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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

SAMUEL OUANGRE,

Petitioner,

v.

ROSE THOMPSON, Warden,
Karnes County Immigration Processing Center;

MIGUEL VERGARA, Acting/Director
of the San Antonio Field Office U.S.
Immigration and Customs Enforcement;

KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; and

PAMELA BONDI, Attorney General
of the United States, in their official capacities,

Respondents.

Case No. 5:25-cv-1517

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Samuel Ouangre is in the physical custody of Respondents at the Karnes County Immigration Processing Center in Karnes City, Texas. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.
2. Petitioner was first detained and released on or around September 27, 2023 under DHS's discretionary detention authority under 8 USC 1226. **Exh. B, Form I-213; Record of Deportable/Inadmissible Alien.** Years later, on October 14, 2025, Petitioner was re-detained despite any change in his circumstances that would warrant detention, and he is currently detained at the Karnes County Immigration Processing Center in Karnes City, Texas.
3. DHS's and the EOIR's current position is that Petitioner is subject to mandatory detention under a different statutory provision, no longer under their initial determination of release under §1226, but rather § 1225 which governs non-citizens arriving to the U.S. apprehended at or near the border.
4. Petitioner contends that his detention is unlawful because he has been detained without justification as to why he is now subject to mandatory detention and without an opportunity to challenge his re-detention and request release, despite his statutory and constitutional right to do so, discussed *infra*.
5. The present petition filed on behalf of the Petitioner is one of a number of recent lawsuits challenging the federal government's authority to detain noncitizens during the pendency of removal proceedings under 8 U.S.C. § 1225(b). Overwhelmingly, as discussed below,

federal district courts have ruled in favor of habeas corpus petitioners in similar situations to the present Petitioner. Accordingly, to preserve Petitioner's statutory and constitutional rights, this Court should grant the instant petition for a Writ of Habeas Corpus for the reasons stated *infra*. Absent an order from this Court, Petitioner will continue to suffer an unconstitutional deprivation of his right to liberty, as well as extreme irreparable harm given the personal facts of his situation. Petitioner asks this Court to find that his detention is unconstitutional and order immediate release from detention.

JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. Venue is proper with this Court because Petitioner is detained at Karnes County Immigration Processing Center in Karnes City, Texas, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the Petition for Writ of Habeas Corpus or issue an Order to Show Cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief.

28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

11. Courts have long recognized the significance of the Habeas Corpus statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

12. Petitioner, Samuel Ouangre, is a citizen of Burkina Faso. He is currently detained at Karnes County Immigration Processing Center in Karnes City, Texas. He is in the custody, and under the direct control, of Respondents and their agents.
13. Respondent Rose Thompson is the Warden of the Karnes County Immigration Processing Center and has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.
14. Respondent Miguel Vergara is sued in his official capacity as the Acting Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent Vergara is a legal custodian of Petitioner and has authority to release him.
15. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency

responsible for Petitioner's detention / custody. Respondent Noem is a legal custodian of Petitioner.

16. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

17. Petitioner is a 46-year-old native and citizen of Burkina Faso. He was born on   in Tenkodogo, Burkina Faso. He entered the United States without inspection near San Ysidro, California around September 27, 2023 where he turned himself in to immigration authorities.
18. The following day, he was issued a Notice to Appear, **Exh. A, Notice to Appear**, along with a Notice of Custody Determination determining that he would be released on his own recognizance pursuant to 8 USC 1226(a). **Exh. B, Form I-213; Record of Deportable/Inadmissible Alien**. That same day he was served an Order of Release on Recognizance issued pursuant to 8 U.S.C. 1226(a) and was released from custody. *Id.* In the I-213 Record of Deportable/Inadmissible Alien, DHS specifically states that Petitioner "did not appear to be a threat to national security, or public safety, and was released from the custody of [DHS] by 'Order of Recognizance' pending immigration hearing." *Id.* at p. 7. The I-213 specifically states that he was released with, among other documents, an I-220A, which is the form that DHS uses to indicate that someone has been released under 8 U.S.C. 1226. *Id.* at p. 6. As such, it is very clear that DHS had

determined that the Petitioner's release is governed by §1226, and that he was not a flight risk or danger to the community. After his release on his own recognizance, he subsequently proceeded to check-in with the Department of Homeland Security regularly and without incident.

19. Petitioner was re-detained while attending his ICE check-in at the San Antonio ICE Field office on or about October 14, 2025. The government's position in his case is that he is subject to mandatory detention pursuant to 8 USC § 1225, in spite of his initial and sustained release under 8 USC 1226.

LEGAL FRAMEWORK

1. Two statutes principally govern the detention of noncitizens pending removal proceedings: 8 U.S.C. §§ 1225 and 1226. Section 1225 applies to "applicants for admission," who are, as relevant here, noncitizens "present in the United States who [have] not been admitted." 8 U.S.C. § 1225(a)(1). All applicants for admission must be inspected by an immigration officer. *Id.* § 1225(a)(3). Certain applicants for admission are then subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108-09 (2020). In other cases, if the examining immigration officer determines that an applicant for admission is not "clearly and beyond a doubt entitled to be admitted," Section 1225(b)(2) provides that the applicant for admission "shall be detained for" standard removal proceedings. 8 U.S.C. § 1225(b)(2)(A); *see Jennings v. Rodriguez*, 583 U.S. 281, 287-88 (2018). A noncitizen detained under Section 1225(b)(2) may be released only if he is paroled "for urgent humanitarian reasons or significant public benefit" under 8 U.S.C. § 1182(d)(5)(A).

Jennings, 583 U.S. at 300 (“That express exception to detention implies that there are no other circumstances under which aliens detained under § 1225(b) may be released.”).

2. Whereas section 1225(b) “authorizes the Government to detain certain aliens *seeking admission* into the country,” section 1226 “authorizes the Government to detain certain *aliens already in the country* pending the outcome of removal proceedings.” *Jennings*, 583 U.S. at 289 (emphases added). Section 1226(a) establishes a discretionary detention framework for noncitizens arrested and detained “[o]n a warrant issued by the Attorney General.” For such individuals, the Attorney General (1) “may continue to detain the arrested alien,” (2) “may release the alien on ... bond of at least \$1,500,” or (3) “may release the alien on ... conditional parole.” 8 U.S.C. §§ 1226(a)(1)-(2). The arresting immigration officer makes an initial custody determination, but noncitizens have the right to request a custody redetermination (i.e., bond) hearing before an Immigration Judge. See 8 C.F.R. §§ 1236.1(c)(8), (d)(1).
3. In addition to bond, the government may release a noncitizen detained under Section 1226(a) on an Order of Recognizance, which is a form of conditional parole. See 8 U.S.C. § 1226(a)(2)(B); *Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 747 (B.I.A. 2023) (“The respondents were ... released on their own recognizance pursuant to DHS’ conditional parole authority under ... 8 U.S.C. § 1226(a)(2)(B)[.]”); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) (“It is apparent that the [government] used the phrase ‘release on recognizance’ as another name for ‘conditional parole’ under § 1226(a).”); *Cruz-Miguel v. Holder*, 650 F.3d 189, 191 (2d Cir. 2011) (similar).
4. Section 1226(c) is the sole exception to Section 1226(a)’s discretionary detention framework. See 8 U.S.C. § 1226(a) (“Except as provided in subsection (c) ... the Attorney

General ... may”); *id.* § 1226(c)(1) Section 1226(c) requires the detention of noncitizens who are inadmissible or deportable and who have been arrested, charged with, or convicted of certain crimes. *See id.* §§ 1226(c)(1)(A)-(D).

5. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2), and specifically whether Petitioner is lawfully detained under Section 1225(b)(2), as the government now contends, or is instead subject to discretionary detention under Section 1226(a), as the government represented in its initial Notice of Custody Determination issued in 2023, and its subsequent Notice of Custody Determination issued in 2025.
6. Section 1226(a) “authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings,” *Jennings*, 583 U.S. at 289, and it applies when a noncitizen is “arrested and detained” “[o]n a warrant issued by the Attorney General,” 8 U.S.C. § 1226(a); *See Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 749 (B.I.A. 2023) (holding that an immigration judge erred in treating release on recognizance of non-citizens “detained soon after their unlawful entry” as constructive humanitarian parole where Government had not followed the “procedures for parole under [section 1182(d)(5)]”).
7. The policy position of Respondents is that the Petitioner is subject to mandatory detention without the right to a bond hearing pursuant to the plain language of 8 U.S.C. 1225(b), despite the fact that he was initially released on his own recognizance under 8 U.S.C. 1226(a) and has been living in the U.S. for over two years. This position has been resoundingly and repeatedly rejected by federal district courts across the country, including courts in the Fifth Circuit and the Western District of Texas. *See Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *8 n.5 (E.D. Mich. Aug. 29,

2025) (collecting twelve such decisions); *see, e.g., Jimenez v. FCI Berlin, Warden*, No. 25-CV-326-LM-AJ, 2025 WL 2639390, at *10 n.9 (D.N.H. Sept. 8, 2025); *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *5 (W.D. La. Sept. 11, 2025); *Kostak v. Trump*, No. 25-CV-01093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, (W.D. Tex. Sept. 22, 2025).

8. Respondents' own documents and actions, the plain text of the statute, traditional canons of statutory construction, and DHS' longstanding practices all establish that § 1226(a) governs Petitioner's detention.
9. When Petitioner was initially detained and released in September 2023, the Notice of Custody Determination states that CBP determined to release Petitioner on his own recognizance pursuant to "the authority contained in section 236 of the [INA]." **Exh. B, Form I-213; Record of Deportable/Inadmissible Alien**. Similarly, the Order of Release on Recognizance issued the following day provided that he was released "[i]n accordance with section 236 of the [INA] and the applicable provisions of Title 8 of the Code of Federal Regulations." **Exh. C, Redacted Sample Form I-220A Order of Release on Recognizance**. All documents are devoid of any reference to § 1225.
10. In all, "the government's treatment of Petitioner since his arrival in the United States in September 2023 establishes that Petitioner was detained pursuant to the government's discretionary authority under § 1226(a)." *See J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025).
11. As district courts across the country have repeatedly concluded, Respondents' "interpretation of the statute (1) disregards the plain meaning of § 1225(b)(2)(A); (2)

disregards the relationship between §§ 1225 and 1226; (3) would render a recent amendment to § 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice.” *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at *5 (N.D. Ill. Oct. 16, 2025) (citing *Alejandro v. Olson*, 2025 WL 2896348, at *6 (S.D. Ind. Oct. 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025) (“[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens ‘seeking admission into the country,’ whereas section 1226 governs detention of non-citizens ‘already in the country.’ ”) (cleaned up) *Diaz Martinez v. Hyde*, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (“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.”) (cleaned up) (citing *Jennings*, 583 U.S. at 289).

12. In addition, “CBP’s decision to conditionally parole [Petitioner] under Section 1226(a) is consistent with its longstanding practice of conditionally paroling noncitizens arrested near the border. *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *3, f.7 (D. Mass. July 7, 2025) (citing Transcript of Oral Argument, at 44:24-45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954) (Solicitor General representing that “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.”).

13. The Board of Immigration Appeals has issued two recent precedent decisions involving mandatory detention under 8 U.S.C. § 1225. *Matter of Q. Li*, 27 I&N Dec. 66 (BIA 2025, and *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). Both cases purport to apply

the “catchall” provision of § 1225(b)(2) to require the mandatory detention of persons like the Petitioner. However, neither of those cases are implicated in the Petitioner’s case because he was already released from custody based on a determination by DHS that his release is governed by § 1226. It is important to note as well that this Court does not owe deference to the BIA’s interpretations of these provisions, and is free to conduct its own independent analysis. *See Loper Bright Enterprises v. Raimundo*, 603 U.S. 369, 144 S. Ct. 2244 (2025). After being arrested in September 2023, the Petitioner was immediately issued a Notice to Appear and then conditionally paroled on an Order of Recognizance issued under Section 1226(a). **Exh. A. Notice to Appear, Exh. B, Form I-213; Record of Deportable/Inadmissible Alien. Exh. C, Redacted Sample From I-220A Order of Release on Recognizance.** Over two years later, he was taken into custody at his ICE check-in without explanation and without any opportunity to plead for his release from custody. Importantly, the BIA’s reasoning in *Q. Li* is inapposite here because the Petitioner was released on his own recognizance and not on parole. Similarly, *Yajure* does not provide guidance for Petitioner’s case because DHS made the determination that his detention would be governed by § 1226 and then arbitrarily changed course at his ICE check-in. The Petitioner’s release under § 1226 created a reliance interest in his continued liberty, and his arbitrary detention violates his due process rights by taking away his liberty without any explanation or opportunity to seek release.

14. Respondents’ actions implicate constitutional due process. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003). “To determine whether a civil detention violates a detainee’s due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).”

Martinez v. Noem, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). Those factors are: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335, 96 S.Ct. 893.

15. As to the first element, “[t]he interest in being free from physical detention’ is ‘the most elemental of liberty interests.’ ” *Martinez v. Noem*, 2025 WL 2598379, at *2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004)).

Petitioner possesses a cognizable interest in his freedom from detention because he spent over two years at liberty in the United States. *See Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11 (W.D. Tex. Sept. 22, 2025) (“Because he spent nearly three years at liberty in the United States, Lopez-Arevelo possesses a cognizable interest in his freedom from detention.”)

16. Under the second *Mathews* factor, the Court considers “whether the challenged procedure creates a risk of erroneous deprivation of individuals’ private rights and the degree to which alternative procedures could ameliorate these risks.” *Martinez v. Noem*, 2025 WL 2598379, at *3 (quoting *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025)). “Thus, there is a high risk that [Petitioner] has been and will continue to be erroneously deprived of his liberty.” *Id.*

17. On the final factor, Respondents cannot identify any meaningful countervailing interest, other than perhaps their generalized interest in enforcing the INA as they interpret it.

“But the decision to release [Petitioner] on his own recognizance [over two] years ago, in and of itself, ‘reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.’” *Lopez-Arevelo*, 2025 WL 2691828, at *11 (citing *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), aff’d 905 F.3d 1137 (9th Cir. 2018)). Indeed, DHS specifically stated that the Petitioner “did not appear to be a threat to national security, or to public safety...” **Exh. B, Form I-213; Record of Deportable/Inadmissible Alien**. Since his initial release, Petitioner has diligently pursued relief and complied with all conditions of release. Nor has he committed any crimes or endangered anyone during his two years at liberty in the United States.

18. Overwhelmingly, federal courts have sided with immigrant detainees challenging their detention on virtually indistinguishable grounds, on statutory and constitutional grounds, including courts in this District. *See e.g. Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *PUERTO-HERNANDEZ, Petitioner, v. LYNCH et al.*, No. 1:25-CV-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853, at *3 (N.D. Cal. Sept. 18, 2025); *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *PÉREZ PINA, v. STAMPER*, No. 2:25-CV-00509-SDN, 2025 WL 2939298 (D. Me. Oct. 16, 2025); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at *5 (N.D. Ill. Oct. 16, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025).

19. “The appropriate relief for an immigration detainee held in violation of their right to due process is their immediate release from custody, and to be provided with relief returning them to status quo ante, i.e., the last uncontested status which preceded the pending controversy.” *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025). “With regard to the specifics of the relief that might be ordered, in recent weeks many federal district courts” –including the Western District of Texas– “have ordered the immediate release of immigration habeas petitioners held in custody in violation of their due process rights.” *Id*; *See Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588, at *13 (W.D. Tex. Oct. 1, 2025); *See also J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267, at *1 (D. Or. Aug. 21, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530, at *7 (D. Me. Aug. 29, 2025)
20. Petitioner strenuously urges this Court to order his immediate release given that no circumstances in Petitioner’s situation have changed that would warrant DHS’s arbitrary custody redetermination. Nevertheless, alternatively, at the very least Petitioner would ask that the Court order a bond hearing as a habeas remedy where the burden is on the government to show that the Petitioner is now a flight risk or a danger to the community, given that the government already made a previous determination that he was neither. Indeed “as of 2020, the ‘vast majority’—an ‘overwhelming consensus’—of courts granting immigration detainees’ habeas petitions have placed the burden on the

Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk.” *Lopez-Arevelo*, 2025 WL 2691828, at *12 (citing *Velasco Lopez*, 978 F.3d at 855 n.14 (citations omitted)). “Allocating the burden in this manner reflects the concern that ‘[b]ecause the alien's potential loss of liberty is so severe ... he should not have to share the risk of error equally.’” (citing *German Santos*, 965 F.3d at 214). “And the consensus appears to be holding, with many courts in recent days ordering a bond hearing, at which the Government bears the burden of justifying the immigration habeas petitioner's continued detention by clear and convincing evidence.” *Id.* ; *Velasquez Salazar v. Dedos*, No. 25-cv-835, 2025 WL 2676729, at *9 (D.N.M. Sept. 17, 2025); *Morgan v. Oddo*, No. 24-cv-221, 2025 WL 2653707, at *1 (W.D. Pa. Sept. 16, 2025); *J.M.P. v. Arteta*, No. 25-cv-4987, 2025 WL 2614688, at *1 (S.D.N.Y. Sept. 10, 2025); *Espinoza*, 2025 WL 2581185, at *14; *Arostegui-Maldonado v. Baltazar*, 2025 WL 2280357, at *12 (D. Colo. Aug. 8, 2025).

CAUSES OF ACTION

COUNT ONE

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Redetermination Hearing

20. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
21. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who have been residing in the United States and who were previously released from custody under 8 U.S.C. 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

22. The application of § 1225(b)(2) to bar Petitioner from release and from receiving a bond redetermination hearing before an immigration judge violates the Immigration and Nationality Act.

COUNT TWO
Violation of the Administrative Procedure Act
Unlawful Denial of Bond

23. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
24. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who originally entered the United States and were granted release under § 1226. Such noncitizens are presumptively detained under § 1226(a), unless they are specifically subject to another detention provision, such as § 1225, § 1226(c) or § 1231.
25. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT THREE
Violation of Fifth Amendment Right to Due Process

26. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
27. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment— from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653

(2001).

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

29. The government's detention of Petitioner in spite of the lack of any changed circumstances and without the possibility of a bond redetermination hearing to determine whether he is now a flight risk or danger to others violates his right to Due Process pursuant to the Fifth Amendment.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter and maintain jurisdiction to the extent necessary to ensure Respondents' compliance with any order this Court may issue;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that the re-detention of the Petitioner after his release under 8 U.S.C. 1226 and the deprivation of any meaningful way for him to challenge his detention violates the INA, APA, and the Due Process clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus requiring that Respondents immediately release the Petitioner in order to preserve the *status quo ante*, or, in the alternative, provide a custody redetermination hearing before an impartial Immigration Judge within 14 days in which the government bears the burden of showing that 1) there has been a change of circumstances that required the re-detention of Petitioner, and 2) the Petitioner is a flight risk or a danger to the community at large.
- (5) Set aside Respondents' unlawful detention policy under the APA, 5 U.S.C. § 706(2);
- (6) Order further relief as this Court deems just and appropriate.

Respectfully submitted,

/s/ Mark Kinzler

Mark Kinzler, Esq.

Oregon State Bar No. 05298-8

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Attorney for Petitioner

Dated: November 18, 2025

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

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

Dated this 18th day of November, 2025.

/s/ Mark Kinzler
Mark Kinzler, Esq.
Oregon State Bar No. 05298-8
Attorney for Petitioner

CERTIFICATE OF SERVICE

Ouangre v. Thompson

5:25-cv-1517

I hereby certify that on November 18, 2025, I have mailed by United States Postal Service the Verified Petition for Writ of Habeas Corpus and Exhibits by certified mail to the following:

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Secretary of Homeland Security Kristi Noem
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U.S. Attorney General Pamela Bondi
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The above respondents were also named in the CM/ECF habeas corpus filing with the Western District of Texas court

/s/ Mark Kinzler