UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EVANGELINA MORALES, Individually and on behalf of all others similarly situated, *Petitioner,* *v.* **PAMELA BONDI**, in her official capacity as Attorney General of the United States; **SIRCE E. OWEN**, in her official capacity as Acting Director of the Executive Office for Immigration Review; **KRISTI NOEM**, in her official capacity as Secretary of the U.S. Department of Homeland Security; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; and **KEVIN RAYCRAFT**, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, U.S. Immigration and Customs Enforcement, *Respondents.*	CASE NO. _____ Honorable _____
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ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS AND CLASS ACTION COMPLAINT

INTRODUCTION

1. This case presents a grave and urgent question of law and liberty: may the Executive Branch detain hundreds of noncitizens—many of whom have lived in the United States for decades, with deep family and community ties—without any opportunity for a bond hearing, solely because they entered the country without inspection years ago? The answer, under the Constitution, the Immigration and Nationality Act ("INA"), and binding precedent, is no.

2. Over the past several months, the U.S. Department of Homeland Security ("DHS") and the Executive Office for Immigration Review ("EOIR") have abruptly reversed nearly thirty years of settled immigration practice. *See, e.g.,* Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954) ("[Solicitor General]: DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended."). Through a new nationwide policy issued on July 8, 2025, and a September 5, 2025 decision by the Board of Immigration Appeals ("BIA") in

Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (BIA 2025), the agencies now treat all individuals who entered the United States without inspection—regardless of how long they have lived in this country—as "arriving aliens" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). This policy categorically strips immigration judges of jurisdiction to provide bond hearings and leaves noncitizens detained indefinitely without individualized review absent the issuance of a writ of habeas corpus by a federal district court.

3. For nearly three decades, the law and agency regulations made clear that individuals who entered the United States without inspection but were apprehended in the interior of the country are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2). Under § 1226(a), such individuals have always been entitled to a bond hearing before an immigration judge, who must determine whether detention is necessary to ensure appearance or protect the community. The new policy unlawfully conflates the statutory provisions governing "arriving aliens" at the border with those governing individuals who have long resided inside the country.

4. At the North Lake Processing Center in Baldwin, Michigan, and the Calhoun County Correctional Center in Battle Creek, Michigan—both within the jurisdiction of the Detroit Field Office of U.S. Immigration and Customs Enforcement (ICE)—DHS and EOIR are now systematically applying this unlawful policy to a growing number of detained residents who entered the United States without inspection years or even decades ago. Many, like Petitioner Evangelina Morales, have lived in the United States for most of their adult lives, have no criminal history, and have strong family and community ties. Yet they are denied any opportunity to demonstrate that continued detention is unnecessary.

5. This unlawful regime offends the core guarantees of the Constitution and the structure of the INA. The Fifth Amendment's Due Process Clause forbids prolonged civil confinement

without individualized justification, and the Suspension Clause ensures that executive detention remains subject to judicial oversight. The INA itself, as clarified by the Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 521 (2018), draws a clear statutory line between discretionary detention under § 1226(a) for those "already present" and mandatory detention under § 1225(b)(2) for those "seeking admission." The government's radical reinterpretation of well-settled law erases that line and disregards the rule of law.

6. Federal courts across the country have already rejected the government's new position. See, e.g., *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) ("There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border."); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 1:25-cv-11613-BEM, 2025 WL 208438 (D. Mass. July 24, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa et al.*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis et al.*, No. 1:25-cv-05937-DEH, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde, et al.*, No. 1:25-cv-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Benitez et al. v. Noem et al.*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Barrera v. Tindall*, No.

3:25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Aguilar Merino v. Ripa et al.*, No. 25-23845-CIV, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025); *Sanchez Alvarez v. Noem et al.*, No. 1:25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025).

7. Nevertheless, the Detroit ICE Field Office continues to enforce this unlawful policy, resulting in the ongoing detention of dozens of detainees in the Western District of Michigan—each one separated from family and denied even the minimal process required by law. For many, habeas corpus is the only remaining safeguard against indefinite confinement. In fact, multiple detainees at the ICE North Lake Processing Center have successfully argued that they should not be ineligible for bond where they "have resided in the United States for many years and were already within the United States when apprehended and arrested." *Sanchez Alvarez v. Noem*, No. 1:25-cv-1090, 2025 WL 2942648, at *11 (W.D. Mich. Oct. 17, 2025); *Hernandez Garcia v. Raycraft*, No. 1:25-cv-1281, 2025 WL 3122800, at *5 (W.D. Mich. Nov. 7, 2025); *Rodriguez Serrano v. Noem*, No. 1:25-cv-1320, 2025 WL 3122825, at *5–6 (W.D. Mich. Nov. 7, 2025); *Salgado Mendoza v. Noem*, No. 1:25-cv-1252, 2025 WL 3077589, at *6 (W.D. Mich. Nov. 4, 2025); *Ruiz Mejia v. Noem*, No. 1:25-cv-1227, 2025 WL 3041827, at *5–6 (W.D. Mich. Oct. 31, 2025); *De Jesus Ramirez v. Noem*, No. 1:25-cv-1261, 2025 WL 3039266, at *5 (W.D. Mich. Oct. 31, 2025); E*scobar-Ruiz v. Raycraft,* No. 1:25-cv-1232, 2025 WL 3039255, at *5 (W.D. Mich. Oct. 31, 2025); *Marin Garcia v. Noem*, No. 1:25-cv-1271, 2025 WL 3017200, at *5 (W.D. Mich. Oct. 29, 2025); *Cervantes Rodriguez v. Noem*, No. 1:25-cv-1196, 2025 WL 3022212, at *6 (W.D. Mich. Oct. 29, 2025); *Puerto-Hernandez v. Lynch*, No. 1:25-cv-1097, 2025 WL 3012033, at *9 (W.D. Mich. Oct. 28, 2025); *Rodriguez Carmona v. Noem*, No. 1:25-cv-1131, 2025 WL 2992222, at *6 (W.D. Mich. Oct. 24, 2025); *Sanchez Alvarez*, No. 1:25-cv-1090, 2025 WL 2942648, at *6.

8. The unlawful expansion of § 1225(b)(2) threatens not only the liberty of individual detainees but also the structural integrity of the immigration system and the separation of powers. The government's policy effectively suspends the writ of habeas corpus for a class of noncitizens who have no access to administrative or judicial review. As the Supreme Court has warned, "the Framers viewed freedom from unlawful restraint as a fundamental precept of liberty." *Boumediene v. Bush*, 553 U.S. 723, 739 (2008). That liberty cannot depend on an agency's unilateral redefinition of statutory terms.

9. Petitioner Evangelina Morales, and those similarly situated, seek declaratory and injunctive relief restoring the lawful operation of the INA and vindicating the constitutional promise that no person shall be deprived of liberty without due process of law. Petitioner Morales respectfully asks this Court to declare unlawful the government's misapplication of § 1225(b)(2), to order Respondents to provide individualized bond hearings under § 1226(a), and to enjoin the continued enforcement of this policy at the North Lake Processing Center, the Calhoun County Correctional Center, and any other ICE facility within the Western District of Michigan.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this case arises under the Constitution, laws, and treaties of the United States, including: the INA, 8 U.S.C. §§ 1101 et seq.; the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706; the habeas corpus statute, 28 U.S.C. § 2241; and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

11. This Court has authority to grant declaratory and injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, the All Writs Act, 28 U.S.C. § 1651, and 5 U.S.C. § 702.

12. Petitioner and class members are in custody within the meaning of 28 U.S.C. § 2241(c)(3), as they are detained by officials of DHS and ICE, and their agents, under color of federal authority. Habeas corpus jurisdiction is therefore properly invoked.

13. This action challenges the legality of Petitioner's detention and the systemic policy adopted by DHS and the Executive Office for Immigration Review ("EOIR") that misclassifies individuals apprehended in the interior as "arriving aliens" under 8 U.S.C. § 1225(b)(2)(A). This claim is distinct from, and independent of, any removal proceedings pending before the immigration courts. Accordingly, the jurisdictional limitations contained in 8 U.S.C. §§ 1252(a)(2), (b)(9), and (f)(1) do not bar this Court's review.

14. Judicial review under the APA is also proper because the government's actions constitute final agency action for which there is no adequate alternative remedy in court. DHS and EOIR have issued and implemented a binding policy that categorically denies bond hearings to individuals purportedly detained under § 1225(b)(2)(A) who are, in fact, detained under § 1226(a), reversing decades of settled interpretation without notice-and-comment rulemaking and in violation of law.

15. Venue lies in the Western District of Michigan under 28 U.S.C. § 2241 because Petitioner and the putative class members are detained at facilities located within this District, including the North Lake Processing Center in Baldwin, Michigan, and the Calhoun County Correctional Center in Battle Creek, Michigan. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.

484, 493-500 (1973)(holding that venue lies in the judicial district in which the Petitioners are currently detained).

16. Venue is further proper for this action pursuant to 28 U.S.C. § 1391(e) because the Respondents are employees, officers, and agencies of the United States and the challenged policy is being actively enforced within the Western District of Michigan, where ICE's Detroit Field Office operates detention facilities including North Lake and Calhoun. This Court has territorial and subject-matter jurisdiction to adjudicate the claims and to issue the declaratory and injunctive relief requested.

17. This case is properly brought as both a petition for a writ of habeas corpus under 28 U.S.C. § 2241 and as a civil class action seeking declaratory and injunctive relief under Rule 23(b)(2) of the Federal Rules of Civil Procedure. Habeas corpus provides the traditional mechanism for testing the legality of executive detention, while Rule 23 ensures uniform relief for all individuals similarly situated and prevents repetitive, piecemeal litigation over the same unlawful policy.

PARTIES

Petitioners and Proposed Class Representatives

18. Evangelina Morales ("Petitioner Morales") is a native and citizen of Mexico who has resided continuously in the United States since 2001. She lives at [redacted] and has deep family and community ties in the United States. Petitioner is a devoted mother of four U.S. citizen children—[redacted] (age twelve), [redacted] (age ten), [redacted] (age seven) and [redacted] (age five)—all of whom depend on her presence and support.

19. Petitioner has no criminal history. She is a single mother of four U.S. citizen children, two of whom are on the autism spectrum. Having been abandoned by the children's U.S. citizen

father, Petitioner works tirelessly to financially and emotionally provide for her children, hoping to one day save enough money to start her own cleaning company in order to support her children's aspirations. Petitioner is a hard-working and law-abiding member of her community.

20. On October 28, 2025, Petitioner was arrested by ICE officers while inside her boyfriend's home in Detroit, Michigan. She was arrested without a warrant and without any showing that she was likely to escape before a warrant could be obtained.

21. Following her arrest, Petitioner was transferred to the North Lake Processing Center in Baldwin, Michigan, where he remains in DHS custody under the authority of the Detroit Field Office of ICE's Enforcement and Removal Operations ("ERO"). DHS subsequently issued a Notice to Appear charging her as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), on the ground that she entered the United States without inspection. She is scheduled for a Master Calendar Hearing in immigration court on November 21, 2025.

22. Although Petitioner is in standard removal proceedings under 8 U.S.C. § 1229a, ICE designated her as subject to "mandatory detention" under 8 U.S.C. § 1225(b)(2)(A), which governs individuals who are seeking admission at the border.

23. As a result, Petitioner remains detained at North Lake without any opportunity for individualized review of her custody status. Her detention continues solely because the government has misclassified her as an "arriving alien" under § 1225(b)(2)(A), despite her decades-long physical presence within the United States, and Petitioner brings this action on behalf of herself and all others similarly situated who are detained at North Lake under the same unlawful classification and denied the right to a bond hearing under § 1226(a), and those detained in Calhoun County Correctional Center, and all other facilities within ICE's jurisdiction in the Western District of Michigan.

Respondents

24. Pamela Bondi is the Attorney General of the United States. As head of the U.S. Department of Justice, she has supervisory authority over the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), both of which have adopted and are applying *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Attorney General Bondi is responsible for ensuring that EOIR's decisions comply with the Constitution and federal law. She is sued in her official capacity.

25. Sirce E. Owen is the Acting Director of the Executive Office of Immigration Review, the component agency of the Department of Justice responsible for adjudicating removal proceedings and custody redeterminations. Through its immigration judges and the BIA, EOIR has implemented *Matter of Yajure-Hurtado* and instructed immigration judges nationwide, including those sitting in the Detroit Immigration Court, that they lack jurisdiction to hold bond hearings for individuals detained under § 1225(b)(2)(A).

26. Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS), a cabinet-level agency of the United States government responsible for enforcing the immigration laws of the United States, including the detention and removal of noncitizens. DHS, through its subordinate agencies, promulgated and is implementing the policies at issue in this action. Secretary Noem is responsible for the administration and enforcement of the nation's immigration laws and for oversight of ICE and CBP. Secretary Noem has ultimate supervisory authority over the detention and classification policies challenged in this action. She is sued in her official capacity.

27. Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, the component agency of DHS responsible for enforcing and implementing the INA, including the detention and removal of noncitizens. He is sued in his official capacity.

28. Kevin Raycraft is the Acting Field Office Director for ERO, Detroit ICE Field Office. In this capacity, he is responsible for the detention and custody decisions for noncitizens within the Detroit Field Office's jurisdiction, which includes the North Lake Processing Center and the Calhoun County Correctional Center. Director Raycraft directly oversees the enforcement of the challenged policy within this district. He is sued in his official capacity. Respondent Raycraft is Petitioners' immediate custodian for purposes of habeas and is responsible for Petitioners' detention and removal. *See Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003).

FACTUAL BACKGROUND

29. For nearly three decades, federal immigration law and agency practice have made clear that individuals who entered the United States without inspection ("EWI") but were later apprehended inside the country are detained under 8 U.S.C. § 1226(a), not under § 1225(b)(2). Section 1226(a) provides for discretionary detention and expressly authorizes immigration judges to hold bond hearings and release individuals on reasonable bond or conditions.

30. That longstanding interpretation was memorialized in 1997, when the former Immigration and Naturalization Service ("INS") and the EOIR promulgated interim regulations implementing the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"). Those regulations stated that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection ["EWI"]) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). For more than twenty-five years, this rule governed nationwide practice.

31. In July 2025, the Department of Homeland Security ("DHS") abruptly abandoned that settled interpretation. Without notice-and-comment rulemaking, DHS issued an internal memorandum titled *Interim Guidance Regarding Detention Authority for Applicants for Admission*, instructing Immigration and Customs Enforcement ("ICE") officers to classify all individuals who entered without inspection as "arriving aliens" subject to mandatory detention under § 1225(b)(2)(A). The memorandum directed field offices to apply the new designation regardless of how long the person has lived in the United States or where they were arrested.

32. On September 5, 2025, the Board of Immigration Appeals ("BIA") sanctioned this new policy in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In that decision, the Board held for the first time that all noncitizens who entered without inspection fall under § 1225(b)(2), even if they were apprehended years after entry while living in the interior. *Yajure-Hurtado* stripped immigration judges of jurisdiction to conduct bond hearings for such detainees.

33. Following *Yajure-Hurtado*, DHS and EOIR have applied this policy uniformly throughout the country. Within the Detroit Field Office's area of responsibility, ICE has reclassified dozens of long-term residents detained at the North Lake Processing Center in Baldwin, Michigan, as § 1225(b)(2) detainees, categorically denying them access to bond hearings.

34. The North Lake Processing Center and Calhoun County Correctional Center are immigration detention facilities operated under contract with ICE's ERO within the Western District of Michigan. They currently hold hundreds of civil detainees, including a significant number of individuals who, like Petitioner, entered the United States without inspection many years ago and have deep family, employment, and community ties in the United States.

35. Most North Lake and Calhoun County Correctional Center detainees falling under this new classification share common characteristics: they were arrested in the interior of the United States—often at their homes or workplaces—without warrants, have no significant criminal history, are in removal proceedings under § 1229a, and would ordinarily have been eligible for release on bond under § 1226(a).

36. Because of DHS's July 2025 directive and *Yajure-Hurtado*, immigration judges in the Detroit Immigration Court have been instructed that they lack jurisdiction to consider bond motions from any detainee designated under § 1225(b)(2). ICE officers routinely cite Hurtado when denying custody redetermination requests. The result is a blanket system of mandatory detention.

37. Numerous federal courts—including the Eastern District of Michigan and district courts in Massachusetts, Maine, and California—have held that this new classification scheme violates the INA and due process. *See, e.g., Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-cv-2304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Sampiao v. Hyde*, No. 1:25-cv-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025). Despite this growing consensus, DHS and EOIR continue to enforce the policy within the Detroit ICE Field Office.

38. Petitioner Evangelina Morales exemplifies the affected population. She entered the United States without inspection in 2001 at the age of six, has lived and worked in the United States for more than 20 years, and is raising four U.S. citizen children, two of whom are special needs, as a single mother. On October 28, 2025, she was arrested by ICE officers while inside her boyfriend's home in Detroit, Michigan collaterally (without a warrant) and without any showing

that she was likely to escape before a warrant could be obtained. She was subsequently transferred to North Lake where she remains.

39. She is ineligible for bond pursuant to the decision in *Yajure-Hurtado*. Petitioner remains detained indefinitely at North Lake without any opportunity to demonstrate that she is neither a flight risk nor a danger to the community.

40. Scores of other North Lake and Calhoun County Correctional Center detainees share Petitioner's experience. They are long-term residents with deep roots, none are subject to expedited removal, criminal-alien detention under § 1226(c), or post-order detention under § 1231, yet all are denied bond hearings solely because of DHS's new classification.

41. As a result, noncitizens detained at facilities within the jurisdiction of the Detroit ICE Field Office—particularly at North Lake Processing Center and Calhoun County Correctional Center—are confined for months or even years without individualized determinations of necessity. Many lack access to counsel before being transferred or deported, and most are unable to pursue individual habeas petitions in time to prevent ongoing harm.

42. The government's actions have produced a cascade of individual habeas filing in federal district courts throughout the United States including numerous petitions filed in this district, underscoring the urgent need for a uniform, class-wide resolution. Absent intervention by this Court, DHS and EOIR will continue to detain class members in violation of the INA, the APA, and the Fifth Amendment's guarantees of due process and fundamental fairness.

LEGAL BACKGROUND

43. Liberty is the cornerstone of our constitutional order. As the Supreme Court has emphasized, "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). The Fifth

Amendment's Due Process Clause codifies this principle, forbidding the Government from depriving "any person . . . of . . . liberty . . . without due process of law." U.S. Const. amend. V.

44. The Due Process Clause applies to all persons within the territory of the United States, regardless of citizenship or immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent."); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("Aliens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness.").

45. Freedom from government custody—whether criminal or civil—lies "at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690. Accordingly, the Supreme Court has repeatedly held that civil confinement may occur only under narrowly tailored circumstances and must include robust procedural safeguards. *See Addington v. Texas*, 441 U.S. 418, 425 (1979); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997).

46. Congress has codified these principles within a statutory framework that establishes three mutually exclusive detention regimes under the Immigration and Nationality Act ("INA"):

a. Section 1225 governs individuals encountered at the border or ports of entry who are seeking admission and provides for mandatory detention during inspection and expedited removal. *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Such individuals may seek release only through limited humanitarian parole under 8 U.S.C. § 1182(d)(5)(A).

b. Section 1226 governs individuals arrested inside the United States and placed in removal proceedings under 8 U.S.C. § 1229a. These individuals are presumed eligible for release on bond or conditions pending the outcome of their cases. See 8 C.F.R. §§ 1003.19(a),

1236.1(d). The Attorney General's authority under § 1226(a) is discretionary and must be exercised through individualized custody determinations. See *Demore v. Kim*, 538 U.S. 510 (2003).

c. Section 1231 governs detention following a final order of removal. The statute authorizes up to ninety days of mandatory detention (the "removal period") and thereafter limits continued detention to circumstances in which removal remains reasonably foreseeable. *Zadvydas*, 533 U.S. at 699–700.

47. This tripartite framework was created by the IIRIRA, Pub. L. No. 104-208, Div. C, § 303, 110 Stat. 3009-546, 3009-585 (1996). Section 1226(a) was expressly intended to "restate[] the current provisions … regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." H.R. Rep. No. 104-469, pt. 1, at 229 (1996).

48. In 1997, to implement IIRIRA, the Immigration and Naturalization Service ("INS") and EOIR jointly issued interim regulations confirming that individuals who entered without inspection and were later apprehended inside the United States were eligible for bond hearings. The rule stated unequivocally: "Despite being applicants for admission, aliens who are present without having been admitted or paroled … will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

49. For nearly thirty years thereafter, the federal government uniformly applied this interpretation. Individuals arrested inside the country—including those who initially entered unlawfully—were treated as § 1226(a) detainees entitled to a bond hearing before an immigration judge. *See Jennings*, 583 U.S. at 288–89; *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025).

50. Beginning in late 2022, however, certain immigration courts, most notably in Tacoma, Washington, began departing from this settled rule by reclassifying interior arrests as detentions under § 1225(b)(2) — thereby eliminating bond eligibility. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025). Federal courts consistently rejected this practice as unlawful.

51. Nevertheless, on July 8, 2025, DHS and the Department of Justice ("DOJ") jointly adopted this erroneous interpretation nationwide in a document titled Interim Guidance Regarding Detention Authority for Applicants for Admission. The memorandum declared that any person who entered without inspection is to be detained under § 1225(b)(2)(A), regardless of when or where the arrest occurred.

52. On September 5, 2025, the BIA issued a precedential decision, *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), formally sanctioning this new policy. *Yajure-Hurtado* held that all individuals who entered without inspection, even if arrested years later in the interior, fall under § 1225(b)(2) and are ineligible for bond hearings.

53. The *Yajure-Hurtado* decision reversed nearly three decades of uniform statutory interpretation and practice, effectively creating a new category of "mandatory detention" untethered to Congress's intent or the text of the INA. The decision also contravened Supreme Court precedent distinguishing between the detention of "arriving aliens" at the border and individuals long present in the United States. *See Jennings*, 583 U.S. at 303 (§ 1226 applies to "aliens already present in the United States").

54. Following *Yajure-Hurtado*, ICE field offices and EOIR immigration courts—including those within the Detroit ICE Field Office—have systematically denied bond hearings to long-term residents detained at North Lake and elsewhere, asserting lack of jurisdiction. This

sweeping reclassification subjects hundreds of individuals to indefinite, unreviewed detention in direct violation of statutory, regulatory, and constitutional guarantees.

55. Federal district courts across the country have rejected this policy. *See Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 25-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Chogllo Chafla v. Scott*, No. 25-437, 2025 WL 2688541 (D. Me. Sept. 21, 2025). Each has concluded that the government's interpretation of § 1225(b)(2) is contrary to law and inconsistent with *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which eliminated *Chevron* deference and reaffirmed courts' duty to exercise independent judgment over questions of statutory interpretation.

56. Despite this growing judicial consensus, DHS and EOIR continue to enforce *Yajure-Hurtado* nationwide. The result is a regime of indefinite, warrantless detention for individuals who, by statute and constitutional guarantee, are entitled to individualized custody hearings under § 1226(a).

57. Based upon the uniform application of the July 8, 2025 policy and the precedential decision in *Yajure-Hurtado*, the judicial imposition of an exhaustion requirement is pointless, and will exacerbate the harm of unlawful detention.

58. There is no statutory exhaustion requirement in 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement, "prudential" exhaustion may be judicially required. *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019). Whether or not to require prudential exhaustion falls within this Honorable Court's sound judicial discretion, provided that such discretionary requirement complies with statutory schemes and the intent of Congress. *See Shearson v. Holder*, 725 F.3d 588, 593-594 (6th Cir. 2013) (internal citation/quotation omitted).

59. The United States Court of Appeals for the Sixth Circuit has not yet issued a precedential decision as to whether courts or not should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention. *See, e.g., Jose O. Puerto-Hernandez v. Robert Lynch, et al.*, No. 25-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025) (internal citations omitted).

60. As noted above, the precedential decision issued by the BIA in *Matter of Yajure-Hurtado* and the July 8, 2025 ICE policy stand for the proposition that the Petitioner is subject to indefinite, mandatory detention and is ineligible for a bond hearing before an immigration judge.

61. The BIA's precedential decisions "serve as precedents in all proceedings involving the same issue or issues." 8 C.F.R. §§ 1003.1(g)(2), (d)(1). Therefore, requiring the Petitioner or other class members to seek a bond hearing and, when denied, appeal that denial to the BIA will certainly result in a holding that anyone who is deemed "[a]n alien present in the United States without being admitted or paroled," will be subjected to mandatory detention without bond under 8 U.S.C. § 1225(b)(2).

62. Moreover, the fundamental question presented by this petition is whether 8 U.S.C. § 1225 or 8 U.S.C. § 1226 applies to the Petitioner's detention, which is a purely legal question of statutory interpretation which would not be impacted by any administrative record developed in immigration court or on appeal to the BIA, and requires no "agency expertise."

63. This Honorable Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright Enter.*, 603 U.S. at 413 (holding that federal judges are not required to, and pursuant to the Administrative Procedure Act (the "APA"), are not to defer to an agency interpretation of the law simply because a statute is ambiguous, as that is the role of the federal courts).

64. Finally, the Petitioner's and class members' constitutional challenge to her detention does not require exhaustion. The Sixth Circuit has noted that due process challenges, such as the one raised by Petitioner here, generally do not require exhaustion because the BIA cannot review constitutional challenges. *See Sterkaj v. Gonzalez*, 439 F.3d 273, 279 (6th Cir. 2006).

65. Thus, requiring prudential exhaustion is a futile exercise, and will only result in the extended, unlawful detention of the Petitioner and class members.

CLASS ALLEGATIONS

66. The foregoing allegations are re-alleged and incorporated herein by reference.

67. Petitioner brings this action on behalf of herself and all others similarly situated pursuant to Federal Rule of Civil Procedure 23(a) and (b)(2), and as a representative habeas class action under 28 U.S.C. § 2241, on behalf of current and future individuals detained by Immigration and Customs Enforcement ("ICE") within the Detroit Field Office's area of responsibility who have been or will be denied bond hearings pursuant to *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

A. Proposed Class Definition

68. Petitioner seeks to represent a class comprised of all current and future noncitizens detained at immigration detention facilities located within the Western District of Michigan—including but not limited to the North Lake Processing Center in Baldwin, Michigan, and the Calhoun County Correctional Center in Battle Creek, Michigan—who meet the following criteria:

a. The person is in civil immigration detention at a facility located within the Western District of Michigan;

b. The person is not in any expedited removal process and does not have an expedited removal order under 8 U.S.C. § 1225(b)(1);

c. For the person's most recent entry into the United States, the government has not alleged that the person was admitted into the United States or paroled under 8 U.S.C. § 1182(d)(5)(A) at the time of entry;

d. The person does not meet the criteria for mandatory criminal detention under 8 U.S.C. § 1226(c);

e. The person is not subject to post-final-order detention under 8 U.S.C. § 1231; and

f. The person is or will be detained without the opportunity for an individualized bond hearing solely because DHS or EOIR has classified the person as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

69. The proposed class is readily ascertainable through ICE and EOIR records identifying detainees classified under § 1225(b)(2) and held at facilities located within the Western District of Michigan, including North Lake and Calhoun.

B. **Basis for Class Treatment**

70. The proposed class is so numerous that joining all members is impracticable. Hundreds of noncitizens are currently detained at facilities within the Western District of Michigan, including the North Lake Processing Center and Calhoun County Correctional Center. Many of these individuals entered the United States without inspection and are being held without access to bond hearings pursuant to the government's application of *Matter of Yajure-Hurtado*. The affected population fluctuates daily as ICE continues to arrest, transfer, and detain new individuals under the challenged policy.

71. The class is fluid, as DHS and EOIR continue to apply the unlawful policy nationwide, and new individuals are continuously detained under the same unlawful classification.

C. Common Questions of Law and Fact

72. There are multiple questions of law and fact common to all class members, including but not limited to:

a. Whether Respondents' application of § 1225(b)(2)(A) to individuals apprehended inside the United States violates the Immigration and Nationality Act and its implementing regulations;

b. Whether Respondents' interpretation of § 1225(b)(2)(A) as reflected in *Matter of Yajure-Hurtado* is arbitrary, capricious, or contrary to law within the meaning of the Administrative Procedure Act, 5 U.S.C. § 706;

c. Whether the categorical denial of bond hearings to class members violates their substantive due process right to be free from arbitrary detention;

d. Whether the absence of an individualized custody determination violates class members' procedural due process rights under *Mathews v. Eldridge*, 424 U.S. 319 (1976);

e. Whether the government's continued enforcement of *Yajure-Hurtado* violates the Suspension Clause and deprives class members of the opportunity to challenge unlawful detention under 28 U.S.C. § 2241; and

f. Whether injunctive and declaratory relief should issue requiring Respondents to provide prompt individualized bond hearings under § 1226(a) for all class members.

D. Typicality and Adequacy

73. Petitioner's claims are typical of those of the proposed class. Like other class members, Petitioner entered the United States without inspection, was arrested within the interior of the

country, has been classified by ICE as subject to mandatory detention under § 1225(b)(2)(A), and is being denied an individualized bond hearing solely on that basis.

74. Petitioner will fairly and adequately protect the interests of the class. He seeks declaratory and injunctive relief on behalf of all similarly situated individuals and has no interests antagonistic to the class. Petitioner is represented by competent and experienced immigration and civil rights counsel, including attorneys with experience litigating habeas corpus and class-wide immigration detention challenges.

E. Rule 23(b)(2) Certification

75. Certification of this class is appropriate under Federal Rule of Civil Procedure 23(b)(2). Respondents have acted and continue to act on grounds generally applicable to the class by enforcing a uniform policy—*Matter of Yajure-Hurtado* and related DHS directives—that categorically denies bond hearings to all individuals detained under § 1225(b)(2)(A).

76. Declaratory and injunctive relief is therefore appropriate for the class as a whole. Without class-wide relief, Respondents will continue to detain class members indefinitely without individualized custody determinations, forcing hundreds of duplicative habeas petitions and resulting in inconsistent rulings across this District and others.

77. Class certification will promote judicial efficiency, ensure uniform application of the law, and safeguard the due process rights of all individuals detained at North Lake Processing Center, Calhoun County Correctional Center, and other facilities within the Western District of Michigan subject to the challenged policy.

CLAIMS FOR RELIEF

COUNT ONE
Violation of 8 U.S.C. § 1226(a) and Associated Regulations

78. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

79. Under the Immigration and Nationality Act ("INA"), individuals are arrested within the United States and placed in removal proceedings under 8 U.S.C. § 1229a may be detained, if at all, only pursuant to 8 U.S.C. § 1226(a). *See Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) ("§ 1226 applies to aliens already present in the United States.").

80. Section 1226(a) authorizes the Attorney General to arrest and detain such individuals "pending a decision on whether the alien is to be removed" and to release them on bond or conditional parole "except as provided in subsection (c)." This statutory framework expressly contemplates individualized custody determinations and bond hearings.

81. The implementing regulations, including 8 C.F.R. §§ 236.1(d), 1236.1, and 1003.19(a)–(f), require that detained noncitizens be afforded an opportunity to request bond and to have their custody reviewed by an Immigration Judge.

82. For nearly three decades, DHS and EOIR consistently applied § 1226(a) to individuals arrested in the interior of the United States, including those who had entered without inspection, recognizing that such individuals were eligible for release on bond. *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

83. Respondents' current practice, pursuant to *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), unlawfully classifies individuals like Petitioner—longtime residents apprehended inside the United States—as "arriving aliens" under 8 U.S.C. § 1225(b)(2)(A). That misclassification eliminates the bond hearing required under § 1226(a) and its implementing regulations.

84. Neither § 1225(b)(2) nor any other provision of the INA authorizes the mandatory detention of persons apprehended inside the United States who are not in expedited removal proceedings, are not criminal detainees under § 1226(c), and are not subject to post-order detention under § 1231.

85. Petitioner and the putative class members fall within the scope of § 1226(a) and therefore are entitled to individualized custody redetermination hearings before an Immigration Judge.

86. By detaining Petitioner and the class members under § 1225(b)(2)(A) rather than § 1226(a), and by denying them any bond hearing, Respondents have violated the INA and its implementing regulations.

87. Petitioner's and the class members' continued detention without a bond hearing is therefore unlawful.

COUNT TWO

Violation of Fifth Amendment Right to Due Process
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))

88. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

89. The Fifth Amendment to the United States Constitution provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. This protection extends to all persons within the United States, regardless of immigration status or manner of entry. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

90. Freedom from physical restraint "lies at the heart of the liberty that the Clause protects." *Id.* at 690. Civil immigration detention, though nominally nonpunitive, constitutes a severe deprivation of liberty and therefore triggers the strongest procedural protections. *See Demore v.*

Kim, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring); *Jennings v. Rodriguez*, 583 U.S. 281, 303–04 (2018); *Addington v. Texas*, 441 U.S. 418, 425 (1979).

91. Because Petitioner and the putative class members are subject to detention, if at all, under 8 U.S.C. § 1226(a), the Due Process Clause requires that they receive an individualized bond hearing before a neutral decisionmaker, with meaningful procedural safeguards, including a presumption of release and a requirement that the government justify continued detention by clear and convincing evidence. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021); *Doe v. Tompkins*, 11 F.4th 1, 2 (1st Cir. 2021); *Brito v. Garland*, 22 F.4th 240, 256–57 (1st Cir. 2021).

92. Procedural due process requires that the risk of erroneous deprivation of liberty be minimized through fair procedures. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts must balance: (1) the private interest affected by official action; (2) the risk of erroneous deprivation under existing procedures and the value of additional safeguards; and (3) the government's interest, including the burdens of additional procedures.

93. Applying *Mathews*, the private interest at stake here—freedom from unlawful detention—is of the highest order. The risk of erroneous deprivation is grave, as Respondents' misclassification policy categorically denies class members any individualized custody review. By contrast, the government's interest in ensuring appearance at proceedings and protecting the community can be fully met through individualized bond hearings.

94. Respondents' current detention regime provides none of the process due. By classifying detainees under 8 U.S.C. § 1225(b)(2)(A), Respondents foreclose access to Immigration Judge bond hearings and thereby deny detainees any meaningful opportunity to challenge the necessity of continued confinement.

95. As a result, Petitioner and the putative class members have been, and will continue to be, deprived of liberty without an individualized determination of flight risk or danger to the community, in direct violation of the Fifth Amendment's Due Process Clause.

96. The continuing detention of Petitioner and the putative class members without a bond hearing is arbitrary, excessive, and not narrowly tailored to any legitimate regulatory purpose.

97. Petitioner's and the class members' detention is therefore unconstitutional and unlawful.

COUNT THREE

Violation of Fifth Amendment Right to Due Process
(Failure to Provide an Individualized Hearing for Domestic Civil Detention)

98. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

99. The Fifth Amendment's Due Process Clause specifically forbids the Government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. amend. V.

100. The Due Process Clause applies to *all persons* within the United States, including noncitizens, regardless of the legality of their presence, length of residence, or manner of entry. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1982). The only narrow exceptions recognized by the Supreme Court apply to individuals literally "on the threshold" of entry, who have not yet established presence within the United States. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139–40 (2020). Petitioner and all class members, by contrast, have long resided within the United States and are entitled to full constitutional protection.

101. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas*, 533 U.S. at 690. The Supreme Court has "repeatedly recognized that civil

commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized hearing before a neutral decisionmaker. *Addington v. Texas*, 441 U.S. 418, 425 (1979); *see also United States v. Salerno*, 481 U.S. 739, 755 (1987); *Foucha v. Louisiana*, 504 U.S. 71, 81–83 (1992); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997).

102. Civil detention may be justified only when it bears a reasonable relationship to a legitimate government purpose—such as ensuring attendance at proceedings or protecting the community—and only when that necessity is demonstrated through individualized findings. *Zadvydas*, 533 U.S. at 690–91.

103. Respondents' policy and practice of detaining Petitioner and the putative class members under 8 U.S.C. § 1225(b)(2)(A) without individualized hearings eviscerates this constitutional safeguard. By automatically classifying individuals apprehended in the interior as "arriving aliens," respondents impose categorical detention without any assessment of flight risk or danger, thereby converting civil immigration detention into unlawful preventive confinement.

104. The Constitution requires an individualized determination before the government may deprive any person of liberty. Respondents' blanket denial of such hearings violates that fundamental command.

105. The absence of individualized hearings under this policy has no rational relationship to any legitimate regulatory purpose. Detention under § 1225(b)(2) for persons long residing within the United States serves neither the interest of ensuring presence at proceedings nor that of protecting the public; it instead functions as arbitrary and indefinite confinement.

106. Accordingly, Petitioner and the putative class members are, or will be, detained without being provided any individualized hearing to determine whether continued detention is necessary.

107. Petitioner's and the putative class members' continuing detention is therefore unlawful, regardless of which statutory label the government applies to purportedly authorize it.

COUNT FOUR

Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

108. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

109. The Fifth Amendment's Due Process Clause prohibits the government from depriving any person of liberty in a manner that is arbitrary, excessive, or divorced from any legitimate governmental purpose. *See County of Sacramento v. Lewis*, 523 U.S. 833, 845–46 (1998); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

110. Civil immigration detention is constitutionally permissible only when it bears a "reasonable relation" to its limited regulatory purposes—namely, ensuring attendance at immigration proceedings and protecting the community from danger. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (Kennedy, J., concurring).

111. Where detention no longer serves those purposes, or where the government fails to provide any individualized determination of necessity, continued confinement becomes punitive in effect and violates substantive due process. *See Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Salerno*, 481 U.S. at 747–48.

112. Respondents' policy and practice of categorically detaining individuals under 8 U.S.C. § 1225(b)(2)(A) without bond hearings or individualized review bears no reasonable relationship

to the legitimate objectives of immigration detention. Instead, it subjects long-term U.S. residents—many of whom have families, homes, and deep community ties—to indefinite, automatic confinement unrelated to flight risk or danger.

113. By classifying these individuals as "arriving aliens" under *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and denying them any opportunity for release or custody redetermination, Respondents have imposed a detention regime that is arbitrary, excessive, and untethered to lawful regulatory purposes.

114. The resulting deprivation of liberty is not narrowly tailored, is not justified by compelling government interests, and fails even the most deferential standard of constitutional review.

115. As the Supreme Court has repeatedly recognized, civil confinement that persists without individualized justification becomes "indistinguishable from punishment." *Zadvydas*, 533 U.S. at 690–91. Petitioner's and the class members' ongoing detention, often for months or years without bond review, constitutes precisely that impermissible punishment.

116. The government's continued reliance on § 1225(b)(2)(A) to detain interior residents—contrary to decades of settled statutory interpretation—renders the detention not only unlawful but constitutionally intolerable.

117. Because Petitioner and the putative class members are not provided any opportunity to demonstrate that their continued detention is unnecessary, Respondents have failed to meet their substantive obligation to ensure that confinement bears a reasonable relation to its purported regulatory ends.

118. Accordingly, Petitioner's and the class members' detention is arbitrary, punitive, and unconstitutional, regardless of which statute the government invokes to justify it.

COUNT FIVE

Violation of the Administrative Procedure Act (5 U.S.C. § 706)

119. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

120. The Administrative Procedure Act ("APA") requires that a court "hold unlawful and set aside agency action, findings, and conclusions" that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or "in excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2)(A), (C).

121. Petitioner and the putative class members are being detained without bond hearings pursuant to the Board of Immigration Appeals' precedential decision *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), which directs immigration judges to classify all individuals who entered without inspection as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), regardless of when or where they were apprehended.

122. *Yajure-Hurtado* and the corresponding DHS policy represent a radical departure from nearly three decades of consistent statutory and regulatory interpretation, under which individuals apprehended within the interior of the United States were detained pursuant to 8 U.S.C. § 1226(a) and entitled to individualized custody redetermination hearings. 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).

123. The BIA's decision unlawfully overrides those binding regulations without engaging in notice-and-comment rulemaking, without reasoned explanation for its reversal of agency policy, and without statutory authority. Such action violates fundamental requirements of administrative law. *See Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983) ("an agency must provide a reasoned analysis for the change").

124. Following *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), agency interpretations of statutes are no longer entitled to Chevron deference. Courts must independently determine whether the agency has acted within statutory bounds. Under that standard, *Yajure-Hurtado* is contrary to the plain text of the INA and therefore not entitled to any judicial deference.

125. Numerous federal courts—including those in the Districts of Maine, Massachusetts, Iowa, Arizona, California, Minnesota, and Michigan—have already concluded that *Yajure-Hurtado*'s interpretation of § 1225(b)(2)(A) is unlawful and inconsistent with congressional intent. *See, e.g., Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Giron Reyes v. Lyons*, No. 3:25-cv-302 (N.D. Iowa Sept. 23, 2025); *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Romero v. Hyde*, No. 25-11631, 2025 WL 2403827 (D. Mass. Aug. 19, 2025).

126. Because *Yajure-Hurtado* purports to authorize categorical detention of persons arrested in the interior of the United States—contrary to the statutory framework and decades of settled practice—it is arbitrary, capricious, and ultra vires.

127. Respondents' continued reliance on *Yajure-Hurtado* to detain Petitioner and the putative class members without bond hearings is therefore unlawful under the Administrative Procedure Act and the Immigration and Nationality Act.

128. Accordingly, Petitioner's and the class members' detention is unlawful and must be set aside.

COUNT SIX

Violation of the Suspension Clause of the United States Constitution (U.S. Const. art. I, § 9, cl. 2)

129. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

130. The Suspension Clause provides that "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. This safeguard is one of the Constitution's core structural limits on executive power and guarantees that no person may be detained by the government without a judicial forum capable of determining the legality of that confinement. *See Boumediene v. Bush*, 553 U.S. 723, 739–40 (2008); *INS v. St. Cyr*, 533 U.S. 289, 301–03 (2001).

131. The writ of habeas corpus protects not only individual liberty, but also the separation of powers between the branches of government. By ensuring that the judiciary retains the power to "call the jailer to account," the Clause prevents the Executive from becoming the final arbiter of its own detention authority. *See Boumediene*, 553 U.S. at 742 ("The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty.").

132. Through *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and related DHS policy memoranda, Respondents have effectively suspended the privilege of the writ for an entire category of detainees—those who entered the United States without inspection, were apprehended in the interior, and are now detained under 8 U.S.C. § 1225(b)(2)(A).

133. Under this regime, these individuals are categorically denied access to any administrative or judicial mechanism for testing the legality of their detention. Immigration judges are instructed to find no bond jurisdiction; the Board of Immigration Appeals refuses review; and the agency asserts that § 1225(b)(2)(A) mandates continued confinement until removal—no matter how prolonged, arbitrary, or baseless.

134. Absent habeas review in this Court, Petitioner and class members would have no forum whatsoever in which to challenge the government's misapplication of law or the legality of their confinement. The statutory scheme, as applied, therefore constitutes an unconstitutional suspension of the writ.

135. The Supreme Court has repeatedly reaffirmed that "the Suspension Clause unambiguously guarantees the privilege of habeas corpus to all within the territorial jurisdiction of the United States." *St. Cyr*, 533 U.S. at 301; *Boumediene*, 553 U.S. at 771–72. The Clause extends to noncitizens physically present in the country, including those who entered without inspection, once they have developed substantial connections to the United States.

136. By foreclosing any avenue for judicial inquiry into the legality of their detention, Respondents have placed class members outside the protection of the law—a result the Constitution forbids. *Boumediene*, 553 U.S. at 742 ("The writ must be effective to guard against arbitrary detention.").

137. The post-*Hurtado* framework also undermines the judiciary's essential role in maintaining the constitutional balance of powers. As, "The Great Writ is not merely a procedural device but the people's instrument for ensuring that executive detention remains subject to law." (*Kamin, The Great Writ as Popular Sovereignty*, 2025). By constructing a detention regime that denies any opportunity for judicial testing, DHS and EOIR have arrogated to themselves the very authority the Framers reserved to the courts.

138. Because this system functionally nullifies the judiciary's habeas jurisdiction and leaves Petitioner and the class without a meaningful remedy, it violates the Suspension Clause of the United States Constitution.

139. Accordingly, Petitioner and the putative class members respectfully request that this Court:

a. Declare that the application of 8 U.S.C. § 1225(b)(2)(A) to long-term residents apprehended in the interior, coupled with the denial of any bond or custody review process, violates the Suspension Clause;

b. Exercise its jurisdiction under 28 U.S.C. § 2241 to review the legality of Petitioners' and class members' detention; and

c. Order their immediate release, or in the alternative, require prompt individualized bond hearings before a neutral immigration judge pursuant to 8 U.S.C. § 1226(a).

PRAYER FOR RELIEF

WHEREFORE, Petitioner Evangelina Morales, on behalf of herself and all others similarly situated, respectfully requests that this Honorable Court grant the following relief:

1. Assume jurisdiction over this matter pursuant to 28 U.S.C. §§ 2241 and 1331;
2. Enter a temporary restraining order and/or preliminary injunction prohibiting Respondents from transferring Petitioner or any putative class member outside the jurisdiction of this Court without prior notice and Court approval;
3. Declare that Petitioner's and the putative class members' detention under 8 U.S.C. § 1225(b)(2)(A) is unlawful and contrary to the Immigration and Nationality Act, the Administrative Procedure Act, and the Constitution of the United States;
4. Declare that Petitioner and all class members are or will be detained, if at all, pursuant to 8 U.S.C. § 1226(a), and therefore are entitled to individualized bond hearings before a neutral immigration judge, at which the government must prove by clear and convincing evidence that continued detention is necessary;

5. Certify a class under Federal Rule of Civil Procedure 23(a) and (b)(2), defined as:

> All current and future noncitizens detained at the North Lake Processing Center, the Calhoun County Correctional Center, or any other immigration detention facility within the Western District of Michigan who: (1) entered the United States without inspection; (2) have been placed in removal proceedings under 8 U.S.C. § 1229a; (3) are not subject to mandatory detention under 8 U.S.C. § 1226(c) or post-order detention under 8 U.S.C. § 1231; and (4) are or will be detained without an individualized bond hearing pursuant to 8 U.S.C. § 1225(b)(2)(A).

6. Appoint Petitioner as class representative and Petitioner's counsel as class counsel for the proposed class pursuant to Federal Rule of Civil Procedure 23(g);

7. Postpone the effective date of *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), pending final resolution of this case under the APA, 5 U.S.C. § 705, and set aside and vacate that decision as unlawful under 5 U.S.C. § 706(2);

8. Declare that Respondents' detention of class members without bond hearings violates the Due Process Clause of the Fifth Amendment and the Suspension Clause of Article I, Section 9, Clause 2 of the U.S. Constitution;

9. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or in the alternative, require individualized bond hearings before an immigration judge within seven (7) days of the Court's order;

10. Issue classwide injunctive relief enjoining Respondents from detaining class members under § 1225(b)(2)(A) without bond hearings and requiring Respondents to provide such hearings under § 1226(a) for all affected individuals going forward;

11. Award attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and 5 U.S.C. § 504 et seq., as applicable; and

12. Grant such other and further relief as the Court deems just, proper, and equitable, including any orders necessary to ensure compliance with the Court's declaratory and injunctive rulings.

Respectfully Submitted,

/s/ Robert Anthony Alvarez .
Robert Anthony Alvarez (P66954)
Attorney for Petitioner
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