

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

Rocio Gladys VILLARREAL OBREGÓN,
F.S.V.V.

Petitioners,

v.

LaDeon FRANCIS, Field Office Director of
Enforcement and Removal Operations, New
York Field Office, Immigration and Customs
Enforcement; Todd LYONS, Acting Director,
Immigration and Customs Enforcement; Kristi
NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW.

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioners Rocio Gladys Villarreal Obregón and her 14-year-old daughter,

 are asylum seekers from Peru whom, as of the filing of this petition, are in the physical custody of Respondents in the “Hold Room” of 26 Federal Plaza in New York, New York. Ms.

 is currently a ninth grade student at  New York, New York.

2. On information and belief, Petitioners entered the United States in October 2022 and on March 1, 2023, timely filed an application in for asylum on Form I-589. After waiting for over two years for an interview for their applications for asylum, Immigration and Customs Enforcement summoned Petitioners in for a check-in during which they were abruptly detained. Neither Petitioners have had any convictions or arrests, in either New York or Peru.

3. Based on Respondents’ treatment of similarly situated noncitizens, Respondents appear to be taking the position that Petitioners are being held pursuant to 8 U.S.C. § 1225(b) and therefore ineligible to be released on bond. Petitioners’ detention on this basis violates the Immigration and Nationality Act, as Section 1225(b) 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.

4. As Respondents have violated the Immigration and Nationality Act and Petitioners’ due process rights, Petitioner seeks a writ of habeas corpus requiring that they are released immediately.

JURISDICTION

5. Petitioner is in the physical custody of Respondents. Petitioner is detained at 26 Federal Plaza in New York, New York.

6. This action arises under the Constitution of the United States and the Immigration and National Act (INA), 8 U.S.C. § 1101 *et seq.*

7. 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).

8. 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

9. 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 Southern District of New York, the judicial district in which Petitioner currently is detained.

10. 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 Southern District of New York.

REQUIREMENTS OF 28 U.S.C. § 2243

11. 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.*

12. 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

13. Petitioner Rocio Gladys Villarreal Obregón and her 14-year-old daughter,  are citizens of Peru who have been in immigration detention since November 12, 2025. After arresting Petitioners in New York, New York, ICE did not set bond and Petitioners are unable to obtain review of his custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

14. Respondent LaDeon Francis is the Director of the New York Field Office of ICE’s Enforcement and Removal Operations division. As such, Mr. Francis is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity. Respondent Francis’s address is New York ICE Field Office Director, 26 Federal Plaza, New York, New York 10278.

15. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of Immigration and Customs Enforcement. As the Acting Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and routinely transacts business in this District. He supervises Respondent LaDeon Francis. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

16. 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. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

17. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens. DHS's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

18. 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. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, District of Columbia 20530.

19. 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. EOIR's address is 5107 Leesburg Pike, Falls Church, VA 22041.

LEGAL FRAMEWORK

Detention Authority

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

21. 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).

22. 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).

23. 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).

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

25. 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).

26. 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).

27. 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)).

28. 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.

29. 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.

30. 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.

31. 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.

32. 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

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

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).

33. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *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).

34. 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.

35. 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].”

36. 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.

37. 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.

38. 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).

39. 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.

Release on Parole and Parole Revocation for Asylum Seekers

40. For asylum seekers arriving in the U.S. who have not been admitted or paroled, and who are processed under expedited removal as set forth in 8 U.S.C. § 1225(b)(1), mandatory detention is authorized by 8 U.S.C. § 1225(b)(1)(B)(ii) and (iii)(IV).

41. DHS may release individuals subject to mandatory detention on parole “on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5).

42. Federal regulations specify that DHS may only release such individuals if they “present neither a security risk nor a risk of absconding.” 8 C.F.R. § 212.5(b). These requirements—flight risk and danger—reflect constitutional constraints, since only individuals who pose a flight risk or danger may be civilly detained. *See Zadvydas*, 533 U.S. 690.

43. To the extent that Petitioners were released on parole, they were determined not to be a risk of flight or a danger to the community.

44. The regulations contemplate parole for specific groups of individuals meeting these criteria including those “who have serious medical conditions in which continued detention would not be appropriate” and those “whose continued detention is not in the public interest.” 8 C.F.R. 212.5(d)(b)(1), (5).

45. While ICE has discretion to revoke parole, it may not do so in a manner devoid of due process. *Velasquez v. Kurzdorfer*, 2025 WL 1953796 (W.D.N.Y. July 16, 2025) (reaching this conclusion for CBP One parolee); *see also Torres-Jurado v. Biden*, No. 19 CIV. 3595 (AT), (S.D.N.Y. Oct. 29, 2023) (stating that “due process, at a minimum” requires the government to afford meaningful notice and an opportunity to be heard and that the opportunity must be meaningful) (*citing to Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403 (S.D.N.Y. 2004)). “[B]efore the Government unilaterally takes away that which is sacred, it must provide meaningful process.” *Torres-Jurado*, 2023 WL 7130898, at *4 (*citing to Rodriguez-Figueroa v. Barr*, 442 F. Supp. 3d 549, 564 (W.D.N.Y. 2020)) (emphasis in original).

46. It is unlawful for the government to arrest a noncitizen who has been granted parole without complying with ICE's own regulatory requirements regarding the proper process for revocation of parole. *See Velasquez v. Kurzdorfer*, , 2025 WL 1953796, at *26 (*citing Y-Z-L-H v. Bostock*, 2025 LX 277386, 2025 WL 1898025, at *13 (D. Or. July 9, 2025)). As to process, at minimum, a revocation of parole requires a case-by-case assessment in which an official with authority decides that “‘the purpose for which parole was authorized’ has been ‘accomplish[ed]’ or that ‘neither humanitarian reasons nor public benefit warrants the continued presence of the [noncitizen]’ in the United States.” *Id.* at *28 (quoting 8 C.F.R. § 212.5(e)(2)(i)); *see also Villiers v. Decker*, 31 F.4th 825, 833 (2d Cir. 2022) (“an individual whose release is sought to be revoked is entitled to due process such as notice of the alleged grounds for revocation, a hearing,

and the right to testify at such a hearing”). Prior to revoking humanitarian parole “there must be a hearing which will give assurance that the discretion of the Attorney General shall be exercised against a background of facts fairly contested in the open.” *U.S. ex rel. Paktorovics v. Murff*, 260 F.2d 610, 615 (2d Cir. 1958).

Civil Immigration Detention

47. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas*, 533 U.S. 690; *Demore*, 538 U.S. 528.

48. To comport with due process, civil detention must bear a reasonable relationship to its two regulatory purposes—to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

49. A person’s liberty cannot be infringed upon without “adequate procedural protections.” *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Mathews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). This test requires process sufficient to mitigate the risk of erroneous deprivation of a liberty interest. Revocation of conditional release from confinement, even civil immigration confinement, infringes on a protected liberty interest. The liberty interest in even conditional release is well-established in the context of parole; probation; and freedom from civil immigration confinement. *See Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 LX 119339, 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (finding immigration petitioner’s “liberty interest is clearly established”); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)

(applying case law from the probation and parole contexts to conclude that the non-citizen petitioner had a “liberty interest in remaining out of [immigration] custody”).

50. Despite these baseline requirements, Respondents now regularly re-detain individuals notwithstanding an earlier determination to release them and do so without according any notice or process whatsoever. These redetentions violate noncitizens’ right to due process. *See Chipantiza-Sisalema v. Francis*, No. 25 CIV. 5528 (AT), 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025) (ordering the immediate release of a petitioner redetained by ICE because she “poses a risk of flight or a danger to the community” and her sudden redetention violated her right to due process); *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025) (ordering the release of petitioner redetained after an immigration court hearing and concluding “Respondents ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights.”).

FACTS

51. Petitioners have resided in the United States since October 2022. Ms. Villareal Obregón and her daughter  live together in a shelter in New York, New York.  is a 14-year-old ninth grade student at  New York, New York.

52. On November 12, 2025, Petitioners were arrested during a check-in with Immigration and Customs Enforcement. Petitioner is now detained at 26 Federal Plaza.

53. Petitioners timely filed their application for asylum on March 1, 2023 and have been waiting since that time for their asylum interview. Both Petitioners were granted employment authorization and neither have had any arrest or conviction in the United States or

any other country. Both were arrested appearing as requested for a check-in with Immigration and Customs Enforcement. Petitioner is neither a flight risk nor a danger to the community.

54. On information and belief, following Petitioners arrest, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

55. Pursuant to *Matter of Yajure Hurtado* and *Matter of Q Li*, the immigration judge is unable to consider Petitioner's bond request.

56. As a result, Petitioner remains in detention. Without relief from this court, they face the prospect of months, or even years, in immigration custody, separated from their family and community.

CLAIMS FOR RELIEF

COUNT I **Violation of the INA**

57. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

58. 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.

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

COUNT II
Violation of the Bond Regulations

60. Petitioners incorporate by reference the allegations of fact set forth in preceding paragraphs.

61. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

62. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

63. The application of § 1225(b)(2) to Petitioners unlawfully mandates their continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Due Process

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

65. 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).

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

67. The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates their right to due process.

COUNT IV

Violations of the Administrative Procedure Act; 5 U.S.C. §§ 702, 706 (Parole Revocation)

68. Petitioners repeat and re-allege the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

69. The APA requires courts to “hold unlawful and set aside agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

70. When the government has promulgated “[r]egulations with the force and effect of law,” those regulations “supplement the bare bones” of federal statutes, such that the agencies are bound to follow their own “existing valid regulations.” *Accardi*, 347 U.S. at 266, 268. The *Accardi* doctrine also obligates agencies to comply with procedures it outlines in its internal manuals. *See Morton*, 415 U.S. at 235 (finding that an agency is obligated to comply with procedural rules outlined in its internal manual).

71. Before deciding to revoke someone’s parole, Respondents’ regulations require meaningful notice. 8 C.F.R. § 1182(e). Such notice was not afforded to Petitioner.

72. To the extent that Petitioners entered on parole and Respondents have violated their own

regulations for the revocation of humanitarian parole, their actions violated the *Accardi* doctrine.

COUNT V

Violation of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(1), 8 U.S.C. § 1252(e)(2); Administrative Procedure Act, 5 U.S.C. §§ 702, 706

73. Petitioners repeat and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
74. 8 U.S.C. § 1225(b)(1) covers the “[i]nspection of aliens arriving in the United States and certain other aliens who have not been admitted or *paroled*.” 8 U.S.C. § 1225(b)(1) (emphasis added). Section 1225(b)(1)(A)(iii)(II) further clarifies that “[a]n alien described in this clause is an alien who is not described in subparagraph (F), who has not been admitted or paroled into the United States.” 8 U.S.C. § 1225(b)(1)(A)(iii)(II).
75. To the extent that Respondents attempt to subject Petitioners to expedited removal, this is a violation of the INA, as Respondents have been in the United States since 2022 and therefore not subject to expedited removal. To the extent that Petitioners were paroled into the United States, because their parole was unlawfully revoked, Respondents’ application of 8 U.S.C. § 1225(b)(1) to Petitioners after they were paroled exceeds the government’s statutory authority in violation of the Immigration and Nationality Act and the Administrative Procedure Act.

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 Southern District of New York 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 12th of November, 2025.



Eduardo Fabian Arias
555 Kappock Street, 11 A
Bronx, New York 10463
646 244 5405

Next Friend

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioners because I know them personally and know much of this information from my personal interactions with Petitioners' loved ones. On information and belief, I hereby verify the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: November 12, 2025



Eduardo Fabian Arias, Next Friend

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