UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

YEFERSON GONZALEZ CONTRERAS

Petitioner,

v.

Samuel L. OLSON, Field Office Director of Enforcement and Removal Operations, St. Paul Field Office, Immigration and Customs Enforcement; **Kristi NOEM**, in her official capacity as Secretary of the U.S. Department of Homeland Security; **Todd LYONS**, in his official capacity as acting director of U.S. Immigration and Customs Enforcement; **Pam Bondi**, in her official capacity as Attorney General of the United States; **Joel BROTT**, Sherburne County Jail Sheriff.

Respondents.

Case No. 0:25-cv-4325

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Yeferson Gonzalez Contreras ("Mr. Gonzalez Contreras" or "Petitioner"), is a citizen of Venezuela who fled the country after suffering persecution at the hands of the dictatorial Maduro government. He presented himself for inspection at the United States border on or about October 26, 2024. After inspection, he was paroled into the United States. After being paroled, Mr. Gonzalez Contreras resided peacefully in the country, filing an application for asylum, committing no crimes, and awaiting his hearing and an opportunity to have his asylum claim heard. On September 9, 2025, he attended his scheduled Master Calendar Hearing ("MCH") before an Immigration Judge ("IJ").

2. On that day, the Department of Homeland Security ("DHS") moved to dismiss Mr. Gonzalez Contreras's removal proceedings before the Executive Office for Immigration Review ("EOIR"), and the IJ granted that motion over Mr. Gonzalez Contreras's objection. As Mr. Gonzalez Contreras was leaving the courtroom, he was detained by Immigration and Customs Enforcement ("ICE"). He remains detained to this day.

3. Mr. Gonzalez Contreras's detention is unlawful under the Immigration and Nationality Act ("INA") and under the United States Constitution. Respondent's assertion that Mr. Gonzalez Contreras remains an applicant for admission after presenting himself for inspection and being paroled for the humanitarian purpose of presenting his asylum claim violates the INA, while Respondent's position that dismissal of Mr. Gonzalez Contreras's asylum application followed by indefinite

detention without evidence Mr. Gonzalez Contreras presents a flight risk or a danger to the community, and with no recourse by which to have his asylum claim heard, violates the Fifth Amendment procedural due process and substantive rights to be free from unlawful imprisonment.

PARTIES

4. Mr. Gonzalez Contreras is a citizen of Venezuela who was paroled into the United States on October 26, 2024. He subsequently attended his immigration MCH on September 9, 2025, where the IJ dismissed his case and he was detained by ICE. Mr. Gonzalez Contreras remains in ICE custody to this date.
5. Respondent Samuel Olson is the Director of the MSP Field Office of ICE's Enforcement and Removal Operations division. As such, Samuel Olson is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.
6. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.
7. Respondent Pam Bondi is the Attorney General of the United States and the senior official of the U.S. Department of Justice. She has the authority to adjudicate removal cases and to oversee EOIR, which administers the immigration courts and the Board of Immigration Appeals

(BIA). Ms. Bondi has ultimate custodial authority over Petitioner and is sued in her official capacity.

8. Respondent Joel Brott is the Sheriff of Sherburne County, where Petitioner is detained. Sherburne County Jail is operated by the sheriff's department of Sherburne County. He has immediate physical custody of Petitioner. He is sued in his official capacity.

JURISDICTION

9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Sherburne County Jail in Elk River, Minnesota.

10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(1), (3) (writ of habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

11. 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

12. 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 District of Minnesota, the judicial district in which Petitioner currently is detained.

13. 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 District of Minnesota.

FACTS

14. Mr. Gonzalez Contreras fled persecution in his home country of Venezuela, where he opposed the governing Maduro regime. En route to the United States, he traveled through Mexico, and to enter the United States he had scheduled an appointment with CBP through the CBP One app. He presented himself for inspection to border enforcement officers on the day of his scheduled appointment on or about October 26, 2024. After inspection by officers, he was paroled into the United States and issued a Form I-862 Notice to Appear ("NTA") charging him as removable pursuant to INA § 212(a)(7)(A)(i)(I) as an arriving alien not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid document. That NTA provided a hearing date before EOIR on September 9, 2025.

15. After being paroled into the United States, Mr. Gonzalez Contreras resided peacefully in the country, committing no crimes and awaiting his hearing and an opportunity to have his asylum claim heard. On or about April 9, 2025, Mr. Gonzalez Contreras timely filed a Form I-589, Application for Asylum and for Withholding of Removal, with EOIR.

16. He then attended his MCH before IJ Ivany, as scheduled, on September 9, 2025. There, Counsel for the Department of Homeland Security ("DHS") moved to dismiss Mr. Gonzalez Contreras's removal proceedings before EOIR. Mr. Gonzalez Contreras objected, asking the IJ and DHS to allow him an opportunity to present his claim for asylum. The IJ granted DHS's motion over Mr. Gonzalez Contreras's objection and dismissed his case. This effectively terminated Mr. Gonzalez

Contreras's pending asylum application without having an opportunity to present it. As Mr. Gonzalez Contreras left the courtroom, he was detained by ICE.

17. After being detained, DHS did not set a bond. Mr. Gonzalez Contreras timely filed an appeal of the IJ decision dismissing his matter, filing a Form E-26, Notice of Appeal from a Decision of an Immigration Judge on October 1, 2025, seeking the opportunity to present his asylum claim. Around that same time, Mr. Gonzalez Contreras also requested a credible fear interview,[1] again seeking an opportunity to present his asylum claim. On October 2, 2025, Immigration and Customs Enforcement officers ("ICE") informed Counsel that because Mr. Gonzalez Contreras had appealed the dismissal of his case, the United States Citizenship and Immigration Services ("USCIS") would not hear his credible fear request until the appeal is concluded before the BIA.

18. On or about October 9, 2025, Mr. Gonzalez Contreras requested a bond redetermination hearing, asking the IJ to reconsider his bond. In response, DHS filed a Form I-213, Record of Deportable/Inadmissible Alien, on October 17, 2025, which indicated that Mr. Gonzalez Contreras had been placed into "Expedited Removal (I-860)." IJ Carr heard Mr. Gonzalez Contreras's motion for a bond redetermination on October 21, 2025, and denied Mr. Gonzalez Contreras's motion finding the "Court lacks authority to consider Respondent for release on bond.

[1] Because the request for a credible fear interview was made by Mr. Gonzalez Contreras while he was in custody, Counsel is not clear on the precise date that the credible fear request was made.

Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)." At that hearing, the IJ inquired into whether Mr. Gonzalez Contreras could have his credible fear claim heard, and DHS again asserted that USCIS could not consider a credible fear claim because the IJ's decision had been appealed, so Mr. Gonzalez Contreras remains in § 240 removal proceedings and jurisdiction remains with EOIR.

LAW

DUE PROCESS CLAUSE

19. No person shall be "deprived of life, liberty, or property without due process of law[.]" U.S. Const. amend. V. The Due Process Clause of the Fifth Amendment is the foundational pillar protecting individuals from unlawful government restraint and provides Mr. Gonzalez Contreras with important protections regarding his detention. As the Supreme Court has explained, "[f]reedom 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).

20. "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)).

21. Due Process requires that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (*quoting Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). 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.

22. In defense of the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

23. To that end, habeas corpus is "perhaps the most important writ known to[ ]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).

REQUIREMENTS OF 28 U.S.C. § 2243

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

25. "To determine whether injunctive relief is proper, a district court considers four factors: (1) the movant's likelihood of success on the merits, (2) the threat of irreparable harm to the movant, (3) the balance between the harm to the movant and the injury that granting an injunction will inflict on other parties to the litigation, and (4) the public interest. *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411, at 8 (D. Minn. Aug. 15, 2025); *see also Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

DETENTION

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

27. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens already in the United States and in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are 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).

28. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other noncitizens who are "applicants for admission" as referred to under § 1225(b)(2). The phrase "applicant for admission" in turn "refers to a person attempting or intending to gain lawful entry into the United States.'" *Eliseo A.A. v. Olson*, No. CV 25-3381 (JWB/DJF), 2025 WL 2886729, at 3 (D. Minn. Oct. 8, 2025) (*citing Francisco T. v. Bondi*, Civ.

No. 25-3219, Doc. No. 20 at 12–13 (D. Minn. Sept. 5, 2025); *see also Lopez-Campos v. Raycraft*, Civ. No. 2:25-CV-12486, 2025 WL 2496379, at 7 (E.D. Mich. Aug. 29, 2025)). Expedited removal in turn applies to noncitizens who arrive in, attempt to enter, or have entered the United States without being admitted or paroled following inspection at a port of entry, and who have not been present in the United States for a continuous period of two years. 8 C.F.R. § 235.3(b)(ii). If an applicant for admission is determined to be inadmissible, the immigration officer "shall order the alien removed from the United States without further hearing or review unless the alien indicates . . . an intention to apply for asylum." 8 U.S.C. § 1225(b)(1)(A)(i).

29. 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).

30. A non-citizen is vested with the rights granted by Congress when DHS decides to place the non-citizen in § 240 removal proceedings instead of expedited removal. *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at 9 (W.D.N.Y. July 16, 2025); *see also Petitioner, v. David Rivas, et al., Respondents.*, No. CV-25-02943-PHX-GMS, 2025 WL 2899092 (D. Ariz. Oct. 10, 2025). A non-citizen has a vested reliance interest when they pursue an application for asylum after being "invited" into the country through the grant of parole. *Petitioner, v. David Rivas, et al., Respondents.*, No. CV-25-02943-PHX-GMS, 2025 WL 2899092 (D. Ariz. Oct. 10, 2025); *see also Mata Velasquez v. Kurzdorfer*, No. 25-

CV-493-LJV, 2025 WL 1953796, at *16 (W.D.N.Y. July 16, 2025) (distinguishing from *Thuraissigiam* and *Mezei*).

31. Where a non-citizen is granted parole through an individualized determination, they have a right to an individualized determination as to the revocation or cancellation of that parole. *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at 11 (W.D.N.Y. July 16, 2025). Detention is unlawful if it followed the unlawful termination of parole. *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at 11 (D. Or. July 9, 2025). Termination of parole for an asylum seeker is unlawful by virtue of being arbitrary and capricious where parole was granted to enable the pursuit of asylum and there is no formal determination that that "humanitarian" purpose has been satisfied or exhausted. *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at 12–13 (D. Or. July 9, 2025).

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

33. 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).

34. 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).

35. 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. 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)).

36. 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.

37. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[2] claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention 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.

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

38. On September 05, 2025, the Board of Immigration Appeals (BIA) adopted this same position in the case *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

39. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after 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, 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 v. Bostock,* 779 F. Supp. 3d 1239 (W.D. Wash. 2025)*; see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion).

40. "The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system." *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)).

41. DHS and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

42. 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]."

43. 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 v. Bostock,* 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

44. 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.

45. 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).

PAROLE

46. "The Secretary of Homeland Security may . . . in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States." INA § 212(d)(5)(A); 8 U.S.C. § 1182(d)(5)(A).

47. On October 19, 2022, DHS issued a Notice in the Federal Register of the implementation of a new process "for certain Venezuelan nationals to lawfully enter the United States in a safe and orderly manner." Implementation of a Parole Process for Venezuelans, 87 Fed. Reg. 63507-17 (Oct. 19, 2022). That policy was then extended to include Venezuelans, Cubans, Haitians, and Nicaraguans (collectively the "CHNV parole programs") on January 5, 2023. *Fact Sheet: Data From First Six Months of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans Shows That Lawful Pathways Work*, U.S. Department of Homeland Security,

https://www.dhs.gov/archive/news/2023/07/25/fact-sheet-data-first-six-months-parole-processes-cubans-haitians-nicaraguans-and (July 25, 2023).[3][4]

48. Then, on March 25, 2025, DHS issued a notice in the Federal Register that it was terminating parole for anyone admitted through the parole program for Venezuelans, or the similar parole programs for Cubans, Haitians, and Nicaraguans. *See* Termination of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans ("Termination Notice"), 90 Fed. Reg. 13611-01, 2025 WL 894696 (Mar. 25, 2025).

49. A non-citizen is vested with the rights granted by Congress when DHS decides to place the non-citizen in § 240 removal proceedings instead of expedited removal. *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at 9 (W.D.N.Y. July 16, 2025); *see also Petitioner, v. David Rivas, et al., Respondents.*, No. CV-25-02943-PHX-GMS, 2025 WL 2899092 (D. Ariz. Oct. 10, 2025). A non-citizen has a vested reliance interest when they pursue an application for asylum after being "invited" into the country through the grant of parole. *Petitioner, v. David Rivas, et al., Respondents.*, No. CV-25-02943-PHX-GMS, 2025 WL 2899092 (D. Ariz. Oct. 10, 2025); *see also Mata Velasquez v. Kurzdorfer*, No. 25-

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[3] The official White House statement on the expansion of this policy appears to have been removed from the White House website. *See generally* https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/ (last visited Nov. 3, 2025).

[4] *See also* Implementation of a Parole Process for Cubans, 88 Fed. Reg. 1266 (Jan. 9, 2023); Implementation of a Parole Process for Haitians, 88 Fed. Reg. 1243 (Jan. 9, 2023); Implementation of a Parole Process for Nicaraguans, 88 Fed. Reg. 1255 (Jan. 9, 2023).

CV-493-LJV, 2025 WL 1953796, at *16 (W.D.N.Y. July 16, 2025) (distinguishing from *Thuraissigiam* and *Mezei*).

50. Where a non-citizen is granted parole through an individualized determination, they have a right to an individualized determination as to the revocation or cancellation of that parole. *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at 11 (W.D.N.Y. July 16, 2025).

51. Detention is unlawful if it follows the unlawful termination of parole. *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at 11 (D. Or. July 9, 2025). Termination of parole for an asylum seeker is unlawful by virtue of being arbitrary and capricious where parole was granted to enable the pursuit of asylum and there is no formal determination that that "humanitarian" purpose has been satisfied or exhausted. *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at 12–13 (D. Or. July 9, 2025); *see also Noori v. Larose*, 2025 WL 2800149, 13 (S.D. Ca. Oct. 1, 2025) (unpub) (noting that a paroled non-citizen should not be returned to custody unless the purposes of the parole have been served). Indeed, where an asylum seeker was paroled, the purpose of parole has not been satisfied when an asylum seeker had not completed the asylum process. *Orellana v. Francis*, 2025 WL 2402780, 5 (E.D.N.Y. Aug, 19, 2025) (unpub). In such an instance, stripping that person of parole and re-detaining them is a violation of the Administrative Procedure Act. *Id.*

EXHAUSTION

52. 8 U.S.C. 1252(d) allows the Court to review a *final order of removal* only if "the alien has exhausted all administrative remedies available to the alien as of right. "However, that subsection applies only to the review of a final order of removal." *Giron Reyes v. Lyons*, --- F.Supp.3d ----, 2025 WL 2712427, at 3 (N.D. Iowa Sept. 23, 2025).

53. "There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention." *J.O.E. v. Bondi*, —— F. Supp. 3d ——, 2025 WL 2466670, at 5 (D. Minn. Aug. 27, 2025).

54. Awaiting exhaustion of administrative remedies would be futile. "Where the agency has already adopted a definitive position, exhaustion serves no purpose." *Eliseo A.A. v. Olson*, 2025 WL 2886729, at 7 (D. Minn. Oct. 8, 2025) (*citing McCarthy v. Madigan*, 503 U.S. 140, 148 (1992)). Here, "administrative review would be futile in light of the BIA's recent decision in *Matter of Yajure Hurtado*" where the BIA "held that immigration judges 'lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.'" *Id.*

55. Awaiting a BIA determination on Mr. Gonzalez Contreras's appeal guarantees irreparable harm. He has been detained for two months since the dismissal of his asylum application and subsequent detention. In-custody BIA appeals can take hundreds of days, sometimes over a year, to resolve. "In 2024, EOIR data showed an average processing time of 204 days for bond appeals. EOIR data also showed that 200 bond appeal cases "took a year or longer to resolve." *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1248 (W.D. Wash. 2025) (internal citations omitted).

CLAIMS FOR RELIEF

COUNT I

Violation of Due Process

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

57. 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*, 533 U.S. at 690, 121 S.Ct. at 150 (2001).

58. The government's detention of Petitioner is unjustified. Respondents have arbitrarily rescinded Petitioner's parole and have left him detained without recourse, unable to have his asylum application heard by any agency of the United States government, with no avenue to prove he merits a bond to escape detention. *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). Petitioner cannot present facts demonstrating that he can be safely released back to his community when the Respondents illegally deprive any IJ of jurisdiction to hear his case.

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

60. 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.

COUNT II

Violation of the INA

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

62. 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.

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

64. Furthermore, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the BIA decision that parrots Respondents' contention that Mr. Gonzalez Contreras is detained under 8 U.S.C. § 1225(b)(2), is not entitled to judicial deference. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 410 (2024) ("Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority ….").

PRAYER FOR RELIEF

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

65. Assume jurisdiction over this matter;

66. Issue a writ of habeas corpus requiring that Respondents release Petitioner or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 14 days;

67. 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;

68. Order a bond redetermination hearing be held; and

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

DATED this 13th day of November 2025.

/s/Gloria Contreras Edin
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