

**UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

ALEXANDER ROMERO CARRETO,  
*Petitioner,*

v.

JACKSON PARISH CORRECTIONAL  
CENTER WARDEN, in their official  
capacity;

SCOTT LADWIG, in his official capacity as  
Acting Field Office Director of the New  
Orleans Field Office of U.S. Immigration and  
Customs Enforcement, Enforcement and  
Removal Operations;

KRISTI NOEM, in her official capacity as  
Secretary of the Department of Homeland  
Security; and

PAMELA BONDI, in her official capacity as  
Attorney General of the United States;

*Respondents.*

Civil Action No.

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

**INTRODUCTION**

1. This petition arises out of the unlawful detention of Alexander Romero Carreto (“Alexander” or “Petitioner”), a 33-year old father of three with no known criminal record aside from minor traffic violations, who has resided peaceably in Maryland for more than fourteen years. Prior to his detention, Alexander was gainfully employed as a construction worker specializing in flooring installation.

2. Alexander is married, and he and his wife have three children—two of whom struggle with developmental delays—whom Alexander worked hard to provide for prior to his

detention. In Alexander's absence, the family is struggling to make ends meet, and Alexander's youngest son, a six-year-old U.S. citizen, has been experiencing a severe mental health crisis as a result.

3. On the morning of September 10, 2025, while driving home from work, Alexander was stopped by federal immigration agents on the Baltimore-Washington parkway near the border of Maryland and Virginia. The immigration agents told Alexander that they knew he was in the United States illegally. Then they forcibly removed him from his car, threw him to the ground, seized his cell phone, handcuffed, and arrested him.

4. On or about September 12, 2025, Immigration and Customs Enforcement ("ICE") served Alexander with a Notice to Appear, alleging that he is a Guatemalan national who entered the United States without inspection. *See* Ex. 1 (Notice to Appear).

5. Alexander has now remained in the custody of ICE for more than two months without any valid legal basis. He was initially held at a detention center in Chantilly, Virginia. He was transferred to Riverside Regional Jail in North Prince George, Virginia and then on to Caroline Detention Facility in Caroline County, Virginia. Most recently, he was transferred over 1,000 miles away from his home and family to the Jackson Parish Correctional Center ("Jackson Parish") in Jonesboro, Louisiana, where he is detained as of the filing of this Petition.

6. Upon information and belief, ICE detained Alexander pursuant to 8 U.S.C. § 1225(b)(2), which is a mandatory detention scheme that "applies primarily to [noncitizens] seeking entry into the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). However, a separate statutory scheme, set forth in 8 U.S.C. § 1226(a), provides a discretionary framework for the detention of noncitizens "already present in the United States." *Jennings*, 583 U.S. at 303; *see also Kostak v. Trump*, No. 25-1093, 2025 WL 2472136, at \*3 (W.D. La. Aug. 27, 2025).

7. When a noncitizen is detained pursuant to 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment requires ICE to first conduct an individualized assessment of the individual's flight risk and danger to the community—the only recognized bases for civil detention during the pendency of removal proceedings.

8. It is Section 1226(a)—not Section 1225(b)(2)—that applies here. At the time Alexander was detained, he had been living in Maryland for more than fourteen years and was not “seeking admission” into the United States pursuant to Section 1225(b)(2). Moreover, ICE alleges that Alexander entered without inspection. *See* Ex. 1. Accordingly, his detention must be governed by 8 U.S.C. § 1226(a), *not* 8 U.S.C. § 1225(b).

9. Nevertheless, ICE is unlawfully detaining Alexander under Section 1225(b)(2) and justifying its actions based on the Department of Homeland Security's (“DHS”) improper reading of that statute. Courts in this district, along with an overwhelming number of federal courts nationwide, have soundly rejected DHS's interpretation, ruling that Section 1226 applies to noncitizens already present in the United States. *Pineda Parada v. Rice*, No. 25-cv-1660, 2025 WL 3146250, at \*3 (W.D. La. Nov. 4, 2025) (Drell, J.); *Ventura Martinez v. Trump*, No. 25-1445 SEC P, 2025 WL 3124847, at \*2–3 (W.D. La. Oct. 22, 2025) (Edwards, J.); *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 WL 2642278, at \*4 (W.D. La. Sept. 11, 2025) (Doughty, J.); *Kostak*, 2025 WL 2472136, at \*3 (Edwards, J.); *see also Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346, at \*3 (S.D. Tex. Oct. 7, 2025) (“[A]lmost every district court to consider this issue has concluded [that] the statutory text, statute's history, Congressional intent, and § 1226(a)'s application for the past three decades supports finding that § 1226 applies to these circumstances.”).

10. By detaining Alexander pursuant to 8 U.S.C. § 1225(b)(2), without a bond hearing and any individualized assessment of his flight risk and danger to the community, ICE violated Alexander's rights under the Due Process Clause of the Fifth Amendment.

11. Moreover, had ICE actually satisfied its constitutional obligations and conducted the required individualized assessment of Alexander, it would have easily determined that he is neither a flight risk nor a danger to the community. To the contrary, Alexander has built substantial community ties to his home of [REDACTED] Maryland, where his entire family lives, awaiting his return.

12. Because Alexander's constitutional rights under the Due Process Clause of the Fifth Amendment have been violated due to his continued detention at the hands of ICE, Alexander requests that this Court exercise its jurisdiction to immediately release him.

#### PARTIES

13. Alexander is a resident of [REDACTED] Maryland. On September 10, 2025, Alexander was unlawfully detained at a traffic stop on his way home from work. He is currently detained at Jackson Parish in Jonesboro, Louisiana, where he was transferred on October 3, 2025.

14. Upon information and belief, Respondent Jackson Parish Correctional Center Warden ("Warden") has immediate custody over Alexander. The Warden's address is 287 Industrial Drive, Jonesboro, Louisiana 71251. The Warden is sued in his official capacity.

15. Upon information and belief, Respondent Scott Ladwig is the Acting Field Office Director of the New Orleans Field Office for ICE Enforcement and Removal Operations, within DHS. In his role, Respondent Ladwig is responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Alexander. Respondent Ladwig's address is New Orleans ICE Field Office, 1250 Poydras Street, Suite 325, New Orleans, Louisiana 70113. Respondent Ladwig is sued in his official capacity.

16. Respondent Kristi Noem is the Secretary of Homeland Security in DHS. Respondent Noem routinely transacts business in the Western District of Louisiana and is responsible for the administration of the United States' immigration laws and policies pursuant to 8 U.S.C. § 1103(a). She supervises DHS's components such as ICE, and, as such, is legally responsible for pursuing any effort to remove Alexander. As such, Respondent Noem is a legal custodian of Alexander. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street N.W. #1000, Washington, D.C. 20528. Respondent Noem is sued in her official capacity.

17. Respondent Pamela Jo Bondi is the Attorney General of the United States. Respondent Bondi is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Western District of Louisiana and is legally responsible for administering Alexander's removal and custody proceedings and for the standards used in those proceedings. As such, Respondent Bondi is a legal custodian of Alexander. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530. Respondent Bondi is sued in her official capacity.

### JURISDICTION

18. Federal district courts have jurisdiction to hear habeas corpus claims by individuals arrested by ICE who challenge the lawfulness or constitutionality of their detention. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Lopez Santos*, 2025 WL 2642278, at \*2–4 (district court has jurisdiction to hear petitioner's claim challenging his detention pursuant to 8 U.S.C. § 1225(b)); *Pineda Parada*, 2025 WL 3146250, at \*2 (same).

19. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the United States Constitution (Suspension Clause). This Court also has the authority to grant declaratory and injunctive relief. 28 U.S.C. § 2202. Moreover, this Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201.

VENUE

20. Venue properly lies with this Court pursuant to 28 U.S.C. § 1391(e) because Alexander is physically present and in the custody of Respondents at Jackson Parish in Jonesboro, Louisiana, which is located in the Monroe Division of the Western District of Louisiana. See LR 77.3 (cases filed regarding Jackson Parish properly assigned to Monroe Division); *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *Yun Chen v. Holder*, No. 14-2530, 2015 WL 13236635, at \*3–4 (W.D. La. Nov. 20, 2015); *Amadi v. U.S. Dep’t of Homeland Sec.*, No. 07-1131, 2007 WL 4302644, at \*1 (W.D. La. Oct. 23, 2007) (venue is proper in jurisdiction where detainee is presently detained).

21. Venue is also proper in the Monroe Division because a substantial part of the events giving rise to the claims in this action have taken place in this District, where Petitioner is currently being detained. *Yun Chen*, 2015 WL 13236635, at \*3–4.

EXHAUSTION OF REMEDIES

22. No statutory exhaustion requirement applies to a petition challenging immigration detention under 28 U.S.C. § 2241. See, e.g., *Montano v. Texas*, 867 F.3d 540, 542 (5th Cir. 2017) (“Unlike 28 U.S.C. § 2254, Section 2241’s text does not require exhaustion.”); *Buenrostro-Mendez*, 2025 WL 2886346, at \*3 (“[E]xhaustion does not bar this court’s review because it is not a statutory requirement in these circumstances.”).

23. Further, exhaustion is not a jurisdictional prerequisite because Alexander asserts (and will establish) that his continued detention is a violation of his rights under the Due Process Clause. See, e.g., *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337, 2025 WL 2691828, at \*6 (W.D. Tex. Sept. 22, 2025) (exhaustion not required where petitioner “challenge[d] his ongoing detention as a violation of due process”); *Kostak*, 2025 WL 2472136, at \*3 (exhaustion not required because “this Court is the proper forum in which Petitioner can bring her constitutional claims”); *Covarrubias v. Vergara*, No. 25-CV-0112, 2025 WL 2950097, at \*5 (S.D. Tex. Oct. 8, 2025).

24. Indeed, administrative exhaustion should be excused as futile in light of recent caselaw that is binding on immigration judges. See *Gambino v. Morris*, 134 F.3d 156, 171 (3d Cir. 1998) (Roth, J., concurring) (exhaustion not required where futile) (citing *Rose v. Lundy*, 455 U.S. 509, 516 n.7 (1982)). Specifically, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), the Board of Immigration Appeals held that individuals like Alexander are properly detained pursuant to Section 1225(b)(2)(A), and “must be detained for the duration of their removal proceedings.” *Yajure Hurtado*, 29 I&N Dec. at 220. As such, it would be futile for Alexander to request a bond hearing where an immigration judge does not have jurisdiction over his custody.

25. In any event, requiring Alexander to exhaust administrative remedies prior to seeking relief from the Court will only increase the time he spends in detention in violation of his constitutional rights, which will result in irreparable harm. *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992) (holding that exhaustion is not appropriate where petitioner “may suffer irreparable harm if unable to secure immediate judicial consideration of [her] claim”).

**STATEMENT OF FACTS AND PROCEDURAL HISTORY**

***Alexander's Background***

26. Alexander has lived in Maryland since approximately 2011. Respondents allege that Alexander entered without inspection. *See* Ex. 1.

27. After arriving in Maryland, Alexander briefly worked in a bakery and doing landscaping before finding work as a construction worker specializing in flooring installation. He has remained gainfully employed doing floor installation and other construction-related work.

28. In 2017, Alexander met and fell in love with his wife. Together, Alexander and his wife are raising three children as a family. Alexander and his wife have one son together, a six-year-old boy born in Maryland in 2019. Alexander has also become a stepfather to two older children—a boy who is 14 years old and a girl who is 10 years old—from his wife's prior relationship, taking those two children in as his own.

29. Alexander's stepdaughter has a severe developmental disability impacting both her

34. On the morning of September 10, 2025, while on his way home from work, Alexander was detained by federal immigration officers at a traffic stop on the Baltimore-Washington parkway at the border of Virginia and Maryland.

have worked hard to enable his daughter to live the best life possible. Her condition, which has

35. When the officers asked for Alexander's identification, Alexander presented them with his Maryland driver's license. The officers told him that they know he was in the United States illegally. Then they threatened to arrest him and break the windows of his van if he did not get out of his vehicle.

30. Alexander's younger son also has developmental delays. In particular, he has a speech delay and struggles to communicate both in English and Spanish. Alexander's son currently receives speech therapy and related support through a specialized program at his school in Maryland.

31. Alexander has built a close, tight-knit family in Maryland. They love to spend time together and have dinner as a family every night. When Alexander gets off of work, he loves to take his children to a nearby park where they can play, ride bikes, or roller skate.

32. Alexander has also been an active and engaged member in his local Maryland community, including in his local church. Alexander and his family attend church twice a week, usually on Friday evenings and Saturday mornings or afternoons. Alexander plays in his church's worship band, and is currently seeking certification to be a formal leader in the church. At least once a week, Alexander's friends from church come to his home, and they play music and have dinner together.

33. Prior to his unlawful detention in this case, Alexander has no known criminal record aside from minor traffic violations.

***Alexander Was Arrested and Detained at a Supposedly Random Stop on September 10, 2025, and was Deprived of Due-Process***

34. On the morning of September 10, 2025, while on his way home from work, Alexander was detained by federal immigration officers at a traffic stop on the Baltimore-Country, Virginia. There, Alexander was told he had immigration court hearings scheduled for Washington parkway at the border of Virginia and Maryland.

35. When the officers asked for Alexander's identification, Alexander presented them with his Maryland driver's license. The officers told him that they knew he was in the United States illegally. Then they threatened to arrest him and break the windows of his van if he did not get out of his vehicle.

36. The officers pulled Alexander out of his van, took his cell phone from him, and then handcuffed him. As the officers were handcuffing Alexander, they threw him to the ground. Although Alexander submitted peacefully to the arrest and did not resist, the officers acted violently, roughing him up and trying to intimidate him, as if he was a threat (which he was not).

The officers put Alexander's handcuffs on so tightly that he could not feel his hands, and the officers did not remove them until he arrived to the first detention center.

37. For the first four days after his arrest, Alexander was kept at a detention center in Chantilly, Virginia, where the officials denied him the opportunity to eat, shower, or change his clothes for several days. On two separate occasions in Chantilly, officers attempted to coerce Alexander into signing a voluntary order of removal in exchange for \$1,000, telling him that there was no chance that he could remain in the United States. Alexander did not sign the voluntary order of removal form.

38. On September 14, Alexander was transferred to Riverside Regional Jail in North Prince George, Virginia, where he stayed for five days. There, Alexander was detained in prison-like conditions. He was confined to a very small holding area with approximately 60 other detainees. The holding area was made of up tiny, two-person cells with very little space to move or stretch out. Alexander spent five days in one of these cells.

39. Alexander was next transferred to the Caroline Detention Facility in Caroline County, Virginia. There, Alexander was told he had immigration court hearings scheduled for October 6, 2025 and October 8, 2025, but both were ultimately cancelled without explanation.

40. On or about October 3, 2025, Alexander was transferred to Jackson Parish in Jonesboro, Louisiana, where he remains as of the filing of this Petition. At Jackson Parish, Alexander is 1,000 miles away from his wife, his three young children, his church, and his community in Maryland.

41. As if being separated from his family by more than 1,000 miles was not difficult enough, Alexander's transfer from Virginia to Jackson Parish was traumatic in its own right. Alexander and approximately 130 other detainees were put on a plane to Louisiana. Before

takeoff, the flight was delayed due to mechanical issues. After being kept on the plane for more than four hours, Alexander and the other detainees were deboarded and kept on the tarmac during the delay. Alexander went almost two days without food, water, fresh air, or a change of clothes. He finally arrived in Louisiana two days later.

42. Alexander has now been in detention for more than two months without any bond hearing and, until yesterday, November 17, without any appearance before an immigration judge.

43. The conditions at Jackson Parish are poor. Alexander is detained in a single shared space with about 130 other detainees, without any separation. The eating areas, bathrooms, and showers are all in one room with no privacy. Nearly every day, there are fights among the other detainees or between the other detainees and the officials of the detention center, which have damaged much of the facility's equipment. Alexander has never been involved in any fights himself, but the threat of violence is always present because these fights happen in the shared space. For example, one fight was so violent that officials threw a tear gas can in the room to stop it, which permeated throughout the entire room. Although Alexander was not involved in the fight or even nearby, the pepper spray burned Alexander's throat.

44. Alexander has also been unable to get adequate medical attention while in detention. Recently, Alexander was sick with a high fever. Officials at Jackson Parish initially refused to provide Alexander with any medical care. Only after Alexander had been sick for several days did officials make any effort. However, all they did was offer him some unidentified pills.

45. Since Alexander was detained by ICE, his wife has struggled with the financial burden of supporting their family by herself. While she brings in some income from her job as a housekeeper, the loss of Alexander's income has been devastating. It is very difficult for her to

pay for basic necessities like rent and food without Alexander's support, and, as a result, the family is at risk of being evicted from their home.

46. Alexander's family is also suffering emotionally without him at home. Predictably, all three children have had difficulty processing and understanding their father's absence from the home, with no clear end in sight. Alexander's children are struggling in school, and his youngest son has been experiencing a significant mental health crisis due to the uncertainty and disruption caused by Alexander's detention.

### **LEGAL BACKGROUND**

#### **I. THE GOVERNMENT'S STATUTORY AUTHORITY TO DETAIN NONCITIZENS UNDER 8 U.S.C. §§ 1225 AND 1226**

47. The two primary provisions of the United States Code that govern the detention of noncitizens prior to an order of removal are 8 U.S.C. § 1226(a) and 8 U.S.C. § 1225(b).

48. Section 1226(a) governs the detention of most noncitizens who are already in the United States and are subject to formal removal proceedings before an immigration court under 8 U.S.C. § 1229a. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (“[U.S. immigration law] authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).”). “Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien ‘pending a decision on whether the alien is to be removed from the United States.’” *Jennings*, 583 U.S. at 289.

49. Detention under Section 1226(a) is discretionary, not mandatory: the government “may release the [noncitizen] on—(A) a bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole.” 8 U.S.C. § 1226(a)(2)(A)–(B).

50. Pursuant to 8 C.F.R. § 1236.1(c)(8), prior to detention pursuant to Section 1226(a), immigration officers must allow a noncitizen to “demonstrate to the satisfaction of the officer that . . . release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding.”

51. If, after an individualized assessment, ICE elects to detain a noncitizen pursuant to Section 1226(a) pending removal proceedings, the individual may ask for a bond redetermination hearing before an immigration judge. 8 C.F.R. § 1003.19. “Federal regulations provide that [noncitizens] detained under § 1226(a) receive bond hearings at the outset of detention.” *Kostak*, 2025 WL 2472136, at \*3 (quoting *Jennings*, 583 U.S. at 306); *see also* 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1).

52. In contrast with Section 1226, which applies to “certain [noncitizens] *already in the country*,” *Jennings*, 583 U.S. at 289, Section 1225(b) governs the detention of noncitizens *seeking entry* into the United States (*i.e.*, “applicants for admission”). The statute’s framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has held that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a [noncitizen] seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 287.

53. Section 1225(b)(2)(A) provides that, “if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A).

54. Until recently, DHS’s “‘longstanding interpretation’ had been that § 1226, not § 1225 applies to noncitizens “who are already present in the country,” *Buenrostro-Mendez*, 2025

WL 2886346, at \*2; *Lopez Santos*, 2025 WL 2642278, at \*4 (finding that, consistent with the Supreme Court’s decision in *Jennings v. Rodriguez*, petitioner was not subject to mandatory detention under Section 1225 because he had physical presence in the United States for twenty years).

55. Numerous federal courts in the Fifth Circuit and beyond have concluded that “the statutory text, the statute’s history, Congressional intent, and § 1226(a)’s application for the past three decades’ support the finding that § 1226 applies” to circumstances involving noncitizens who have lived in the United States for long periods of time. *Buenrostro-Mendez*, 2025 WL 2886346, at \*3; *see also, e.g., Kostak*, 2025 WL 2472136, at \*3; *Lopez Santos*, 2025 WL 2642278, at \*5; *Ventura Martinez*, 2025 WL 3124847, at \*2–3 (finding a strong argument that a noncitizen present in the United States is already admitted); *Pineda Parada*, 2025 WL 3146250, at \*2–3 (similar); *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at \*7 (W.D. Tex. Oct. 2, 2025) (“[T]his new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect.”); *Gonzalez Martinez v. Noem*, No. 25-EP-CV-430, 2025 WL 2965859, at \*2 (W.D. Tex. Oct. 21, 2025) (same); *Lopez-Arevelo v. Ripa*, 2025 WL 2691828, at \*7 (same); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947, at \*5–6 (D. Minn. Oct. 1, 2025) (collecting cases and joining the “chorus” of courts that refuse to expand the interpretation of mandatory detention); *Rodriguez Vazquez v. Bostok*, No. 25-cv-5240, 2025 WL 2782499, at \*1 & n.3 (W.D. Wash. Sept. 30, 2025) (collecting cases and noting that “[e]very district court to address this question has concluded that the government’s position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice”).

56. When a petitioner challenges their detention on due process grounds, rather than on the statutory interpretation of Section 1225 or Section 1226, the issue is “whether those policies

have been applied to [petitioner] in an unconstitutional manner.” *Lopez Arevelo*, 2025 WL 2691828, at \*7.

## II. NONCITIZENS’ PROCEDURAL DUE PROCESS RIGHTS

57. The Due Process Clause of the Fifth Amendment entitles noncitizens to due process of law. *Reno v. Flores*, 507 U.S. 292, 306 (1993). In particular, the Due Process Clause prevents the government from depriving any 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 restraints—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690 (citation modified).

58. The Due Process Clause’s protections extend to noncitizens, including those in removal proceedings. *Id.* at 693 (due process extends to all “persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent”); *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (“It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings.”).

59. The Fifth Circuit applies the three-factor balancing test set forth in *Mathews v. Eldridge*, “[t]o determine whether a civil detention violates a detainee’s due process rights.” *Alvarez Martinez v. Noem*, No. 25-CV-01007, 2025 WL 2598379, at \*2 (W.D. Tex. Sept. 8, 2025) (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). These three 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 (3) the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Id.* (quoting *Mathews*, 424 U.S. at 335).

60. Under the first prong of the *Mathews* test, there must be a private interest that is affected by official action. Freedom from imprisonment, physical restraint, or other forms of

government custody is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *Gonzalez Martinez*, 2025 WL 2965859, at \*3 (W.D. Tex. Oct. 21, 2025) (“[P]hysical freedom is a paramount liberty interest, secured not just by statute, but by the Constitution.”). The government cannot abridge a person’s liberty without providing “adequate procedural protections.” *Zadvydas*, 533 U.S. at 690. Arresting and imprisoning a noncitizen with no hearing and no individualized determination of their flight risk or danger to the community establishes a cognizable liberty interest. *See, e.g., Lopez-Arevelo*, 2025 WL 2691828, at \*11-12.

61. Regarding the second *Mathews* factor, given the strong liberty interest at stake, the Fifth Amendment’s guarantee of due process requires at least some notice and an opportunity to be heard before a person can be placed in immigration detention. *Trump*, 604 U.S. at 673. There must be some evidence that the noncitizen is a flight risk or a danger to their community. *Lopez-Arevelo*, 2025 WL 2691828, at \*11 (citing *Velesaca v. Decker*, 458 F. Supp. 3d 224, 242 (S.D.N.Y. 2020)). When there is no individualized determination made prior to detention of a noncitizen, there is a substantial risk of an erroneous deprivation of liberty. *Santiago*, 2025 WL 2792588, at \*7, \*11, \*13 (finding that, absent a change in circumstances, the decision to incarcerate petitioner after twenty years at liberty raises concerns that petitioner is being detained without a valid reason); *Lopez-Campos v. Raycraft*, No. 25-CV-12486, 2025 WL 2496379, at \*9 (E.D. Mich. Aug. 29, 2025); *Doe v. Moniz*, No. 25-CV-12094, 2025 WL 2576819, at \*11 (D. Mass. Sept. 5, 2025) (“The risk of erroneous deprivation of Petitioner’s liberty is high where . . . the underlying conduct . . . bears no relationship to dangerousness or flight risk.”).

62. For the third *Mathews* factor, the government must articulate a legitimate purpose for detention. *Santiago*, 2025 WL 2792588, at \*13. The recognized governmental interests in immigration detention are “ensuring the appearance of [noncitizens] at future immigration

proceedings” and “preventing danger to the community.” *Zadvydas*, 533 U.S. at 690. Absent evidence in the record that a noncitizen is dangerous, and in situations when the noncitizen has appeared for immigration proceedings, courts in the Fifth Circuit have held that the government cannot demonstrate a significant interest in their detention. *See, e.g., Gonzalez Martinez*, 2025 WL 2965859, at \*4 (finding that the government failed to identify an individualized justification for detaining petitioner beyond its general interest in enforcing the INA according to its own interpretation); *Lopez-Arevelo*, 2025 WL 2691828, at \* 11–12 (same).

63. Release is the only appropriate remedy where there has been no pre-detention individualized determination that a noncitizen should be detained. *See, e.g., Santiago*, 2025 WL 2792588, at \*13–14 (collecting cases); *Lopez Benitez v. Francis*, No. 25-CV-5937, 2025 WL 2371588, at \*13 (S.D.N.Y. Aug. 13, 2025) (a bond hearing “is no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause”); *Chipantiza-Sisalema v. Francis*, No. 25-CV-5528, 2025 WL 1927931, at \*3–4 (S.D.N.Y. July 13, 2025) (ordering immediate release of petitioner detained in violation of her due process rights); *Rosado v. Figueroa*, No. CV-25-02157, 2025 WL 2337099, at \*19 (D. Ariz. Aug. 11, 2025) (immediate release was required to return petitioner to the status quo), report and recommendation adopted, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025).

### III. NONCITIZENS’ SUBSTANTIVE DUE PROCESS RIGHTS

64. Substantive protections from the Due Process Clause extend to noncitizens within the territorial boundaries of the United States regardless of their legal status. *Zadvydas*, 533 U.S. at 693. The substantive Due Process Clause protects against deprivation of certain fundamental rights implicit in liberty regardless of the process afforded by the government. *Flores*, 507 U.S.

at 301–02. The government must otherwise demonstrate that the “infringement is narrowly tailored to serve a compelling state interest.” *Id.* at 302.

65. In the immigration context, detention is nonpunitive and therefore held to different standards than criminal detention. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 491 (1999). Specifically, courts have acknowledged only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Lopez Santos*, 2025 WL 2642278, at \*5; *Covarrubias*, 2025 WL 2950097, at \*2; *Faure v. Decker*, No. 15-CV-5128, 2015 WL 6143801, at \*3 (S.D.N.Y. Oct. 19, 2015). Detention nevertheless implicates “the most elemental of liberty interests,” *i.e.*, “[t]he interest in being free from physical detention.” *Gonzalez Martinez*, 2025 WL 2965859, at \*3.

66. Federal courts possess the authority to release habeas petitioners, including those in immigration custody, where the petitioner “raises substantial claims and extraordinary circumstances exist that make the grant of bail necessary to make the habeas remedy effective.” *Mapp v. Reno*, 241 F.3d 221, 230 (2d Cir. 2001) (citation modified) (quoting *Iuteri v. Nardoza*, 662 F.2d 159, 161 (2d Cir. 1981)); *see also Lucas v. Hadden*, 790 F.2d 365, 367 (3d Cir. 1986). In the alternative, federal courts may require respondents to provide a petitioner with a bond hearing, and, if the bond hearing does not occur by a specific date, to release him. *Lopez Santos*, 2025 WL 2642278, \*5; *Buenrostro-Mendez*, 2025 WL 2886346, at \*4; *Covarrubias*, 2025 WL 2950097, at \*5.

72. Alexander realleges and incorporates by reference all of the aforementioned allegations included in the above-numbered paragraphs as if set forth fully herein.

73. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.; *see Zadvydas*, 533 U.S. at 693.

**CLAIMS FOR RELIEF**

**COUNT ONE**

**VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT AND  
IMPLEMENTING REGULATIONS**

**(8 U.S.C. § 1226)**

67. Alexander realleges and incorporates by reference each and every allegation contained above.

68. Upon information and belief, Respondents are detaining Alexander pursuant to 8 U.S.C. § 1225(b)(2), their mandatory detention authority.

69. However, at the time of his detention by Respondents, Alexander was not seeking admission to the United States. Alexander was arrested in the interior of the United States in Maryland, where he has been residing since approximately 2011.

70. Section 1226 governs the detention of individuals residing within the United States, like Alexander, and implements a discretionary detention regime with the opportunity for release.

71. Because Alexander's detention should be governed by Section 1226, the application of the mandatory detention statute, 8 U.S.C. § 1225(b)(2), to Alexander is unlawful under the Immigration and Nationality Act.

**COUNT TWO**

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO  
THE U.S. CONSTITUTION  
(PROCEDURAL DUE PROCESS)**

72. Alexander realleges and incorporates by reference all of the aforementioned allegations included in the above-numbered paragraphs as if set forth fully herein.

73. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.; *see Zadvydas*, 533 U.S. at 693.

74. The Fifth Circuit applies the three-factor balancing test set forth in *Mathews v. Eldridge*, “to determine whether a civil detention violates a detainee’s due process rights.” *Alvarez Martinez*, 2025 WL 2598379, at \*2 (citing *Mathews*, 424 U.S. at 335). These three 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.” *Id.*

75. *First*, because Alexander is currently detained at Jackson Parish, his private interests that would be affected by any official action are strong. *See Gonzalez Martinez*, 2025 WL 2965859, at \*3 (finding “one’s physical freedom is a paramount liberty interest, secured not just by statute, but by the Constitution”).

76. *Second*, Alexander’s liberty interest is at high risk of erroneous deprivation. Alexander has been residing in the Maryland area for more than fourteen years, has strong family and community ties to that area, and has no known criminal record aside from minor traffic violations. Nevertheless, ICE detained Alexander without an individualized assessment that he was a danger to society or flight risk. *Santiago*, 2025 WL 2792588, at \*11 (“Because she spent roughly twenty years at liberty in the United States . . . [petitioner] possesses a cognizable interest in her continued freedom from detention.”); *Gonzalez Martinez*, 2025 WL 2965859, at \*4 (where “petitioners established a life” in the United States, “they possessed a strong liberty interest in their freedom from detention”). The fact that Alexander was detained without any explanation or reasoning for his detention creates the highest risk of erroneous deprivation of liberty. *Santiago*, 2025 WL 2792588, at \*7, \*11, \*13 (finding that, absent a change in circumstances, the decision to

incarcerate petitioner after twenty years at liberty raises concerns that petitioner is being detained without a valid reason); *Lopez-Arevelo*, 2025 WL 2691828, at \*11 (“Because he spent nearly three years at liberty in the United States, [petitioner] possess[ed] a cognizable interest in his freedom from detention.”).

77. Had DHS meaningfully and properly evaluated Alexander’s circumstances, they would have determined that he is not a flight risk. Alexander has three children and a wife in Maryland. He is part of a thriving church community, and attends church twice a week both as a member and as part of the worship service. He has worked the same job for over a decade.

78. DHS could also not have meaningfully and properly determined that Alexander is a danger to the community, particularly given that he has no known criminal record aside from minor traffic violations. *Santiago*, 2025 WL 2792588, at \*13 (petitioner is not dangerous when “there is no evidence in the record to indicate otherwise”); *Lopez-Arevelo*, 2025 WL 2691828, at \*11 (finding lack of evidence that petitioner was a danger to the community when he attended all of his proceedings and has not committed any crimes or endangered anyone during his time in the United States).

79. *Third*, the government’s interest does not outweigh the substantial risk of erroneously depriving Alexander of his liberty, given that Alexander is merely seeking the constitutional protections guaranteed by the Fifth Amendment. *See Gonzalez Martinez*, 2025 WL 2965859, at \*3 (“[P]hysical freedom is a paramount liberty interest, secured not just by statute, but by the Constitution.”); *Trump*, 604 U.S. at 673 (“It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings.”).

80. Where, as here, an individual is detained while already living in the United States, the due process clause mandates that they receive a bond hearing and individualized determination

of their flight risk and danger to the community prior to being detained. 8 U.S.C. § 1226(a); *Lopez-Arevelo*, 2025 WL 2691828, at \*13; *Gonzalez Martinez*, 2025 WL 2965859, at \*5.

81. For the foregoing reasons, Respondents' detention of Alexander violated the rights guaranteed to him by the Due Process Clause of the Fifth Amendment. As multiple courts have held, no amount of post-deprivation process can cure the foregoing violation, and Alexander must be immediately released. *See, e.g., Contreras Maldonado v. Cabezas*, No. 25-CV-13004, 2025 WL 2985256, at \*5 (D.N.J. Oct. 23, 2025); *Lopez Benitez*, 2025 WL 2371588, at \*15.

**COUNT THREE**

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO  
THE U.S. CONSTITUTION  
(SUBSTANTIVE DUE PROCESS)**

82. Alexander realleges and incorporates by reference all of the aforementioned allegations included in above-numbered paragraphs as if set forth fully herein.

83. Alexander's detention violates his substantive due process rights because his liberty is being restricted without justification.

84. The Due Process Clause prohibits the government from depriving any person of "life, liberty, or property, without due process of law[.]" U.S. Const. amend. V. At its core, a person's protected liberty interest mandates freedom from arbitrary imprisonment and applies with equal force to individuals in immigration detention. *Zadvydas*, 533 U.S. at 690.

85. In the immigration context, detention is non-punitive and therefore held to different standards than criminal detention. *See Am.-Arab Anti-Discrimination Comm.*, 525 U.S. at 491. Moreover, detention is the "carefully limited exception" and implicates the "most significant liberty interest there is—the interest in being free from imprisonment." *Velasco Lopez v. Decker*, 978 F.3d 842, 851, 853–54 (2d Cir. 2020); *Gonzalez Martinez*, 2025 WL 2965859, at \*4

(“[P]hysical freedom is a paramount liberty interest, secured not just by statute, but by the Constitution.”).

86. As such, courts have recognized only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690. Neither of these conditions are satisfied here.

87. Alexander’s children and his wife are in Maryland. His church community, which he hopes to be a leader in and currently plays in the worship band for, is in Maryland. His friend group, built over the last fourteen years, is in Maryland. Alexander has built his entire life in Maryland. He has no criminal record aside from minor traffic violations.

88. As the aforementioned facts demonstrate, throughout his more than fourteen years in the United States, Alexander has established that he is neither a flight risk nor a danger to the community at large. *See Zadvydas*, 533 U.S. at 690–91 (the goal of immigration detention is to ensure a detainee’s appearance at immigration proceedings and protect the community from dangerous individuals). Because Respondents’ detention of Alexander bears no “reasonable relation” to the government’s interests in preventing flight and danger, *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), his detention is devoid of any reasoned justification.

89. For the foregoing reasons, Respondents’ arbitrary and abrupt detention of Alexander violated his substantive due process rights. Because Alexander raises substantial violations of his due process rights and extraordinary circumstances regarding his detention, the only viable remedy is his immediate release from ICE custody.

#### **PRAYER FOR RELIEF**

WHEREFORE, Alexander respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Order his immediate release pending these proceedings;

3. Declare that Respondents' determination that he is subject to Section 1225(b)(2) mandatory detention is unconstitutional because he is subject to Section 1226(a); and

4. Award him costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412.

Dated: November 18, 2025

Respectfully submitted,

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*Attorneys for Petitioner*  
*\* Pro hac vice applications forthcoming*

**28 U.S.C. § 2242 VERIFICATION STATEMENT**

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner, and/or someone acting in his behalf, the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Dated: November 18, 2025

Kenneth A. Mayeaux  
Kenneth A. Mayeaux