under *Mathews*, courts weigh the following three factors: 1) "the private interest that will be affected by the official action;" 2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and 3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335.

a. Private Interest

82. As to the first *Mathews* factor, "[t]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Petitioner has been detained for approximately 22 days at the North Lake Processing

Facility in conditions that are indistinguishable from criminal incarceration. His 27 days of detention prevent him from seeing his family, going to work to support himself, the right to see his attorney, and deprives him of any privacy and freedom of movement.

b. *Risk of Erroneous Deprivation*

83. As to the second *Mathews* factor, courts must “assess whether the challenged procedure creates a risk of erroneous deprivation of individuals’ private rights and the degree to which alternative procedures could ameliorate these risks.” *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *8 (D. Minn. May 21, 2025). The current procedures cause an erroneous deprivation of Petitioner’s liberty interest in remaining free from detention.

84. As discussed above, the statutory text, statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation leave no doubt that Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry, not noncitizens who entered without inspection and were detained inside the country.

85. Here, Petitioner was not arriving at a border or port of entry when he was detained, nor was he ever seeking admission to the country. Instead, he entered without inspection, never had any encounter with DHS officials, and lived in the United States for TWENTY NINE YEARS before being detained. As such, Petitioner is not subject to mandatory detention under Section 1225(b)(2).

86. Therefore, it seems clear that the government’s current procedure, subjecting Petitioner to mandatory detention under Section 1225(b)(2), creates a substantial risk of erroneous deprivation of Petitioner’s interest in being free from arbitrary confinement.

87. Additionally, there are reasonable alternatives available for Respondent to pursue. As discussed above, Section 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under Section 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of erroneous deprivation of Petitioner's freedom is high. *See Singh v. Lewis*, 2025 WL 2699219, at *9 ("the risk of erroneously depriving him of his freedom is high if the IJ fails to assess his risk of flight or dangerousness.").

c. Government Interest

88. As to the third *Mathews* factor, the government's interest in maintaining the current procedure is minimal here. The new interpretation of Section 1225(b)(2) – that people like Petitioner who have resided in the United States for years are now subject to mandatory detention – flies in the face of the statutory text, statutory framework, Congressional intent, almost three decades of prior practice, and the decisions of federal courts across the nation. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of Section 1226(a), which requires a bond redetermination hearing where an immigration judge will consider Petitioner's individualized facts and circumstances to determine whether he is a danger to the community or a flight risk.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

90. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being detained and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. But Respondents' actions here violate § 1226(a) too because, to date, Respondents have refused to consider Petitioner for bond without ever demonstrating that he is a flight risk or danger to others.

91. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

Violation of Due Process

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

93. 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).

94. Petitioner has a fundamental interest in liberty and being free from official restraint.

95. Petitioner entered the country without inspection, had no contact with any DHS officials, and lived in the United States for 29 years before being detained. Such an individual may only be subject to discretionary detention under 8 U.S.C. § 1226, which provides for release on bond. Despite issuing Petitioner a warrant and Notice of Custody Determination under § 1226, Respondents now erroneously detain Petitioner under the mandatory provision in § 1225(b)(2).

96. Respondents' detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner based upon ongoing violations of the *Castañon Nava* Settlement.
- c. Stay proceedings scheduled for Friday, November 7, 2025, until a decision.
- d. Provide Petitioner with a bond hearing before this court pursuant to 8 U.S.C. § 1226(a) within 14 days;
- e. Enjoin Respondents from moving Petitioner outside the jurisdiction of this Court pending adjudication of this petition;

- f. Declare that Petitioner's continued detention violates the INA and the Due Process Clause of the Fifth Amendment due to Respondent's warrantless search in violation of the Fourth Amendment;
- g. Terminate proceedings based upon 8 CFR §1003.18(d)(1)(i)(A).
- h. Award Petitioner 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
- i. Grant any other and further relief that this Court deems just and proper.

DATED this 3rd DAY of November, 2025

Respectfully submitted,

/s/ KEVIN L. DIXLER
Attorneys for Petitioner

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 3rd DAY of November, 2025.

/s/ KEVIN L. DIXLER