UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
PADUCAH DIVISION

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| VADIM DORZHIEV<br>([redacted]),<br><br>Petitioner,<br><br>v.<br><br>ADAM SMITH, Jailer, Christian County Jail; and SAMUEL OLSON, Interim Field Office Director, Chicago Field Office, Immigration and Customs Enforcement,<br><br>Respondents. | ) | Case No. 5:25-cv-195-BJB |

**PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF**

The Petitioner, VADIM DORZHIEV, by and through his own and proper person and through his attorneys, MAYA A. FLORES and SHEILA McNULTY, of the LAW OFFICES OF KRIEZELMAN BURTON & ASSOCIATES, LLC, petition this Honorable Court to issue a Writ of Habeas Corpus to review his unlawful detention in violation of his constitutional and statutory rights.

**Introduction**

1. Petitioner is presently being detained by U.S. Immigration and Customs Enforcement ("ICE") at the Christian County Jail in Hopkinsville, Kentucky.
2. Petitioner is a native and citizen of Russia. He has been present in the United States since November 30, 2021. He is married and has four children; they are 12, 10, 6 and the youngest is a three-year-old child, who is a United States Citizen.
3. Petitioner and his family fled Russia in late 2021, due to their claim of persecution as minorities in that country, and with fear of returning, they have applied for asylum here in the

United States. The family was issued a Notice to Appear by U.S. Customs and Border Patrol (CBP) on December 1, 2021, placing them into removal proceedings under Section 240 of the Immigration and Nationality Act (INA), and were granted parole on the same date by CBP, valid for one year. Ex. 1.

4. Based upon this grant of parole, the family was released and subsequently moved to Chicago, Illinois, where the Chicago Immigration Court now has jurisdiction over their application for asylum, with a pending status hearing date of November 17, 2025.
5. Petitioner's detention is a substantial deprivation and burden that puts Petitioner at risk.
6. Petitioner's detention became unlawful on October 20, 2025, when he was taken into custody by U.S. Immigration and Customs Enforcement ("ICE") agents. His continued detention is an unlawful violation of due process and an incorrect interpretation of immigration law.
7. On or about October 20, 2025, while Petitioner was lawfully parked at the O'Hare Airport in Chicago, Illinois, unidentified "agents" blocked the parking lot entrance and exits with their vehicles and proceeded to inspect all the drivers in the cars that were parked in the lot. Agents took Petitioner out of his vehicle, and despite Petitioner's attempts to show his valid driver's license, car title, and employment authorization provided by the Department of Homeland Security (DHS), as well as explaining his upcoming hearing date before an immigration judge, agents ignored him and commanded him to leave the car. Agents produced no warrant and did not identify themselves or show any government identification. Petitioner was then taken into custody and required to abandon his lawfully owned and operated vehicle at the airport parking lot.

8. Petitioner respectfully asks this Court to issue a temporary restraining order directing Petitioner's release and directing Respondents to conduct a bond hearing to ensure his due process rights.

9. In the alternative, Petitioner respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

**Jurisdiction and Venue**

10. The action arises under the Constitution of the United States, the Immigration and Nationality Act of 1952, as amended ("INA"), 8 U.S.C. § 1101 *et seq.*, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 *et seq.*

11. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241, and Article I, section 9, clause 2 of the United States Constitution (the "Suspension Clause"), as Petitioner is presently subject to immediate detention and custody under color of authority of the United States government, and said custody is in violation of the Constitution, law or treaties of the United States.

12. This action is brought to compel the Respondents, officers of the United States, to accord Petitioner the due process of law to which he is entitled under the Fifth and Fourteenth Amendments of the United States Constitution.

13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgments Act, 28 U.S.C. § 2201 *et seq.*, 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1361 (mandamus), and the All Writs Act, 28 USC § 1651.

14. Venue is proper in the Western District of Kentucky because Petitioner is presently detained by Respondents at Christian County Jail – which is located within the Western District. 28 U.S.C. § 1391(b), (e)(1).

**Parties**

15. Petitioner VADIM DORZHIEV is a native and citizen of Russia. Petitioner is an applicant for political asylum and is presently detained at Christian County Jail located in Hopkinsville, Kentucky.

16. Respondent ADAM SMITH is being sued in his official capacity only. As the Jailer of Christian County Jail, he is the custodian of the jail and all individuals detained therein, where Petitioner is presently being detained. He is, therefore, Petitioner's immediate custodian.

17. Respondent SAMUEL OLSON is being sued in his official capacity only, as the Interim Field Office Director of the Chicago Field Office of ICE. As such, he is charged with the detention and removal of aliens which fall under the jurisdiction of the Chicago Field Office.

**Custody**

18. Petitioner VADIM DORZHIEV is being unlawfully detained by ICE and he is not likely to be removed in the reasonably foreseeable future.

**Factual and Procedural Background**

19. Petitioner VADIM DORZHIEV is a native and citizen of Russia. He has been present in the United States for almost four years, since November 30, 2021, when he and his family including his wife and three children crossed the border at San Ysidro, California, seeking asylum from Russia. They were paroled into the country by CBP on December 1, 2021, and

have filed an asylum application within one year of their entry. They are awaiting their initial master calendar hearing before an immigration judge in the immigration court in Chicago, Illinois, which is scheduled for November 17, 2025.

20. Petitioner has been held in Christian County Jail since approximately October 20, 2025, without bond, or even an opportunity to seek bond, despite the fact that he has been in the United States in compliance with the immigration laws since November of 2021, was granted parole by CBP and the family has their initial hearing in less than ten days before the immigration court. Due to his detention, however, Petitioner will not be able to attend.

21. On July 8, 2025, ICE internally released "interim guidance" regarding a change in their longstanding interpretation of which noncitizens are eligible for release on bond. Ex. 2, Interim Guidance (July 8, 2025). Specifically, ICE is arguing that only those already admitted to the U.S. are eligible to be released from custody during their removal proceedings, and that all others are subject to mandatory detention under 8 U.S.C. § 1225, instead of 8 U.S.C. § 1226, and will remain detained with only extremely limited parole options at ICE's discretion. *See id.* This is a reversal of ICE's longstanding practice of treating noncitizens taken into custody while living in the United States as detained pursuant to 8 U.S.C. section 1226(a). *Rocha Rosado v. Figueroa*, 2025 WL 2337099, (D. Arizona August 11, 2025); *see Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024) ("[T]he longstanding practice of the government—like any other interpretive aid—can inform [a court's] determination of what the law is.").

22. Petitioner's continued detention, without the possibility to request a bond hearing, separates him from his family, including his minor children, and inhibits him from being able to work and proceed with his removal proceedings by making it difficult to gather evidence, afford

legal representation, among other related harm. He remains far away from his family, counsel, and support system. Further, upon information and belief, Petitioner is being held in a county facility with other non-ICE detainees who are facing criminal charges, such as attempted murder and drug trafficking. Petitioner has no criminal background and is a medical doctor with licensing and training in Russia.

23. Because Petitioner's removal proceedings remain pending, there is little likelihood that Petitioner's removal will occur in the reasonably foreseeable future.

## Legal Framework

**Due Process Clause**

24. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

25. In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. A noncitizen may only be detained based on these two justifications if they are otherwise statutorily eligible for bond. *Zadvydas*, 533 U.S. at 690.

26. "The fundamental requirement of due process is the opportunity be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In this case, to determine the due process to be afforded to Petitioner, the Court

should consider (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

**Detention Provisions under the Immigration and Nationality Act**

27. The Immigration and Nationality Act is codified at Title 8 of the United States Code, Section 1221 *et seq.*, and controls the United States Government's authority to detain noncitizens during their removal proceedings.

28. The INA authorizes detention for noncitizens under four distinct provisions:

1) **Discretionary Detention. 8 U.S.C. § 1226(a)** generally allows for the detention of noncitizens who are in regular, non-expedited removal proceedings; however, permits those noncitizens who are not subject to mandatory detention to be released on bond or on their own recognizance.

2) **Mandatory Detention of "Criminal" Noncitizens. 8 U.S.C. § 1226(c)** generally requires the mandatory detention of noncitizens who are removable because of certain criminal or terrorist-related activity after they have been released from criminal incarceration.

3) **Mandatory Detention of "Applicants for Admission." 8 U.S.C. § 1225(b)** generally requires detention for certain noncitizen applicants for admission, such as those noncitizens arriving in the U.S. at a port of entry or other noncitizens who have not been admitted or paroled into the U.S. and are apprehended soon after crossing the border.

4) **Detention Following Completion of Removal Proceedings 8 U.S.C. § 1231(a)** generally requires the detention of certain noncitizens who are subject to a final removal order during the 90-day period after the completion of removal proceedings and permits the detention of certain noncitizens beyond that period. *Id.* at § 1231(a)(2), (6).

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

provisions, §§ 1226(a) and 1225(b), were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104—208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.[1]

30. Following enactment of the IIRIRA, the Executive Office for Immigration Review ("EOIR") drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225(b) and that they were instead detained under § 1226(a) after an arrest warrant was issued by the Attorney General. *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) ("Despite being applicants for admission, aliens 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***") (emphasis added).

31. For nearly thirty years, the practice of ICE, which operates under DHS, was that most individual noncitizens that were apprehended in the interior of the United States after they had been living in the U.S. for more than two years (as opposed to "arriving" at a point of entry, border crossing, or being apprehended near the border and soon after entering without inspection) received a bond hearing. *Rocha Rosado v. Figueroa*, 2025 WL 2337099, at *9 (D. Arizona August 11, 2025); *see Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024) ("[T]he longstanding practice of the government—like any other interpretive aid—can inform [a court's] determination of

[1] Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

what the law is."). If determined to not be a danger to the community or a flight risk and, as a result, granted a change in custody status, the individuals were released from detention either on their own recognizance or after paying the bond amount set by the IJ in full. 8 U.S.C. § 1226(a)(2)(A).

32. The legislative history behind § 1226 also demonstrates that it governs noncitizens, like Petitioner, who were paroled into the country at the border, released into the United States after being placed into removal proceedings, and were present in the United States for a number of years prior to being taken into detention. Before passage of the Immigration Reform and Immigrant Responsibility Act ("IRIRA"), the predecessor statute to § 1226(a) governed deportation proceedings for all noncitizens arrested within the United States, and like § 1226(a), included a provision allowing for discretionary release on bond. *See* 8 U.S.C. § 1252(a)(1) (1994).[2] After passing the IIRIRA, Congress declared the new § 1226(a) "restates the current provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release on bond" a noncitizen "who is not lawfully in the United States." H.R. Rep. No. 104-469, pt. 1, at 229. *See also* H.R. Rep. No. 104-828, at 210. Because noncitizens like Petitioner were entitled to discretionary detention under § 1226(a)'s predecessor statute, and Congress declared the statute's scope unchanged by IIRIRA, the Court should interpret § 1226 to allow for a discretionary release on bond for noncitizens in a situation similar to Petitioner.

33. Yet, ICE has—without warning and without any publicly stated rationale—reversed

[2] *See* 8 U.S.C. § 1252(a)(1) (1994) ("Pending a determination of deportability...any [noncitizen]...may, upon warrant of the Attorney General, be arrested and taken into custody."); *Hose v. Immigration & Naturalization Serv.*, 180 F.3d 992, 994 (9th Cir. 1999) (noting a "deportation hearing" was the "usual means" of proceeding against an alien physically in the United States).

course and adopted a policy of attempting to treat all individual noncitizens that were not previously admitted to the U.S. that are contacted in the interior of the U.S. at any time after their entry as "arriving" and ineligible for bond regardless of the particularities of their case.

34. As a result, ICE is now ignoring particularities that have been historically relevant in determining whether a noncitizen should remain in custody or be released—such as: when, why, or how they entered the U.S.; whether they have criminal convictions; whether they present a danger to the community or flight risk; whether they have serious medical conditions requiring ongoing care; whether U.S. citizen family members are dependent upon them to provide necessary care; or, whether the noncitizen's detention is in the community's best interest. Though no public announcement of this sweeping new interpretation of these statutes was announced, ICE now reasons that the mandatory detention provision of § 1225(b)(2)(A) applies to all people who enter without inspection who are alleged to be subject to grounds of inadmissibility at § 1182.

35. 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 in agreement with the core logic of our immigration system." *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)); *see also Lopez Benitez v. Francis,* No. 25 CIV. 5937 (DEH), 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025) ("the Court need not reach the outer limits of the scope of the phrase 'seeking admission' in § 1225(b)—it is sufficient here to conclude that it does not reach someone who has been residing in this country for more than two years, and that as someone 'already in the country,' *Jennings*, 583 U.S. at 289,

[Petitioner] may be subject to detention ***only*** as a matter of discretion under § 1226(a)") (emphasis added).

36. The government's erroneous interpretation of the INA defies the plain text of 8 U.S.C. § 1226. For decades, § 1225 has applied only to noncitizens "seeking admission into the country"—i.e., new arrivals. *Jennings*, 583 U.S. at 289. This contrasts with § 1226, which applies to noncitizens "already in the country." *Id.* at 289. Petitioner has been in the U.S. for over almost four years, and his parole was terminated on November 29, 2022. Ex. 1.

37. The government's position contravenes the plain language of the INA and its regulations and has been consistently rejected by courts. *See Reynosa Jacinto v. Trump, et al,* 4:25-cv-03161-JFB-RCC (D. Neb. August 19, 2025); *see, e.g., Aguilar Maldonado v. Olson, et al*, No. 25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. August 18, 2025); *Mohammed H. v. Trump*, No. 25-cv-1576 (JWB/DTS), 2025 WL 1334847 (D. Minn. May 5, 2025); *Rocha Rosado*, 2025 WL 2337099; *Martinez*, 2025 WL 2084238; *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025).

38. This new interpretation is inconsistent with the plain language of the INA. First, the government disregards a key phrase in § 1225. "[I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien ***seeking admission*** is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a[.]" 8 U.S.C. § 1225(b)(2)(A) (emphasis added). In other words, mandatory detention applies when "the individual

is: (1) an 'applicant for admission'; (2) 'seeking admission'; and (3) 'not clearly and beyond a doubt entitled to be admitted.'" *Martinez*, 2025 WL 2084238, at *2.

39. The "seeking admission" language, "necessarily implies some sort of present tense action." *Martinez*, 2025 WL 2084238, at *6; *see also Matter of M- D-C-V-*, 28 I. & N. Dec. 18, 23 (B.I.A. 2020) ("The use of the present progressive tense 'arriving,' rather than the past tense 'arrived,' implies some temporal or geographic limit . . . ."); *U.S. v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of verb tense is significant in construing statutes.").

40. In other words, the plain language of § 1225 applies to immigrants currently seeking admission into the United States at the nation's border or another point of entry. It does not apply to noncitizens "already present in the United States"—only § 1226 applies in those cases. *See Jennings*, 583 U.S. at 303.

41. When interpreting a statute, "every clause and word . . . should have meaning." *United States ex rel. Polansky, M.D. v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) (internal quotation marks and citation omitted). And "the words of the statute must be read in their context and with a view to their place in the overall statutory scheme." *Gundy v. United States*, 588 U.S. 128, 141 (2019) (quotation omitted). The government's position requires the Court to ignore critical provisions of the INA.

42. The government's interpretation also renders portions of the newly enacted provisions of the INA superfluous. "When Congress amends legislation, courts must presume it intends its amendment to have real and substantial effect." *Van Buren v. United States*, 593 U.S. 374, 393 (2021). Congress passed the Laken Riley Act (the "Act") in January 2025. The Act amended several provisions of the INA, including §§ 1225 and 1226.

Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Relevant here, the Act added a new category of noncitizens subject to mandatory detention under § 1226(c)—those already present in the United States who have also been arrested, charged with, or convicted of certain crimes. 8 U.S.C. § 1226(c)(1)(E); 8 U.S.C. § 1182(a)(6)(A). Of course, under the government's position, these individuals are already subject to mandatory detention under § 1225—rendering the amendment redundant. Likewise, mandatory-detention exceptions under § 1226(c) are meaningful only if there is a default of discretionary detention—and there is, under § 1226(a). *See Rodriguez*, 2025 WL 1193850, at *12.

43. Additionally, "[w]hen Congress adopts a new law against the backdrop of a longstanding administrative construction, the court generally presumes that the new provision works in harmony with what came before." *Monsalvo v. Bondi*, 604 U.S., 145 S. Ct. 1232, 1242 (2025). Congress adopted the Act against the backdrop of decades of agency practice applying § 1226(a) to immigrants like Petitioner, who are present in the United States for over two years. *Rodriguez*, 2025 WL 1193850, at *15; *Martinez*, 2025 WL 2084238, at *4.

44. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." Removal hearings for noncitizens under 1226(a) are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]." By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States.

45. District Courts across the country have rejected DHS's interpretation and implementation of the mandatory detention provision:

**First Circuit**

- ***Chafla v. Scott*, Case No. 2:25-cv-00437 (D. Me. September 21, 2025)**
- ***Tamay v. Scott*, Case No. 2:25-cv-00438 (D. Me. September 21, 2025)**
- ***Lema v. Scott*, Case No. 2:25-cv-00439 (D. Me. September 21, 2025)**
- ***Hilario Rodriguez v. Moniz*, No 25-12358 (D. Mass. September 18, 2025)**
- ***Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025)**
- ***Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025)**
- ***Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025)**
- ***Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025)**
- ***Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025)**
- ***Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025)**
- ***Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025)**

**Second Circuit**

- ***Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025)**
- ***Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025)**

**Fourth Circuit**

- ***Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025)**
- ***Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025)**

**Fifth Circuit**

- ***Lopez-Areveloa v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025)**
- ***Lopez Santos v. Noem*, 2025 WL 2642278, (W.D. La. Sept. 11, 2025)**
- ***Martinez v. Noem*, No. 5:25-CV-01007, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025)**
- ***Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025)**

**Sixth Circuit**

- ***Singh v. Lewis*, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025)**
- ***Beltran Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025)**
- ***Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025)**
- ***Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025)**
- ***Sanchez Ballestros v. Noem*, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025)**
- ***Contreras-Cervantes v. Raycraft*, 2025 WL 2952796 (E.D. Mich. Oct. 17, 2025)**
- ***Pacheco Mayen v. Raycraft,* 2025 WL 2978529 (E.D. Mich. Oct. 17, 2025)**
- ***Diaz Sandoval, v. Raycraft*, 2025 WL 2977517 (E.D. Mich. Oct. 17, 2025)**
- ***Jimenez Garcia v. Raybon*, 2025 WL 2976950 (E.D. Mich. Oct. 21, 2025)**
- ***Casio-Mejia v. Raycraft*, 2025 WL 2976737 (E.D. Mich. Oct. 21, 2025)**
- ***Santos Franco, v. Raycraft*, 2025 WL 2977118 (E.D. Mich. Oct. 21, 2025)**
- ***Contreras-Lomeli, v. Raycraft*, 2025 WL 2976739 (E.D. Mich. Oct. 21, 2025)**
- ***Rodriguez Carmona, v. Noem*, 2025 WL 2992222 (W.D. Mich. Oct. 24, 2025)**
- ***Puerto-Hernandez, v. Lynch*, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025)**
- ***Marin Garcia, v. Noem*, 2025 WL 3017200 (W.D. Mich. Oct. 29, 2025)**

- ***Ramirez v. Noem*, 1:25-cv-1261 (W.D. Mich. Oct. 31, 2025)**
- ***Godinez-Lopez v. Ladwig, et al.*, 2025 WL 3047889 (W.D. Tenn. Oct. 31, 2025)**
- ***Ruiz Mejia v. Noem*, 1:25-cv-1227 (W.D. Mich. Oct. 31, 2025)**
- ***Perez Guerra v. Woosley,* (W.D. Ky. Oct. 31, 2025)**
- ***Hernandez Alonso* v. Tindall, 2025 WL 3083920 (W.D. Ky. Nov. 4, 2025)**
- ***Salgado Mendoza v. Noem*, 1:25-cv-1252 (W.D. Mich. Nov. 4, 2025)**
- ***Hernandez Capote v. Secretary of U.S. Department of Homeland Security*, 2025 WL 3089756 (E.D. Mich. Nov. 5, 2025)**

**Seventh Circuit**

- ***Campos Leon v. Forestal*, 2025 WL 2694763 (S.D. In. Sept. 22, 2025)**
- ***Alejandro v. Olson*, 1:25-cv-02027 (S.D. In. Oct. 11, 2025)**
- ***B.D.V.S. v. Forestal*, 2025 WL 2855743 (S.D. Ind. Oct. 8, 2025)**
- ***Ochoa Ochoa v. Noem*, 1:25-cv-10865 (N.D. Ill. Oct. 16, 2025)**
- ***Padilla v. Noem,* No. 25 CV 12462, 2025 WL 2977742 (N.D. Ill. Oct. 22, 2025)**
- ***Miguel v. Noem*, No. 25 C 11137, 2025 WL 2976480 (N.D. Ill. Oct. 21, 2025)**
- ***Magallanes Sanchez v. Olson*, Case No. 25-cv-13226 (N.D. Ill. Nov. 3, 2025)**
- ***Sanchez Guzman v. Noem*, 1:25-cv-13415 (N.D. Ill. Nov. 6, 2025)**

**Eighth Circuit**

- ***Aditya W.H. v. Trump,* 782 F. Supp. 3d 691 (D. Minn. 2025).**
- ***Helbrum v. Williams,* 2025 WL 2840273 (S.D. Iowa, Sept. 30, 2025)**
- ***Giron Reyes v. Lyons*, Case No. C25-4048 (N.D. Iowa September 23, 2025)**
- ***Duenas Arce v. Trump*, 2025 WL 2675934 (D. Neb. Sept. 18, 2025)**
- ***Brito Barrajas v. Noem*, No. 4:25-cv-00322 (S.D. Iowa September 23, 2025)**
- ***Lorenzo Perez v. Kramer*, 2025 WL 2624387 (D. Neb. Sept. 11, 2025)**
- ***Ozuna Carlon v. Kramer*, 2025 WL 2624386 (D. Neb. Sept. 11, 2025)**
- ***Genchi Palma v. Trump*, 2025 WL 2624385 (D. Neb. Sept. 11, 2025)**
- ***Hernandez Marcelo v. Trump*, 3:25-cv-0000934 (S.D. Iowa Sept. 10, 2025)**
- ***Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025)**
- ***Cortes Fernandez v. Lyons*, 2025 WL 2531539 (D. Neb. Sept. 3, 2025)**
- ***Palma Perez v. Berg*, 2025 WL 2531566 (D. Neb. Sept 3, 2025)**
- ***O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025)**
- ***Jacinto v. Trump*, 2025 WL 2402271 (D. Neb. Aug. 19, 2025)**
- ***Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025)**
- ***Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025)**
- ***Anicasio v. Kramer*, 2025 WL 2374224 (D. Neb. Aug. 14, 2025)**

**Ninth Circuit**

- ***N.A. v. LaRose,* 2025 WL 2841989 (S.D. Cal. Oct. 7, 2025)**
- ***E.C. v. Noem,* 2025 WL 2916364 (D. Nev. Oct 14, 2025)**
- ***Guerrero Lepe v. Andrews et al*, No. 1:2025cv01163 (E.D. Cal. 2025)**

- ***Vazquez v. Feeley*, No. 2:25-CV-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025)**
- ***Herrera Torralba v. Knight*, No. 2:25-CV-01366, 2025 WL 2581792 (D. Nev. Sept. 5, 2025)**
- ***Benitez et al. v. Noem,* No. 5:25-cv-02190 (C.D. Cal. Aug. 26, 2025)**
- ***Sanchez Roman v. Noem* 2025 WL 2710211 (D. Nev. Sep. 23, 2025)**
- ***Maldonado Vazquez v. Feeley*, 2025 WL 2676082 (D. Nev. Sept. 17, 2025)**
- ***Salcedo Aceros v. Kaiser*, 2025 WL 2637503 (N.D. Cal Sept. 12, 2025)**
- ***Cuevas Guzman v. Andrews*, 2025 WL 2617256, (E.D. Cal. Sept. 9, 2025)**
- ***Caicedo Hinestroza v. Kaiser*, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025)**
- ***Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025)**
- ***Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025)**
- ***Vasquez Garcia et al. v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025)**
- ***Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025)**
- ***Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025)**
- ***Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025)**

**Tenth Circuit**

- ***Salazar v. Dedos* 2025 WL 2676729 (D. NM. Sept. 17, 2025)**
- ***Garcia Cortes v. Noem*, 2025 WL 2652880 (D. Colo. Sept. 16, 2025)**

46. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner.

**Petitioner's Detention Violates Due Process**

47. In determining whether due process has been violated, the Court should weigh: (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Mathews*, 424 U.S. 319 at 335.

48. As to the first *Mathews* factor, the private interest affected by the government action, "Petitioner's liberty interest in remaining free from governmental restraint is of the

highest constitutional import." *Zavala*, 310 F.Supp.2d at 1076; *see also Ashley*, 288 F.Supp.2d at 670-71 (same) (quoting *St. John v. McElroy*, 917 F.Supp. 243, 250 (S.D.N.Y. 1996)). Petitioner was detained without a warrant and has been separated from his wife and children, including his U.S. citizen child, preventing him from going to work, taking care of his family and participating in his community; he has been separated from them, and will not be able to attend their initial status hearing for their asylum case before the immigration judge.

49. As to the second *Mathews* factor, this Court must look to the risk that current procedures will cause an erroneous deprivation of private interest, and the extent to which that risk could be reduced by additional safeguards. As explained above, ICE agents detained Petitioner without a warrant from his lawfully parked vehicle. At the time of his detention, Petitioner's parole was terminated. Now, Respondents claim Petitioner is subject to mandatory detention under § 1225(b)(2). The current procedures followed by Respondents have caused an erroneous deprivation of Petitioner's liberty interest in remaining free from detention. He was issued an NTA in November 2021, placed in removal proceedings under Section 240 of the INA, and granted parole, which expired on November 29, 2022. Only now, after he and his family have remained in the U.S. for almost four years living peacefully and abiding by the laws here, is he taken into custody while sitting lawfully in his parked vehicle. Further, Petitioner has no criminal history that would suggest he is a danger to the community. He and his family have a meritorious asylum application that is currently pending before an immigration judge in the Chicago immigration court, demonstrating he is not a flight risk.

50. As to the third *Mathews* factor, the government's interest in maintaining the "current"

procedure is minimal here. This "policy and procedure" was never officially published by DHS and was only discovered by the press observing an intraoffice memo on July 8, 2025.

51. In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show "actual prejudice." *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if "an alternate result may well have resulted without the violation." *Id.* (citation omitted) (internal quotations omitted). "To show prejudice, [a Petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided." *Tamayo-Tamayo v. Holder*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted).

52. Certainly, if DHS did not arbitrarily detain Petitioner without a warrant from his personal parked vehicle, he would not be presently detained. Petitioner would be home with his family of five, continuing their asylum case with the immigration court in Chicago, working with valid authorization approved by USCIS to support his family throughout the process. Now, the family is without his support, with children at home ranging from ages 12 years down to a three-year-old U.S. citizen child. His continued detention unilaterally invoked by ICE as a result of "interim guidance" via interoffice memo despite the unlawful arrest and misinterpretation of immigration law is actual prejudice.

## Claims for Relief

### FIRST CAUSE OF ACTION

Violation of the Due Process Clause of the Fifth Amendment
of the United States Constitution

53. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

54. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty.

55. The government's detention of Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner cannot be safely released back to his community and family.

56. In *Loper Bright*, the Supreme Court was clear that "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority," and indeed "may not defer to an agency interpretation of the law simply because a statute is ambiguous." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024).

57. Rather, this Court can simply look to the Supreme Court's own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens "seeking admission into the country"—i.e., new arrivals, and that this contrasts with § 1226, which applies to noncitizens "already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 289

(2018). By keeping Petitioner detained today, his detention is unconstitutional as applied to him and in violation of his due process rights. Petitioner should have the opportunity to have his asylum application heard and the opportunity to seek this relief outside of his unlawful detention.

58. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

**SECOND CAUSE OF ACTION**

Violation of the Immigration and Nationality Act

59. Petitioner repeats and incorporates by reference all allegations above as though fully set forth fully herein.

60. Since Petitioner's arrest, presumably DHS now argues that he is detained subject to 8 U.S.C. § 1225(b)(2) instead of 8 U.S.C. § 1226.

61. 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. Mandatory detention does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

63. Respondents have wrongfully adopted a policy and practice of arguing all noncitizens, such as Petitioner, are subject to mandatory detention under § 1225(b)(2).

64. The unlawful application of § 1225(b)(2) to Petitioner violates the INA.

## Prayer for Relief

WHEREFORE, Petitioner respectfully request that this Honorable Court:

A. Accept jurisdiction over this action;

B. Order the immediate release of Petitioner pending these proceedings;

C. Order Respondents not to transfer Petitioner out of the Western District of Kentucky during the pendency of these proceedings to preserve jurisdiction and access to counsel;

D. Declare that Respondents' actions to detain Petitioner violate the Due Process Clause of the Fifth Amendment and violate the Immigration and Nationality Act;

E. Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order Respondents to release Petitioner, or alternatively, to schedule a bond hearing for Petitioner's removal proceedings within 5 days of the order and accept jurisdiction to issue a bond order;

F. Award reasonable attorneys' fees and costs for this action; and

G. Grant such further relief as the Court deems just and proper.

Dated: November 8, 2025

Respectfully Submitted,

/s/ Maya A. Flores
One of his attorneys

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*Pro Hac Vice Requested

**Verification Pursuant to 28 U.S.C. § 2242**

I represent Petitioner, VADIM DORZHIEV, and submit this verification on his behalf.

I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 8th day of November, 2025.

/s/ Maya A. Flores____
Maya A. Flores, Esq.