UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

Manuel ESPINOZA DELGADO, Petitioner, v. 1. Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; 2. Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; 3. Robert CERNA, Field Office Director of Enforcement and Removal Operations, ICE Dallas Field Office, Immigration and Customs Enforcement; 4. Scarlett GRANT, Warden of Cimarron Correctional Facility, Respondents.	Case No.

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

PRELIMINARY STATEMENT

1. This case challenges the unlawful and indefinite detention of a longtime Oklahoma resident under a new and erroneous interpretation of the Immigration and Nationality Act ("INA"). Petitioner Manuel Espinoza Delgado—a husband, father of three U.S. citizen children, and resident of Oklahoma City for nearly two decades—has been held without the possibility of bond solely because the Department of Homeland Security ("DHS") and the Executive Office for Immigration Review ("EOIR") have chosen to treat him as if he were an "arriving" alien caught at the border, rather than a community member apprehended inside the United States. ICE's misapplication of 8 U.S.C. § 1225(b)(2)(A) and the Board of Immigration Appeals' recent decision in *Matter of Yajure Hurtado*, have stripped Petitioner—and thousands of similarly situated individuals—of the bond hearings guaranteed by § 1226(a).

2. Petitioner remains detained at the Cimarron Correctional Facility in Cushing, Oklahoma, without judicial oversight, in violation of both the INA and the Due Process Clause of the Fifth Amendment.

INTRODUCTION

3. Petitioner Manuel Espinoza Delgado is in the physical custody of Respondents at the Cimarron Correctional Facility in Cushing, Oklahoma.

He now faces unlawful detention because the DHS and the EOIR have concluded Petitioner is subject to mandatory detention.

4. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

5. Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

6. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

7. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in

the United States. Instead, such individuals are subject to a different statute, § 1226(a), that 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.

8. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Cimarron Correctional Facility in Cushing, Oklahoma.

11. 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).

12. 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

13. 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 Oklahoma, the judicial district in which Petitioner currently is detained.

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

REQUIREMENTS OF 28 U.S.C. § 2243

15. 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, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

16. 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

17. Petitioner, Manuel Espinoza Delgado is alleged to be a citizen of Mexico who has been in immigration detention since September 9, 2025. After arresting Petitioner in Oklahoma City, Oklahoma, ICE did not set bond and Petitioner is unable to obtain review of his custody by an immigration judge, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

18. 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.

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

20. 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.

21. 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.

22. Respondent Robert Cerna is the Acting Field Office Director of the Dallas Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Field Office Director Robert Cerna is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

23. Respondent Scarlet Grant is employed by Core Civic as Warden of the Cimarron Correctional Facility, where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

LEGAL FRAMEWORK

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

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

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

27. 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).

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

29. 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, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

30. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered 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. 10312, 10323 (Mar. 6, 1997).

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

32. 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.

33. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

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

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

36. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

37. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation, including our sister courts in the Tenth Circuit. *See, Garcia Cortes v. Noem,* No, 1:25-cv-02677, 2025 WL 2652880 (D. Colo. Sept. 16,

2025); *Salazar v. Dedos,* No. 1:25-cv-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Gamez Lira v. Noem,* No. 1:25-cv-00855 (D.N.M. Sept. 24, 2025); *Garcia Domingo v. Castro*, 2025 WL 2941217 (D.N.M. Oct. 15, 2025); *Mendoza Gutierrez v. Baltasar*, 2025 WL 2962908 (D. Colo. Oct. 17, 2025); *Moya Pineda v. Baltasar*, No. 1:25-cv-2966 (D. Colo. Oct. 20, 2025); *Loa Caballero v. Baltazar*, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Hernandez Vazquez v. Baltasar*, 1:25-cv-3049 (D. Colo. Oct. 23, 2025); and *Nava Hernandez v. Baltazar*, 2025 WL 2996643 (D. Colo. Oct. 24, 2025). Other District Courts across the country have also rejected ICE's erroneous interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, ··· F. Supp. 3d ····, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025);

Ramirez Clavijo v. Kaiser, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), ··· F. Supp. 3d ····, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

38. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and

others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

39. 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]."

40. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

41. 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.

42. 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). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

FACTS

44. Petitioner has resided continuously in the United States since at least 2010 and currently lives in Oklahoma City, Oklahoma.

45. On September 9, 2025, Petitioner was arrested by agents of U.S. Immigration and Customs Enforcement ("ICE") in Oklahoma City, Oklahoma, during an operation in which ICE officers were purportedly searching for a targeted individual. ICE agents alleged that one of the three passengers in a Ford work van matched the description of that individual and therefore initiated a vehicle stop near the intersection of SW 44th Street and South May Avenue. The stop was not conducted in coordination with, nor initiated by, local law enforcement or the Oklahoma Highway Patrol. The targeted individual was not present in the vehicle. Petitioner, who was merely a passenger, nevertheless was questioned by ICE agents, who

determined that he and the two other passengers were natives and citizens of Mexico allegedly present in the United States without lawful immigration status. All three passengers were subsequently taken into ICE custody, and Petitioner remains detained at the Cimarron Correctional Facility in Cushing, Oklahoma.

46. During processing for detention, ICE officers learned that on December 16, 2024, Petitioner had filed with U.S. Citizenship and Immigration Services ("USCIS") an Application for Advance Permission to Enter as a Noncitizen Victim of Crime (Form I-918A), an Application for Employment Authorization (Form I-765), and a Petition for Qualifying Family Member of a U-1 Recipient (Form I-918). Despite being aware of these pending applications—which demonstrate Petitioner's eligibility for lawful status and his ongoing cooperation with immigration authorities—ICE nevertheless continued to hold him in custody without bond. Such continued detention is arbitrary, punitive, and contrary to DHS's own enforcement priorities and policies favoring release of individuals with pending humanitarian relief applications.

47. Notwithstanding Petitioner's pending humanitarian applications and demonstrated eligibility for lawful status, the Department of Homeland Security ("DHS") nevertheless initiated removal proceedings against him. DHS placed Petitioner in proceedings before the Aurora, Colorado

Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as a noncitizen who entered the United States without inspection.

48. Petitioner has resided in Oklahoma City, Oklahoma for more than fifteen (15) years. He is married and the father of three (3) United States citizen children, ages thirteen (13), six (6), and three (3) years old. Petitioner has no criminal history and serves as the primary financial provider for his family. He has consistently complied with his civic obligations, including being consistently employed and maintaining appropriate insurance coverages. Petitioner is an active member of his community in Oklahoma City and is known by many of his neighbors to be a devoted husband and father. Petitioner poses neither a flight risk nor a danger to the community.

49. Following Petitioner's arrest and transfer to Cimarron Correctional Facility, ICE issued a custody determination continuing his detention without affording him an opportunity to post bond or to be released under any conditions.

50. Petitioner, through counsel, requested a bond redetermination hearing before an Immigration Judge using the EOIR Online Portal.

51. The Aurora Immigration Court then scheduled a hearing for October 15, 2025, before the Honorable Immigration Judge Brea Burgie.

52. At the October 15, 2025 hearing, the Immigration Judge determined that, pursuant to *Matter of Yajure Hurtado*, she lacked jurisdiction to consider Petitioner's bond request. *See* Decision of Immigration Judge Brea Burgie (Aurora Immigration Court, Oct. 15, 2025), attached hereto as Exhibit 1.

53. As a result of this procedural ping-pong between ICE and the Immigration Courts, Petitioner remains in custody without judicial review of his detention. Without intervention from this Court, he faces the prospect of indefinite detention lasting months or even years, separated from his family and community.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

55. The government will likely argue that this Court lacks jurisdiction because challenges to DHS's use of § 1225 instead of § 1226 "arise from" removal proceedings. However, this argument is flawed because habeas jurisdiction under 28 U.S.C. § 2241 remains available to review detention authority and legality, even where removal proceedings are pending. The Supreme Court reaffirmed this in *Jennings v. Rodriguez*, 583 U.S. 281 (2018),

and *Demore v. Kim*, 538 U.S. 510 (2003). Neither case required a final order of removal for the court to entertain a habeas challenge to detention classification. Further, Section 1252(a)(5) and (b)(9) bar review of removal orders, not detention decisions. The Tenth Circuit and other courts (e.g., *Sissoko v. Rocha*, 509 F.3d 947 (9th Cir. 2007)) recognize this distinction. The government conflates the "decision to commence proceedings" (§ 1252(g)) with a challenge to the statutory basis of detention. This petition contests continued custody under § 1225(b)(2)(A), not DHS's discretion to file an NTA. As such, this Court maintains jurisdiction over this case.

56. 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 apprehended 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.

57. The government has maintained that § 1225(b)(2)(A) covers anyone who entered without inspection, relying on the IIRIRA's definition of "applicant for admission." However, this logic is flawed because § 1225(b)(2) is captioned "Inspection of other aliens," and the statute repeatedly contrasts *arriving* aliens (§ 1225(b)(1)) with *other* aliens undergoing *inspection*.

Congress used "inspection" and "seeking admission" to describe border or port encounters—not interior arrests. The government's reading erases § 1226. Congress enacted § 1226 to govern detention pending removal for aliens inside the United States. Treating every EWI as a § 1225 applicant collapses the two sections and contradicts *Jennings*, which identified § 1226(a) as the "default rule for aliens inside the United States." For nearly 25 years after IIRIRA, DHS and EOIR detained long-term residents under § 1226(a), recognizing § 1225(b) as limited to border or port-of-entry contexts. The government admits this shift is "a change in policy by the new administration" —that admission undermines its claim that the statute always mandated § 1225 detention.

58. Moreover, § 1225(b)(2)(A) and § 1226(a) are not merely overlapping tools that "provide flexibility." Such a construction renders § 1226 meaningless for anyone who entered without inspection—precisely the population Congress meant it to cover. If § 1225 already authorizes mandatory detention of *all* non-LPRs, § 1226(a)'s bond provisions and regulatory framework (§ 236.1) serve no purpose. Courts routinely reject such readings that make whole statutory schemes surplusage (see *Jennings*, 583 U.S. at 305).

59. The claims that Congress "equalized" EWIs and arriving aliens to justify mandatory detention are equally incorrect and frankly laughable. The

House Report they cite (H.R. Rep. 104-469) addressed procedural parity, not mandatory detention parity. Congress sought uniform processing in § 1229a hearings, not to impose identical custody mandates. Imposing mandatory detention on EWIs creates the "anomaly" IIRIRA was meant to fix—punishing those who have lived in the U.S. for years more harshly than those presenting at a port of entry.

60. The government's reliance on *Jennings* dicta to say § 1225 covers "all applicants for admission not covered by § 1225(b)(1)" is also misleading. That language was descriptive, not jurisdictional, and the Court expressly did not decide which section applies to interior arrests. The very same opinion contrasted § 1225 (border) with § 1226 (inside the U.S.), supporting Petitioner's position that interior detainees fall under § 1226(a) and are entitled to bond consideration.

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

COUNT II

Violation of Due Process

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

63. 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).

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

65. The government's 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.

66. The government will likely attempt to argue that this Fifth Amendment claim is premature because the detention time period has not yet reached six months. However, *Zadvydas*'s six-month benchmark applies to post-order removal detention under § 1231, not pre-removal custody under § 1225 or § 1226. Pre-removal detention implicates distinct liberty interests (*Demore*, 538 U.S. at 530–31). Further, this claim isn't about length alone but the absence of any individualized bond hearing—a procedural due-process violation that exists from day one, as recognized in *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), and numerous district-court rulings post-*Jennings*. "Mandatory" detention cannot mean indefinite detention without neutral review, particularly for a long-term resident with U.S. ties. If the government cannot clearly articulate the exact date and time at which Petitioner will be

released from detention, the detention is indefinite and in violation of Petitioner's due process rights.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Western District of Oklahoma while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

e. Declare that Petitioner's detention is unlawful;

f. 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

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

DATED this 13th of November, 2025.

Respectfully submitted,

/s/ Michelle L. Edstrom
Michelle L. Edstrom, OBA #22555
Edstrom Law Center
1708 N. Broadway Ave.
Oklahoma City, OK 73103
T: 405.401.1213
medstrom@edstromlaw.com
Attorney for Petitioner

VERIFICATION OF COUNSEL

I, Michelle L. Edstrom, hereby certify that I am familiar with the case of the named Petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

/s/ Michelle L. Edstrom
Michelle L. Edstrom, OBA #22555

CERTIFICATE OF SERVICE

This is to certify that on November 13, 2025, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a notice of electronic filing to counsel of record. In addition, the document was emailed to the U.S. Attorney's Office to attorneys assigned to the civil division and appellate division.

/s/ Michelle L. Edstrom
Michelle L. Edstrom, OBA #22555