

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

PEDRO BONILLA ANGAMARCA,

*Petitioner,*

v.

MELLISSA B. HARPER, in her official capacity  
as Field Office Director of the New Orleans Field  
Office of U.S. Immigration and Customs  
Enforcement, Enforcement and Removal  
Operations;

Warden JOHN DOE, Jackson Parish Correctional Center;

TODD LYONS, in his official capacity as Acting  
Director and Senior Official Performing the Duties  
of the Director of U.S. Immigration and Customs  
Enforcement;

RODNEY S. SCOTT, in his official capacity as  
Commissioner, U.S. Customs and Border  
Protection;

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.*

**Case No.**

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

**PRELIMINARY STATEMENT**

1. Petitioner, PEDRO BONILLA ANGAMARCA, through his attorney, seek a writ of habeas corpus under 28 U.S.C. § 2241, challenging the legality of his continued detention by Immigration and Customs Enforcement (“ICE”).

**PARTIES**

2. Petitioner Pedro Bonilla Angamarca is a 47-year-old man currently detained by ICE at the Jackson Parish Correctional Center (“JPCC”) in Jonesboro, Louisiana. He has been in immigration detention since October 8, 2025, when he was detained during a warrantless search after being stopped at an illegal checkpoint on I-90 at the Illinois Indiana border in violation of the Equal Protection Clause of the 14<sup>th</sup> Amendment due to racial profiling based upon information and belief.
3. Petitioner has resided continuously in the United States since August of 1999, has three U.S. citizen children, and therefore is eligible to file an application for non-LPR Cancellation of Removal with U.S. Citizenship and Immigration Services (“USCIS”), so that he can seek relief from removal before the Executive Office of Immigration Review.
4. Petitioner was also the victim witness of a qualifying crime that obligated him to file U visa, so he could lawfully remain in the U.S. to testify as a witness, if needed. Another attorney, Elizabeth Rosario, had already filed a form I-918 prior to Petitioner’s detention and arrest.
5. Respondent MELLISSA B. HARPER is ICE’s Field Office Director for the New Orleans Field Office of ICE Enforcement and Removal Operations (“NOLA ICE”). As Field Office Director, Respondent Harper oversees ICE’s enforcement and removal operations in the New Orleans Area of Responsibility (“AOR”), which includes Louisiana. Petitioner is currently detained within this AOR and, as such, Respondent Harper is a legal custodian of Petitioner. She is sued in her official capacity.
6. Respondent WARDEN JOHN DOE is the Warden of the Jackson Parish Correctional Center (“JPCC”) in Jonesboro, Louisiana, where Petitioner is currently detained. Respondent Warden is responsible for the operation of JPCC and is the immediate physical custodian of Petitioner and thus a legal custodian. The Warden is sued in their official capacity.
7. Respondent TODD LYONS is sued in his official capacity as Acting Director of ICE, and as such is a legal custodian of Petitioner.

8. Respondent RODNEY S. SCOTT is the Commissioner of CBP. As the head of CBP, he is responsible for decisions related to the arrest, detention and removal of certain noncitizens. As such, he is sued in his official capacity.
9. Respondent KRISTI NOEM is named in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, she is responsible for overseeing ICE's day-to-day operations, supervising approximately 20,000 ICE employees, including Respondent Lyons. Secretary Noem is the ultimate legal custodian of Petitioner.
10. Respondent PAMELA BONDI is the Attorney General of the United States. As Attorney General, Respondent Bondi oversees the immigration court system, including the immigration judges who conduct bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering Petitioner's removal and bond proceedings, including the standards used in those proceedings, and as such, she is a legal custodian of Petitioner. She is sued in her official capacity.

#### **JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), Art. I § 9, cl. 2 of the U.S. Constitution (Suspension Clause); 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 1651 (All Writs Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act).
12. This Court may grant relief pursuant to 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 2201 (Declaratory Judgment Act).
13. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Tran v. Mukasey*, 515 F.3d 478, 482 (5th Cir. 2008) (same).

14. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Petitioner is detained within the Western District of Louisiana, their immediate physical custodian is located within this District, and a substantial part of the events giving rise to this petition occurred and continue to occur within this District.
15. Exhaustion of administrative remedies in the immigration habeas context is prudential, not statutory. *See Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003); *Buenrostro Mendez v. Bondi*, 2025 U.S. Dist. LEXIS 201967 at \*5 (S.D. Tex. Oct. 7, 2025). Exhaustion in this case is excused for multiple reasons. First, exhaustion is futile because the agency has issued a binding, precedent decision that forbids an immigration judge from granting bond to Petitioner. *See Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 at \*31 (W.D. Tex. Sept. 22, 2025) (noting that appealing an IJ’s jurisdictional dismissal of bond is “almost certainly a futile exercise” after the BIA’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)). Second, this petition presents substantial constitutional questions. *See id.* (“[t]o wait, indefinitely, for a ruling on that appeal would be inappropriate because it would exacerbate [the petitioner’s] alleged constitutional injury—detention without a bond hearing.”).

#### **FACTUAL ALLEGATIONS**

16. Pedro Bonilla Angamarca came to the United States from Ecuador in 1999. He entered without inspection and began living in Chicago, Illinois based upon information and belief.
17. Pedro is the father of three U.S. citizen children. See Group Exhibit A
18. Pedro has no criminal history based upon information and belief.
19. Pedro has never left the United States, nor has been placed in proceedings until after his current detention.
20. Pedro has significant evidence to confirm that he has continuously resided in the United

States, since June of 1999. See Group Exhibit B

21. Pedro has applied for membership in the *Castanon Nava* settlement order, since he claims that he is also the victim of a warrantless search conducted without reasonable suspicion by the Customs and Border Protection Agency due to an illegal roadblock set up on the west lanes of Interstate 90 near the Illinois Indiana border. However, the settlement order and subsequent appeal is a separate action unrelated to this action.
22. Should Pedro be approved for non-LPR cancellation, he will be eligible to to become a lawful permanent resident of the United States, and eventually can take the examination to become naturalized citizen.
23. Mr. Bonilla was stopped and detained on October 8, 2025 during a warrantless search as stated above.
24. Immigration authorities initially detained Petitioner in Indiana and then transferred him to the Broadview Detention Center in Broadview, Illinois, then to JPCC, where he remain today.
25. Petitioner is experiencing harmful and punitive conditions at JPCC. He has been transferred to a facility over 850 miles from his family and residence. He is far from attorneys who he had hired to work for him. He has limited privacy while sharing a cell with many other detained people. Petitioner is not provided with adequate food and resort to buying food from commissary to avoid being hungry. Some food that he is provided with is expired. The investigation into conditions at the detention facility continues.

26. Pedro is scheduled for her next Master Calendar Hearing on December 3, 2025, at which time he will be represented by the Law Office of Kevin L. Dixler.

### **LEGAL FRAMEWORK**

#### **A. Petitioner is Being Subjected to Unlawful Mandatory Detention, in Violation of the Immigration and Nationality Act (“INA”) and Federal Regulations**

27. Pedro Bonilla Angamarca is unlawfully detained at JPCC because Respondents have, upon information and belief, concluded that he is subject to mandatory detention and, therefore, an immigration judge cannot assess the merits of his request for release from detention.

28. The Executive Office for Immigration Review (“EOIR”) has recently issued a precedent decision holding that an immigration judge has no authority to consider bond requests for *any* person who entered the United States without admission, as all such persons are detained under 8 U.S.C. § 1225(b)(2)(A) and therefore the immigration court lacks authority to assess eligibility to release on bond. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). This interpretation, which contravenes decades of prior case law, has been soundly rejected by the vast majority of federal courts around the country to consider it. *See infra* ¶¶ 35-37.

29. Petitioner’s detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Pedro Bonilla, who previously entered and have been residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on recognizance or bond.

30. The INA describes three detention authorities that pertain to the majority of detained noncitizens in removal proceedings.
31. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a; *see also Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (“Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of [a noncitizen] ‘pending a decision on whether the [noncitizen] is to be removed . . . [and] [e]xcept as provided in [1226(c)],’ the Attorney General ‘may release’ [a noncitizen] detained under § 1226(a) ‘on . . . bond’”). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
32. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals who are “seeking admission,” described under § 1225(b)(2).
33. Lastly, the INA also provides for detention of noncitizens who have a final administrative order of removal, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).
34. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2). These provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a)

was most recently amended in early 2025 by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

35. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and

Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

36. As a result, for nearly 30 years, most people who entered without inspection, and were later detained and placed in removal proceedings, received bond hearings upon request, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c).

That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at the prior § 1252(a)).

37. On July 8, 2025, ICE, “in coordination with” the Department of Justice (DOJ), announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”<sup>1</sup> claimed that all persons who entered the United States without inspection were now subject to no-bond detention under § 1225(b)(2)(A). The policy purports to apply regardless of when a person is

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<sup>1</sup> Available at

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

apprehended and affects those who have resided in the United States for months, years, and even decades.

38. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for EOIR bond hearings.
39. Since Respondents adopted these new policies, the majority of federal courts in the Fifth Circuit have rejected their new interpretation of the INA's detention authorities. *See Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez Santos v. Noem*, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Ventura Martinez v. Trump* (W.D. La. Oct. 22, 2025); *Buenrostro Mendez v. Bondi*, 2025 U.S. Dist. LEXIS 201967 at \*6 (S.D. Tex. Oct. 7, 2025), *Padron Covarrubias v. Vergara*, 5:25-CV-112 (S.D. Tex. Oct. 8, 2025).
40. Similarly, dozens of district courts around the country have uniformly rejected this interpretation. *See, e.g., Rodriguez Vazquez v. Bostock*, \_\_\_ F. Supp. 3d \_\_\_, 2025 WL 2782499, at \*1 n.3 (W.D. Wash. Sept. 30, 2025) [citing over 20 district court decisions rejecting the government's position]; *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at \*5 (N.D. Ill. Oct. 16, 2025) [collecting 20 cases in note 8 and accompanying discussion]; *see also Hyppolite v. Noem et al.*, 2025 WL 2829511, at \*12 (E.D.N.Y. Oct. 6, 2025) (noting that the government conceded at oral argument that they were not "aware of any Article III court that had adopted their interpretation" of the statute); *Padron Covarrubias v. Vergara*, 5:25-cv-00112, 2025 WL 2950097 (S.D. Tex. Oct. 8, 2025); *Cruz Gutierrez v. Thompson*, 2025 WL 3187521 (S.D. Tex. Nov. 14,

2025); *Zafra v. Noem*, EP-25-CV-00541-DB, 2025 U.S. Dist. LEXIS 228645 (W.D. Tex., Nov. 20, 2025).

41. Courts have almost uniformly rejected DHS's and DOJ's new interpretation, because it defies the plain text of the INA. *See Mugliza Castillo v. Lyons*, No. 25-cv-16219 (MEF), 2025 WL 2940990, at \*1 (D.N.J. Oct. 10, 2025) ("But as a matter of plain-text reading, it is § 1226(a) that applies to people situated like the Petitioner, not § 1225(b)(2)(A)."). Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]." 8 U.S.C. § 1229a(a)(1). *See also Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr et al.*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (pending motion for class certification of a "Bond Eligible Class," granting partial summary judgment because *Hurtado* "unacceptably collapse[s] § 1226 into nonexistence under a wide-reaching interpretation of 'applicants for admission'").
42. The text of § 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at \*7 (D.

Mass. July 7, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at \*8 (E.D. Mich. Aug. 29, 2025).

43. As district courts have found, the statutory bars to a bond hearing for inadmissible noncitizens with specific types of criminal history would all be rendered surplusage if in fact, *no* inadmissible noncitizens were eligible for bond. *See Artiga-Morales v. Bondi*, 2025 WL 2829434, at \*7 (E.D.N.Y. Oct. 5, 2025); *Hyppolite*, 2025 WL 2829511, at \*10.
44. In contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “*seeking admission*” to the United States. 8 U.S.C. § 1225(b)(2)(A). *See Rivera Zumba v. Bondi*, 2025 WL 2753496, at \*8 (D.N.J. Sept. 26, 2025). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 287.
45. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like the Petitioner who has already entered and was residing in the United States at the time he was detained.

**B. Petitioner’s Detention Without a Bond Hearing Violates the Procedural and Substantive Due Process Requirements of the Fifth Amendment**

46. 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).

47. Procedural due process requires a custody hearing before an independent and impartial adjudicator. *See Marcello v. Bonds*, 39 U.S. 302, 307 (1955). In determining how much process is due noncitizens challenging ICE custody, courts balance “1) the private interest affected by the government action; 2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and 3) the government’s interest in maintaining the current procedures, including the function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail.” *Maniar v. Warden Pine Prairie Corr. Ctr.*, No. 6:18-CV-00544, 2018 WL 11544220, at \*2 (W.D. La. July 11, 2018).
48. Petitioner’s liberty interest is significant as “[t]he interest in being free from physical detention” is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner, who has minor children, also has a compelling interest in family integrity. *See Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at \*2 (W.D. Tex. Sept. 8, 2025). DOJ’s refusal to provide Petitioner with a bond hearing is keeping him detained and away from his family.
49. The risk of erroneous deprivation without a hearing is high. The purpose of immigration detention is to prevent dangerous noncitizens from harming members of the community and to prevent flight during removal proceedings. *Zadvydas*, 533 U.S. at 690-91; *Demore*, 538 U.S. at 527-28. Because “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” mandatory detention in situations

other than those explicitly authorized by Congress “turns these well-established procedural principles on their heads and carries a significant risk of erroneous deprivation.” *Martinez*, 2025 WL 2598379, at \*3. Detention without a hearing means that noncitizens are not provided with “an opportunity to contest the existence, nature, or significance of” any violations or an individualized assessment from a neutral arbiter. *Lopez-Arevelo v. Ripa*, 2025 WL 2691828, at \*11 (W.D. Tex. Sept. 22, 2025). Detention without these protections runs a unacceptably high risk of depriving the liberty of non-dangerous individuals who present minimal flight risks. *Id.*

50. A restraint on liberty is only permissible if it serves a “legitimate nonpunitive objective.” *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *Zadvydas v. Davis*, 533 U.S. at 690-92 (discussing constitutional limitations on civil detention). Petitioner’s prolonged detention does not serve these regulatory purposes and so violates Petitioner’s right to substantive due process under the Fifth Amendment.

51. Congress has crafted a framework over the last several decades for the application of immigration laws to noncitizen victims of serious crimes. In 2000, Congress created a vehicle for permanent residence, the “U-Visa,” for noncitizen survivors of certain serious crimes who help law enforcement prosecute those crimes. *See* VAWA 2000, § 1513(a)(2)(B); 8 USC § 1101(a)(15)(U). Congress’s express aim in doing so was to improve public safety for all people by encouraging noncitizen crime victims to come forward without fear of deportation. *See id.* § 1513(a)(2).

52. Petitioner is a victim of a qualifying offense for a U-Visa under 8 USC §1101(a)(15)(iii), 8 C.F.R. 214.14(9). The police have already issued Mr. Bonilla Angamarca a for I-918, Supplement B form confirming his cooperation in the investigation of his assailant. Law enforcement has already supported his U-Visa application. Petitioner' lawyer in Michigan has prepared and applied for his U-visa, but Pedro faces barriers given his detention in Louisiana, as the need to mediate all interaction with Petitioner through staff at the detention center makes it difficult to review documents contemporaneously, and creates scheduling delays every time communication is needed.
53. Because there is a statutory cap of 10,000 visas per year, U-visa applications can take many years to adjudicate, and holding Petitioner in detention for that duration would be an extreme violation of their rights. Given the critical public interest involved, Congress has taken steps to protect eligible U-visa applicants from removal while their petitions are pending. 8 U.S.C. §§ 1227 (d)(1)-(3) (authorizing DHS to issue a stay of removal against a U visa petitioner); 8 USC §§ 1184(p)(6) (authorizing employment for U visa Petitioner with a “pending, bona fide application”).

### **C. Remedies in Immigration Habeas Petitions**

54. The “equitable and flexible nature of habeas relief” affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution.
- Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020). The most appropriate remedy to directly resolve the ongoing constitutional violations both women are experiencing, and to prevent any further deterioration in their health, is to require Petitioner’s release on

recognizance without the use of alternatives to detention or other conditions, and to enjoin DHS from re-detaining them without justification.

In the alternative, the habeas court may require Respondents to conduct bond hearings for Petitioner with procedural safeguards requiring the government to bear the burden of justifying Petitioner's continued detention. A growing consensus of courts have remedied DOJ's 8 U.S.C. § 1225(a) / 8 U.S.C. § 1225(b) misclassification by "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."

*Lopez-Arevelo*, WL 2691828, at \*13 (collecting cases). Additional safeguards would reduce the risk of erroneous deprivation as a bond hearing "will allow an immigration judge conducting a bond hearing to make a determination on specific facts whether continued detention is necessary to ensure presence at removal hearings and safety for the community." *Vieira v. Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at \*7 (W.D. Tex. Oct. 16, 2025).

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Violation of the Immigration and Nationality Act**

55. Petitioner incorporates by reference the allegations in the preceding paragraphs.
56. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States, such as Petitioner.
57. The application of § 1225(b)(2) to Petitioner unlawfully mandates their continued detention without review and violates the INA.

## **COUNT II**

### **Violation of the Bond Regulations**

67. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.
68. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.
69. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.
70. The application of § 1225(b)(2) to Petitioner unlawfully mandates their continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

## **COUNT III**

### **Fifth Amendment: Violation of Procedural Due Process**

71. Petitioner incorporates by reference the allegations in the preceding paragraphs.
72. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody,

detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner have a fundamental interest in liberty and being free from official restraint.

#### **COUNT IV**

##### **Fifth Amendment: Violation of Substantive Due Process**

73. Petitioner incorporates by reference the allegations in the preceding paragraphs.
74. Immigration detention is civil, not punitive, and must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at 527. (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has stated that the purpose or civil detention in this context is to “ensur[e] the appearance of aliens at future proceedings,” *Zadvydas*, 533 U.S. at 690, and to prevent flight, *Demore*, 538 U.S. at 528. Petitioner’s detention does not serve the purposes of civil detention as he poses no risk of flight or danger to the community.
75. Petitioner’s continued detention without a bond hearing violates his substantive due process rights. Moreover, the conditions of his confinement renders his detention impermissibly punitive, in violation of his substantive due process rights.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully request that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Declare that the refusal to allow Petitioner a bond redetermination hearing before an immigration judge violates the INA, and Fifth Amendment’s guarantee of Due Process;

- (3) Issue a writ of habeas corpus requiring that Respondents release Petitioner immediately without further restraints on his liberty; or, in the alternative, require that within 5 days, Respondents conduct bond hearings on the merits for Petitioner with procedural safeguards requiring the government to bear the burden of justifying Petitioner's continued detention by clear and convincing evidence.
- (4) Issue an order in favor of Equal Access to Justice Act fees where Petitioner is deemed the prevailing party due to the excessive number of decisions against Respondents that render the denial of bond redetermination willful and wanton conduct in violation of the law thereby demonstrating arbitrary and capricious conduct. See 5 USC §701 et. seq., 5 USC §706.
- (5) Order further relief as this Court deems just and appropriate.

Dated: 12/3/2025

/s/ David J. Rozas  
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**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 Petitioner 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 and belief.

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