UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

YERSTER FERNANDO ULLOA, Petitioner, v. PAM BONDI, Attorney General of the United States, KRISTI NOEM, Secretary of the Department of Homeland Security, TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement; LUIS SOTO, Director, Delaney Hall Detention Facility, Respondents.	Case No. Hon. **PETITION FOR WRIT OF HABEAS CORPUS** ORAL ARGUMENT REQUESTED

INTRODUCTION

1. This petition arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

2. This policy has led to the unlawful detention of countless noncitizens nationwide. Dozens of habeas corpus petitions for their release have been filed in jurisdictions across the country, including many in the District of New Jersey. Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

3. Petitioner Yester has been unlawfully detained without the possibility of bond in furtherance of this policy. Petitioner came to the United States 6 years ago and has lived here ever since.

4. Petitioner entered the United States on or about April 16, 2019, through the Texas border. He came to the United States while being a minor. He was only 14.

5. Upon entry, he was detained for several hours, fingerprinted, and subsequently released on his own recognizance. Since he was a minor Petitioner was served with a Notice to Appear charging him as an "alien present in the United States

without having been admitted or paroled" under INA § 212(a)(6)(A)(i) and placed in removal proceedings pursuant to 8 U.S.C. § 1226(a).

6. Since his release, Petitioner has continuously resided in New York, where he attended all ICE check-ins and immigration court hearings, and has fully complied with all DHS and court-ordered requirements. He filed an application for asylum and related relief before the New York Immigration Court, accompanied by supporting documentation.

7. Petitioner was granted Special Immigrant Juvenile (SIJ) status on June 25, 2023, pursuant to 8 U.S.C. § 1101(a)(27)(J), after the U.S. Citizenship and Immigration Services (USCIS) determined that he had been declared dependent on a juvenile court and that reunification with one or both parents was not viable due to abuse, neglect, or abandonment. This classification confers a recognized humanitarian protection and establishes that it would not be in Petitioner's best interest to be returned to his home country.

8. Furthermore, on November 4, 2023, USCIS approved his I-360 petition as Special Immigrant with Deferred Action.

9. Despite this grant of SIJ classification—which reflects the federal government's determination that Petitioner warrants protection, not punishment—he was nevertheless arrested on or about November 3, 2025, and taken into immigration custody. He was initially detained in Brooklyn, New York, before being

transferred without notice to the Delaney Hall Detention Facility, located at 451 Doremus Avenue, Newark, New Jersey 07105.

10. Petitioner's current detention in New Jersey has effectively isolated him from his family and legal counsel in New York, severely hindering his ability to communicate with counsel, access necessary documentation, and continue participation in his ongoing immigration proceedings. His abrupt detention and transfer were executed without any individualized assessment of risk, danger, or necessity, in violation of due process and long-standing DHS policy regarding juveniles and SIJ beneficiaries.

11. By detaining Petitioner—a federally recognized SIJ beneficiary—without an individualized determination or consideration of his protected status, Respondents have acted contrary to congressional intent and the statutory scheme established under 8 U.S.C. § 1101(a)(27)(J). Congress expressly created SIJ classification to protect vulnerable youth from removal and further harm, not to subject them to indefinite and arbitrary detention. Continued custody of SIJ recipients directly undermines the humanitarian purpose of the statute and constitutes a violation of the Fifth Amendment's Due Process Clause.

12. On November 3rd, while Petitioner's mother was driving him to work an unmarked car stopped them, DHS agents came out of the car, dragged Petitioner out of the car and detained him.

13. Petitioner's detention and transfer were carried out without individualized justification or explanation. The abrupt arrest and relocation have separated him from his family, community, and counsel, and have severely disrupted his ability to meaningfully pursue his pending asylum claim.

14. Petitioner's continued detention is part of an unlawful and arbitrary enforcement practice under which ICE detains individuals present in the United States regardless of their compliance history, the amount of time they have been residing in the United States or humanitarian circumstances. This practice has resulted in Petitioner's ongoing detention without any showing of flight risk or danger to the community, in violation of due process.

15. Petitioner's mother, who is the lead respondent in their joint immigration proceedings, remains in New York. His detention has placed severe hardship and mental anguish on her.

16. Petitioner is represented by Musa-Obregon Law P.C., based in New York. His detention in New Jersey has substantially impaired his ability to communicate with counsel, gather evidence, and prepare for his ongoing immigration proceedings.

17. Petitioner previously faced two misdemeanor traffic-related matters in Nassau County, identified as VTL § 1192.03 (driving while ability impaired) and

VTL § 1198.7(a) (driving with license suspended). Petitioner pled guilty to VTL § 1192.03 pursuant to a conditional plea. No jail time was imposed.

18. When DHS initially released Petitioner—then a minor—along with his mother, it did so after determining that the family was eligible for release from custody pending removal proceedings and that they did not pose a flight or security risk. That release reflected DHS's discretionary judgment that continued detention was unnecessary. Although Petitioner now has two pending, non-violent traffic-related matters in Nassau County, these matters remain unresolved and do not constitute convictions. They do not alter DHS's prior determination that Petitioner poses no danger to the community and is not a flight risk. These are not materially significant new facts that would justify re-detention under 8 U.S.C. § 1226(a) or due process principles.

19. Furthermore, the Criminal Court handling these matters—having full knowledge of the charges and evidence against Petitioner—determined that he posed neither a flight risk nor a danger to the community, as reflected by his release on his own recognizance or with non-monetary conditions in both instances.

20. Petitioner is currently in the physical custody of Respondents at Delaney Hall Detention Facility, located at 451 Doremus Avenue, Newark, New Jersey 07105. This facility operates under the supervision of the Newark Field

Office of Immigration and Customs Enforcement (ICE), which has responsibility for immigration detention centers within its jurisdiction.

21. Under 8 U.S.C. § 1226(a), which governs the arrest and detention of noncitizens pending removal proceedings, DHS has discretionary authority to release individuals on bond or conditional parole. Petitioner falls squarely within this statutory framework, as he has resided in the United States since 2019 and was initially released by DHS after being apprehended as a minor. The statute has long been applied to individuals, like Petitioner, who entered the United States without inspection but subsequently established residence and compliance with immigration requirements.

22. Notwithstanding this statutory framework, pursuant to a new governmental policy announced on or about July 8, 2025, Petitioner is now being unlawfully detained without bond. Under this policy, ICE officers are directed not to apply § 1226(a) to individuals charged as inadmissible under § 1182(a)(6)(A)(i)—that is, persons who entered without inspection—but instead to treat them as subject to mandatory detention under § 1225(b)(2)(A). This represents a drastic departure from decades of established practice under which § 1225(b) applied only to recent border arrivals, not to long-term residents, minors, or individuals with pending immigration relief.

23. Detaining Petitioner without a bond hearing is contrary to the plain text of the INA, longstanding regulations, and agency practice, all of which require an individualized custody determination under § 1226(a). This unlawful detention is particularly egregious given Petitioner's status as a Special Immigrant Juvenile (SIJ)—a classification Congress designed to protect vulnerable youth from removal and further harm—and the absence of any evidence that he poses a danger to the community or a flight risk. His pending, non-violent traffic-related charges in Nassau County do not alter that assessment and cannot serve as a lawful basis for mandatory detention.

24. Accordingly, Petitioner respectfully seeks a writ of habeas corpus directing Respondents to either (a) release him immediately from custody, or (b) provide him a prompt bond hearing under 8 U.S.C. § 1226(a) within seven (7) days, at which the government must bear the burden of demonstrating that his continued detention is necessary.

25. Petitioner does not challenge the discretionary outcome of any bond proceeding; rather, he challenges the legal determination that he is ineligible for a bond hearing altogether. The categorical denial of bond eligibility under § 1225(b) as applied to Petitioner is unlawful, arbitrary, and inconsistent with the INA, the Fifth Amendment's Due Process Clause, and decades of agency interpretation.

JURISDICTION

26. Petitioner Yester Ulloa is in the physical custody of Respondents. Petitioner is detained at the Delaney Hall Detention Facility, located at 451 Doremus Avenue, Newark, New Jersey 07105.

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

28. 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

29. Venue is proper in the District of New Jersey under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained in an immigration detention facility at the direction of, and is in the immediate custody of, Respondent Luis Soto. . *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

30. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in the Southern District.

REQUIREMENTS OF 28 U.S.C. § 2243

31. The Court must grant the petition for a 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.*

32. 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

33. Petitioner Yester Ulloa is a citizen of Honduras who has SIJ status approved by a New York Family Court since 2022 and an approved I-360 since 2023. He has been in the United States since 2019. He has been in immigration detention since November 3, 2025, and is currently detained at Delaney Hall Detention Facility, located at 451 Doremus Avenue, Newark, New Jersey 07105. After taking custody of Petitioner, ICE did not set bond.

34. Respondent Luis Soto is the warden/director of Delaney Hall Detention Facility, where Petitioner is currently held. As such, Respondent Soto is Petitioner's immediate custodian and is responsible for his detention. He is named in his official capacity.

35. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

36. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

37. 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 are component agencies. She is sued in her official capacity.

38. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

FACTS

Petitioner Yester Fernando Ulloa Ulloa

39. Petitioner Yester Fernando Ulloa Ulloa has resided in the United States since at least April 2019 and currently lives in New York. Petitioner is a minor and was granted Special Immigrant Juvenile (SIJ) status on June, 2022, and wit n approved I-360 since November 2023. That reflects a federal determination that it is not in his best interest to be returned to his home country.

40. Petitioner has established deep and meaningful ties to his community in New York, where he has lived continuously since his entry. He has consistently complied with all immigration and court obligations, attending every scheduled hearing and ICE check-in without incident.

41. Although Petitioner currently has two pending, non-violent traffic-related matters in Nassau County (VTL § 1192.02 and VTL § 1198.7(a)), these charges remain unresolved and do not constitute convictions. They do not demonstrate any risk of flight or danger to the community, nor do they provide a lawful basis for his continued detention.

42. Petitioner's mother, the lead respondent in their joint immigration proceedings, remains in New York.

43. Petitioner is also an active and contributing member of his local community. He maintains supportive relationships with neighbors, friends, and others who regard him as responsible and compassionate. His conduct reflects a consistent commitment to lawful living, family unity, and community engagement.

44. In light of his SIJ status, clean record, pending non-violent matters, documented medical hardship to his mother, and demonstrated compliance with all immigration requirements, Petitioner's continued detention serves no legitimate governmental purpose and imposes undue suffering on both him and his family.

45. Despite his outstanding record of compliance and good faith, Petitioner was detained on or about November 3, 2025.

46. He was detained while his mother was driving him to work. Their car got stopped and Petitioner was dragged out of the car and put under detention. He was taken into custody without prior notice or individualized justification and transferred from a Brooklyn detention facility to Delaney Hall Detention Facility, 451 Doremus Avenue, Newark, NJ 07105, under the supervision of Respondent Luis Soto.

47. Following his detention, ICE chose to continue holding Petitioner without providing an opportunity for bond or release under any conditions.

48. Petitioner is clearly neither a flight risk nor a danger to the community, as demonstrated by the following:

49. His continuous residence and exemplary compliance: Since entering the United States in April 2019, Petitioner has resided continuously in New York, attended all ICE check-ins and immigration hearings, and fully complied with every requirement imposed by DHS and the Immigration Court.

50. Petitioner has been granted approved immigration relief. The only reason he is not yet a lawful permanent resident is the current backlog in processing green cards, which is unrelated to any issue of his eligibility or compliance.

51. Good moral character and lack of criminal history: Petitioner has no criminal record. The pending, non-violent traffic matters do not reflect any risk of flight or danger to the community and have no bearing on his eligibility for release.

52. Community ties: Petitioner is an active member of his community, maintaining close relationships with neighbors and participating in school and local activities. His detention has adversely affected not only his family but also the community that values his presence.

53. Petitioner is represented by counsel and has strong claims for immigration relief, including SIJ-based protection. Without relief from this Court, Petitioner faces the prospect of prolonged detention at Delaney Hall, separated from his family and community, with significant hardship to both him and his mother.

LEGAL FRAMEWORK

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

55. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a. *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to seek release on bond.[1] The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioner who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

56. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention

[1] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception does not apply to Petitioner here.

scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

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

58. This case challenges Respondents' erroneous decision that Petitioner is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

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

60. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for

admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.").

61. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

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

63. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). The policy applies regardless of when a person is

apprehended and affects those who have resided in the United States for months, years, and even for decades or since infancy.

64. In decision after decision, federal courts—both nationwide and here in the District of New Jersey—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See, e.g, Gomes v. Hyde*, No. 25-CV-11571, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); Order, *Bautista v. Santacruz Jr.*, No. 25-CV-1873 (C.D. Cal. July 28, 2025), Dkt. 14; *Rosado v. Figueroa*, No. 25-CV-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, --- F. Supp. 3d ---, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); Order, *Gonzalez v. Noem*, No. 25-CV-2054 (C.D. Cal. Aug. 13, 2025), Dkt. 12; *Dos Santos v. Noem*, No. 25-CV-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, --- F. Supp. 3d ---, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-CV-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); Order, *Aguilar Vazquez v. Bondi*, No. 25-CV-3162 (D. Minn. Aug. 19, 2025), Dkt. 17; *Romero v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 Civ. 6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 25-CV-02428, 2025 WL

2430025 (D. Md. Aug. 24, 2025); Order, *Ruben Benitez v. Noem*, No. 25-CV-2190 (C.D. Cal. Aug. 26, 2025), Dkt. 11; *Kostak v. Trump*, No. 25-CV-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Diaz Diaz v. Mattivelo*, No. 25-CV-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025); *Francisco T. v. Bondi*, --- F. Supp. 3d ---, 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *Lopez-Campos v. Raycraft*, --- F. Supp. 3d ---, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); Order, *Jimenez Garcia v. Kaiser*, No. 25-CV-06916 (N.D. Cal. Aug. 29, 2025), Dkt. 22; *Garcia v. Noem*, No. 25-CV-02180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921, 2025 WL 2533110 (N.D. Cal., Sept. 3, 2025); *Doe v. Moniz*, --- F. Supp. 3d ---, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); Order, *Encarnacion v. Moniz*, No. 25-CV-12237 (D. Mass. Sept. 5, 2025), Dkt. 16; *Jimenez v. FCI Berlin, Warden*, --- F. Supp. 3d ---, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Mosqueda v. Noem*, No. 25-CV-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Hinestroza v. Kaiser*, No. 25-CV-07559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Guzman v. Andrews*, No. 25-CV-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Kaiser*, No. 25-CV-5624, 2025 WL

2637503 (N.D. Cal. Sept. 12, 2025); Order, *Lamidi v. FCI Berlin, Warden*, No. 25-CV-297 (D.N.H. Sept. 15, 2025), Dkt. 14; *Garcia Cortes, v. Noem*, No. 25-CV-02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Pablo Sequen v. Kaiser*, --- F. Supp. 3d ---, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025); *Maldonado Vazquez v. Feeley*, No. 25-CV-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Velasquez Salazar v. Dedos*, No. 25-CV-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Hasan v. Crawford*, --- F. Supp. 3d ---, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Beltran Barrera v. Tindall*, No. 25-CV-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chogllo Chafla v. Scott*, No. 25-CV-00437, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Singh v. Lewis*, No. 25-CV-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Giron Reyes v. Lyons*, --- F. Supp. 3d ---, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Brito Barrajas v. Noem*, No. 25-CV-00322, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Lepe v. Andrews*, --- F. Supp. 3d ---, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Lopez v. Hardin*, No. 25-CV-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); *Roa v. Albarran*, No. 25-CV-07802, 2025 WL 2732923 (N.D. Cal. Sept. 25, 2025); *Rivera Zumba v. Bondi*, No. 25-CV-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Valencia Zapata v. Kaiser*, --- F. Supp. 3d ---, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025); *Alves da Silva v. U.S. Immigr. & Customs Enf't*, No. 25-CV-284, 2025 WL 2778083 (D.N.H. Sept. 29, 2025); *Chang Barrios v.*

Shepley, No. 25-CV-00406, 2025 WL 2772579 (D. Me. Sept. 29, 2025); *Inlago Tocagon v. Moniz*, --- F. Supp. 3d ---, 2025 WL 2778023 (D. Mass. Sept. 29, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Romero-Nolasco v. McDonald*, --- F. Supp. 3d ---, 2025 WL 2778036 (D. Mass. Sept. 29, 2025); *Quispe v. Crawford*, No. 25-CV-1471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2783642 (D. Me. Sept. 30, 2025); Order, *Morales v. Plymouth Cnty. Corr. Facility*, No. 25-CV-12602 (D. Mass. Sept. 30, 2025), Dkt. 15; *Quispe-Ardiles v. Noem*, No. 25-CV-01382, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *Rodriguez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025); *D.S. v. Bondi*, No. 25-CV-3682, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Ayala Casun v. Hyde*, No. 25-CV-427, 2025 WL 2806769 (D.R.I. Oct. 2, 2025); *Chanaguano Caiza v. Scott*, No. 25-CV-00500, 2025 WL 2806416 (D. Me. Oct. 2, 2025); *Guzman Alfaro v. Wamsley*, No. 25-CV-01706, 2025 WL 2822113 (W.D. Wash. Oct. 2, 2025); *Rocha v. Hyde*, No. 25-CV-12584, 2025 WL 2807692 (D. Mass. Oct. 2, 2025); *Alvarenga Matute v. Wofford*, No. 25-CV-01206, 2025 WL 2817795 (E.D. Cal. Oct. 3, 2025); *Escobar v. Hyde*, No. 25-CV-12620, 2025 WL 2823324 (D. Mass. Oct. 3, 2025); *Cordero Pelico v. Kaiser*, No. 25-CV-07286, 2025 WL 2822876 (N.D. Cal. Oct. 3, 2025); *Echevarria v. Bondi*, No. 25-CV-03252, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Guerrero Orellana v. Moniz*, --- F. Supp. 3d ---, 2025 WL 2809996 (D. Mass. Oct.

3, 2025); *Artiga v. Genalo*, No. 25-CV-5208, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Hyppolite v. Noem*, No. 25-CV-4304, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025).[2]

65. This list is undoubtedly incomplete. As the media has reported, the government's new no-bond policy has "led to dozens of recent rulings from gobsmacked judges who say the administration has violated the law and due process rights …. The pile up of decisions is growing daily." Kyle Cheney and Myah Ward, *Trump's New Detention Policy Targets Millions Of Immigrants. Judges Keep Saying It's Illegal*, Politico (Sept. 20, 2025, at 4:00 PM ET), https://www.politico.com/news/2025/09/20/ice-detention-immigration-policy-00573850.

66. In recent months, the District of New Jersey has repeatedly rejected Respondents' interpretation of the INA and granted writs of habeas corpus to detained noncitizens to whom Respondents denied a bond hearing. Courts within the Third Circuit, including the District of New Jersey have consistently recognized that § 1226(a), rather than § 1225(b)(2)(A), governs the detention of noncitizens who were already present in the United States when taken into immigration custody. For

[2] *But see Chavez v. Noem*, No. 25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (denying request for *ex parte* temporary restraining order on grounds that the petitioners' motion did not raise "serious questions going to the merits."); *Vargas Lopez v. Trump*, No. 25-CV-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (denying habeas petition primarily due to "the mistakes in the Petition, including the failure of Vargas Lopez to attach certain referenced exhibits.").

instance in Rivera Zumba v Bondi, No. 2:25-cv-14626-KSH (D.N.J. Sept. 26, 2025), the court explained that individuals apprehended long after entry into the United States, even if initially entered without inspection, are detained pursuant to § 1226(a), which provides for discretionary release and bond hearings. The court emphasized the distinction between § 1225, which applies only to noncitizens seeking admission at or near a port of entry, and § 1226(a), which governs detention of noncitizens already present in the interior of the United States. The decision clarified that mandatory detention under § 1225(b)(2)(A) does not extend to long-term residents apprehended in the interior who are not "seeking admission" and were never inspected at a border. Rivera Zumba therefore confirms that Petitioner, who has resided in the United States for many years and was apprehended well after entry, is entitled to a bond hearing and cannot be subject to mandatory detention under § 1225. More recent decisions holding the same include: Contreras-Cervantes v. Raycraft, No. 25-cv-13073, 2025 WL 2952796 (E.D. Mich. Oct. 17, 2025); Diaz-Sandoval v. Raycraft, No. 25-cv-12987 (E.D. Mich. Oct. 17, 2025); Pacheco Mayen v. Raycraft, 25-cv-13056 (E.D. Mich. Oct. 17, 2025); Contreras-Lomeli v. Raycraft, No. 25-cv-129826 (E.D. Mich. Oct. 21, 2025); Casio-Mejia v. Raycraft, 25-cv-13032 (E.D. Mich. Oct. 21, 2025); Santos Franco v. Raycraft, 25-cv-13199 (E.D. Mich. Oct. 21, 2015).

67. On September 5, 2025, the BIA issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision held that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an IJ.

68. The Yajure Hurtado decision—like the government policy it seeks to uphold—defies the INA.—the BIA's reasoning is unpersuasive and "at odds with every District Court that has been confronted with the same question of statutory interpretation

69. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

70. 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]."

71. 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).

72. When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." Rodriguez, 779 F. Supp. 3d at 1256-57 (citing Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 400 (2010)).

73. 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.

74. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). See Jennings, 583 U.S. at 287 (explaining that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.").

75. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people who have already entered and were long residing in the United States at the time they were apprehended by immigration authorities and detained. Because § 1226(a), not § 1225(b), is the applicable statute, Petitioner's detention without eligibility for bond is unlawful.

76. Petitioner seeks relief from this Court because any months-long appeal to the BIA of an IJ's decision denying bond would be futile. A request for a bond hearing is likewise futile. First, the agency's position is clear: both IJs and future panels of the BIA must follow the Yajure Hurtado decision. Further, the new governmental policy was issued "in coordination with DOJ," which oversee the immigration courts, including the BIA—up to and including the ability of the Attorney General to modify or overrule decisions of the BIA, see 8 C.F.R. §1003.1(h). It is therefore unsurprising that the BIA has (erroneously) held that persons like Petitioner are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Moreover, in the numerous identical habeas corpus petitions that have been filed nationwide, EOIR and the Attorney General are often respondents and have consistently affirmed via briefing and oral argument that individuals like Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A).

77. Second, by the time the BIA could even issue an appeal—a process that typically takes at least six months, Rodriguez, 779 F. Supp. 3d at 1245, and in many cases roughly a year, id.—the harm of Petitioner's unlawful detention will be impossible to remediate. Nor will the downstream effects of continued detention be remediable: separation from family, interruption of care, and loss of community stability—cannot be fully remedied once they occur.

78. Third, neither IJs nor the BIA have the authority to decide constitutional claims. See Sterkaj v. Gonzales, 439 F.3d 273, 279 (6th Cir. 2006). Here, Petitioner claims not only that Respondents are unlawfully detaining him without bond hearings under an inapplicable statute, but also that such detention violates Petitioner's constitutional right to due process if the government seeks to deprive him of his liberty.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

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

81. Section 1225(b)(2) does not apply to Petitioner, who previously entered the country and has long been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents.

82. Instead, Petitioner should be subject to the detention provisions of § 1226(a) and are therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

83. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner results in Petitioner's unlawful detention without the opportunity for a bond hearing and violates the INA.

COUNT II

Violation of Due Process

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

85. 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 (2001).

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

87. The government's detention of Petitioner without an opportunity for a custody determination or bond hearing to decide whether he is a flight risk or danger violates Petitioner's 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 release Petitioner from custody unless the Petitioner is provided with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days;

c. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District pending these proceedings.

d. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) —is the appropriate statutory provision that governs Petitioner's detention and eligibility for bond because Petitioner is not a recent arrival "seeking admission" to the United States, and instead was already residing in the United States when apprehended and charged as inadmissible for having allegedly entered the United States without inspection.

e. Award Petitioner fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief that this Court deems just and proper.

Dated: November 7 , 2025

Respectfully submitted,

/s/Peter Kapitonov
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