**UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF TEXAS**

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| DAVID ZARATE SANCHEZ,<br><br>Petitioner,<br><br>v.<br><br>MARTIN FRINK, Warden, Houston Processing Center, BRET BRADFORD, Houston Field Office Director, TODD LYONS, Director U.S. Immigrations and Customs Enforcement, and KRISTI NOEM, U.S. Secretary of Homeland Security,<br><br>Respondents. | ) | Case No. 25-5767<br><br>**PETITION FOR WRIT OF HABEAS CORPUS** |

## INTRODUCTION

Petitioner David Zarate Sanchez is unlawfully detained and has been denied the opportunity to seek bond from an Immigration Judge based on an interpretation of the law that has been almost universally rejected by every district court to address it. While he is otherwise eligible for bond, he remains in detention due to the government's argument, and the Immigration Judge's agreement, that he is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2) and *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025), and that the Immigration Judge lacks jurisdiction to consider his bond. Petitioner seeks habeas relief under 28 U.S.C. § 2241, which is the proper vehicle for challenging his unlawful detention. He respectfully requests

that the Court find his detention without the opportunity to obtain a bond to be unlawful and unconstitutional and issue a Writ of Habeas Corpus ordering Respondents to immediately release him from custody or requiring them to hold a bond hearing within five days. In the alternative, he respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days.

## JURISDICTION

1. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).
2. Venue is proper in this District under 28 U.S.C. § 1391(e)(1) because Petitioner is detained in Houston, Texas, within the Southern District of Texas.

## THE PARTIES

3. The Petitioner, David Zarate Sanchez, is a noncitizen currently detained in Houston, Texas.
4. Respondent Bret Bradford is the Houston Field Office Director for U.S. Immigration and Customs Enforcement ("ICE") and Petitioner's legal custodian.
5. Respondent Todd Lyons is the Director for U.S. Immigration and Customs Enforcement.
6. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS").

7. Respondent Martin Frink is the Warden of the Houston Processing Center and is Petitioner's immediate, physical custodian.

8. All respondents are named in their official capacities.

## RELEVANT LEGAL FRAMEWORK

*Detention & Bond Under the Immigration & Nationality Act*

9. The INA generally provides for three forms of civil detention for noncitizens in removal proceedings.

10. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens pursuant to a warrant pending the resolution of standard removal proceedings before an Immigration Judge ("IJ"). *See* 8 U.S.C. § 1229(a).

11. Unless they have been arrested, charged with, or convicted of certain crimes enumerated at 8 U.S.C. § 1226, which would subject them to mandatory detention, an individual detained under § 1226(a) can be released by ICE on bond or conditional parole. 8 U.S.C. § 1226(a)(1); 8 C.F.R. § 236.1(c)(8).

12. If ICE declines to release a detained noncitizen, that person may then seek a custody redetermination (commonly referred to as a bond hearing) before an IJ. 8 C.F.R. §§ 1003.19(a), 1236.1(d). At the hearing, the noncitizen may present evidence to show they are not a flight risk or danger to the community and should therefore be released on bond. *See generally Matter of Guerra*, 24 I &N Dec. 37, 50 (BIA 2006).

13. Second, the INA requires mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and of applicants for admission, if the examining immigration officer determines that an alien seeking admission is not "clearly and beyond a doubt entitled to be admitted" under § 1225(b)(2).

14. A noncitizen detained under § 1225(b) has no right to a bond hearing, *see* 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV), (b)(2)(A), and can only be released under humanitarian parole. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018); 8 U.S.C. § 1192(d)(5).

15. Finally, the INA provides for detention of noncitizens who have been issued a final order of removal. 8 U.S.C. § 1231(a)-(b).

*Historical Context & Agency Interpretation*

16. The current statutory scheme for detention and bond was enacted in 1996 with the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.

17. Prior to IIRAIRA's enactment, noncitizens arrested within the United States who had entered without inspection were entitled to a custody hearing before an immigration official but those stopped at the border were only eligible for release on parole. *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *3–6 (D. Nev. Sept. 17, 2025) (citing 8 U.S.C. § 1252(a) (1994) (authorizing

detention of noncitizens "arriving at ports of the United States")).

18. In enacting § 1226(a), Congress clarified that the IIRAIRA amendment of § 1226(a) simply "restate[d]" the detention authority previously found at § 1252(a) "to arrest, detain, and release on bond a [noncitizen] who is not lawfully in the United States." *Id.* (citing H.R. Rep. No. 104-469, pt. 1, at 229 (1996); H.R. Rep. No. 104-828, at 210 (1996) (Conf. Rep.)).

19. Congress separately maintained the existing mandatory detention scheme for noncitizens arriving in the U.S. without a clear right to admission and expanded the scope of that detention scheme to include certain recently arrived noncitizens. *Compare* 8 U.S.C. § 1225(b) (1994 ed.), with 8 U.S.C § 1225(b)(1)-(2). These amendments were designed to address the perceived problem of noncitizens arriving in the U.S. *Id.* (citing H.R. Rep. No. 104-469, p. 1, at 157-58, 228-29).

20. 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 Id.* ("The EOIR's regulations drafted following the enactment of the IIRIRA explained this distinction.") (citing Inspection and Expedited Removal of Aliens, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without

inspection)).

21. For decades, it was understood that § 1225 applied to noncitizens seeking admission into the country while § 1226 applied to those already present. *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (citing *Jennings*, 583 U.S. at 288-89). Accordingly, up until a recent policy change, noncitizens arrested in the interior of the country were routinely detained and considered eligible for bond under § 1226. *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *2 (S.D. Tex. Oct. 7, 2025)(explaining that "[t]he Department of Homeland Security's 'longstanding interpretation' had been that § 1226, not § 1225, applies to noncitizens like Buenrostro who are already present in the country."); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *3 (D.N.J. Sept. 26, 2025) (noting that "up until July 8 the predominant form of detention authority for petitioner and other noncitizens arrested in the interior of the United States was § 1226(a).")).

22. In January 2025, Congress passed the Laken Riley Act which added a new subparagraph to the mandatory detention provisions of § 1226(c). The amended statute added subparagraph (E), which states:

> (c) Detention of criminal aliens (1) Custody The Attorney General shall take into custody any alien who-- ... (E)(i) is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 1182(a) of this title; and (ii) is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential

> elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense... 8 U.S.C. § 1226(c)(1)(E).

23. The amended section of § 1226(c) applies specifically to noncitizens present without admission or parole. Id.

*ICE Policy & Matter of Hurtado*

24. On July 8, 2025, ICE, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

25. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are now subject to the mandatory detention provision under § 1225(b)(2)(A).[1] The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

26. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued their decision in *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025), which enshrined ICE's new policy position into caselaw binding on all IJ's and applicable to all bond requests made by noncitizens present in the United States without admission or parole.

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

*Habeas Corpus*

27. A petitioner is entitled to habeas relief if they demonstrate that their detention violates the United States Constitution or federal law. 28 U.S.C. § 2241; *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)("The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.").

28. The writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004)(citing U.S. Const., Art I, § 9, cl. 2).

29. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 20 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." Id.

*Due Process*

30. The Due Process Clause of the Fifth Amendment guarantees that no person in the United States shall be deprived of liberty without due process. U.S. Const. amend. V. These substantive and procedural due process protections apply to all people, including noncitizens, regardless of their immigration status. *Trump v. J.G.G.*, 604 U. S. ––145 S. Ct. 1003, 1006 (2025) (*per curiam*) ("'It is well

established that the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings." (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993)).

31. The Due Process Clause provides heightened protection against government interference with certain fundamental rights—and freedom from detention lies at the heart of the Due Process Clause's protections. For persons in the United States unlawfully, courts have found that noncitizens who have established a life here—albeit without authorization—possess a strong liberty interest in their freedom from detention. *See, e.g., Sanchez Alvarez v. Noem*, No. 25-cv-1090, 2025 WL 2942648, at *1, 7 (W.D. Mich. Oct. 17, 2025); *Choglio Chafla v. Scott*, Nos. 25-cv-437, 438, 439, 2025 WL 2688541, at *1, 10 (D. Me. Sept. 22, 2025).

## FACTS

32. Petitioner David Zarate Sanchez was detained on or about September 19, 2025 by Immigration & Customs Enforcement ("ICE") agents. After encountering Petitioner and determining he was not lawfully in the country, ICE issued a warrant for his arrest and Notice to Appear ("NTA") and took Petitioner into custody. Exhibit 1—Notice to Appear.

33. Petitioner has been detained since his arrest and is currently held at the Houston Processing Center in Houston, Texas. Exhibit 2—ICE Detainee Locator Search.

34. Petitioner has no serious criminal history and strong ties to his community.

35. After ICE declined to release him from custody, he sought reconsideration of that decision by an Immigration Judge ("IJ").

36. The Immigration Judge refused to conduct a bond hearing and denied bond for lack of jurisdiction, citing to *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025). Exhibit 3—Order of the Immigration Judge (October 21, 2025).

37. Petitioner has not appealed the denial of his bond because doing so would be futile in light of *Matter of Hurtado*, a binding precedent issued by the very same administrative body to which he would appeal.

38. Petitioner has been detained and will remain in jail for the duration of his removal proceedings, or even longer, despite being otherwise eligible for bond and having made application for such.

**PETITIONER'S DETENTION**

39. The continued detention of Petitioner is unlawful as a violation of due process and a violation of the Immigration & Nationality Act. His confinement without hope of obtaining a bond is contrary to the established law and years of practice.

40. Petitioner was arrested within the United States, many years after his unlawful entry in or around January 2000. Exhibit 1—Notice to Appear. He has not been designated as an "arriving alien" on his NTA but rather as one present without admission or parole. Id. His detention should be governed by 8 U.S.C. § 1226(a).

41. In *Jennings v. Rodriguez*, the Supreme Court analyzed the statutory sections in question, 8 U.S.C. § 1225 and 8 U.S.C. § 1226. *Jennings*, 583 U.S. at 287. The Court held that § 1225(b) "applies primarily to aliens seeking entry into the United States." *Id.* at 297 Then, the Court noted that § 1226 "applies to aliens already present in the United States." *Id.* At 303.

42. The *Jennings* Court specifically found that "Section 1226(a) creates a default rule for those aliens by permitting- but not requiring- the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those aliens on bond, 'except as provided in subsection (c) of this section.'" (subsection pertains to aliens who fall into categories involving criminal offenses or terrorist activities). *Id.* At 303. "Federal regulations provide that alien detained under §1226(a) receive bond hearings at the outset of detention." *Id.* At 306; 8 CFR 236.1(d)(1), 1236.1(d)(1).

43. While Petitioner may be deemed an "applicant for admission", he was not "seeking admission" at the time of his arrest and detention.

44. To be subject to mandatory detention under § 1225(b)(2)(A), the plain text requires an individual to be 1) an "applicant for admission"; 2) "seeking admission"; and 3) determined by an examining immigration officer to be "not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A);

*see also Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *2 (D. Mass. July 24, 2025) (affirming these "several conditions must be met" for a noncitizen to be subject to mandatory detention under § 1225(b)(2)(A)).

45. The second element of § 1225(b)(2)(A)—which requires that an applicant be seeking admission—is not met in the case of noncitizens who entered without permission and are found miles away from the border, years after their entry. The statutory use of the present and present progressive tenses—"is an applicant for admission" "seeking admission"—excludes noncitizens apprehended in the interior, because they are no longer in the process of arriving in or seeking admission to the United States. *See Martinez v. Hyde,* 2025 WL 2084238, at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); *accord Lopez Benitez v. Francis*, 2025 WL 2371588, at *6–7 (S.D.N.Y. Aug. 13, 2025). *See also United States v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of a verb tense is significant in construing statutes." ); *Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing "is arriving" in 8 U.S.C. Sec. 1225 (1)(A)(i) and observing that "[t]he use of the present progressive, like use of the present participle, denotes an ongoing process").

46. Additionally, reading § 1225(b)(2) to require the detention of all noncitizens present without admission would be contrary to the overall statutory structure and render other portions of the statutory scheme superfluous, including the recent amendments made by the Laken Riley Act.

47. "When Congress amends legislation, courts must presume it intends its amendment to have real and substantial effect." *Van Buren v. United States*, 593 U.S. 374, 393 (2021). The Laken Riley Act added a new category of noncitizens subject to mandatory detention under § 1226(c)—those unlawfully present in the United States who have also been arrested, charged with, or convicted of certain crimes. 8 U.S.C. § 1226(c)(1)(E); 8 U.S.C. § 1182(a)(6)(A). If these unlawfully present individuals are already subject to mandatory detention under § 1225 the amendment would be utterly redundant and have no real or substantive effect.

48. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." Removal hearings for noncitizens under § 1226(a) are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]." By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States.

49. The statutory language, history, and overall structure clearly show that Petitioner's detention is governed by § 1226 and he is entitled to a bond hearing.

ICE's new policy is due no deference from this Court, and neither is the *Matter of Hurtado* decision. *Loper Bright Enters. v. Raimando*, 603 U.S. 369, 385 (2024) ("When the meaning of a statute [is] at issue, the judicial role [is] to interpret the act of Congress, in order to ascertain the rights of the parties.") (internal quotation marks and citation omitted).

50. In examining the very issue presented by Petitioner, courts across the country and within the Southern District of Texas have near unanimously held that Petitioner's reading of the law is correct. *See, e.g., Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025)(collecting cases and noting there was no need to repeat the "well-reasoned analyses" contained in those opinions); *Covarrubias v. Vergara*, No. 5:25-CV-112, 2025 WL 2950097, at *3 (S.D. Tex. Oct. 8, 2025); *Ortiz-Ortiz v. Bondi,* No.5:25-cv-132, ECF No. 17 at 4-5 (S.D. Tex. October 15, 2025)[2]; *Lopez Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Martinez v. Noem*, No. 5:25-CV-01007, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025); *Soto v. Soto*, et al., No. 25-cv- 16200, 2025 WL 2976572, at *5 (D.N.J. Oct. 22, 2025); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Quispe v. Crawford*, No. 25-cv-1471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Savane v. Francis*, No. 25-cv-6666, 2025 WL 2774452

[2] This decision is unavailable on Westlaw and is accordingly attached as Exhibit 4.

(S.D.N.Y. Sept. 28, 2025); *Zumba*, 2025 WL 2753496; *Salazar v. Dedos*, No. 25-cv-835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Roman v. Noem*, No. 25-cv-01684, 2025 WL 2710211 (D. Nev. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. 25-cv-4048, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-0096, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Barrera v. Tindall*, No. 25-cv-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Hasan v. Crawford*, No. 25-cv- 1408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Vazquez*, 2025 WL 2676082; *Garcia Cortes v. Noem*, No. 25-cv-2677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Lopez Santos v. Noem*, No. 25-cv-1193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Perez v. Kramer*, No. 25-cv-3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Hinestroza v. Kaiser*, No. 25-cv-7559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *J.O.E. v. Bondi*, No. 25-cv-3051, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 25-cv-2428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos v. Raycroft*, No. 25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025).

51. This Court should similarly find that Petitioner is detained under 8 U.S.C. § 1226(a) and entitled to a bond hearing. Alternatively, should this Court disagree with Petitioner's statutory arguments, he should still be entitled to relief as a matter of due process.

52. 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.

53. As to the first *Mathews* factor, Petitioner's private interest, "[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). That "paramount liberty interest" is secured not just by statute but by the Constitution. *Hamdi*, 542 U.S. at 529. Noncitizens within the United States—as opposed to those on the threshold of entry—have additional rights and privileges. *Martinez v. Noem*, No. EP-25-CV-

430-KC, 2025 WL 2965859, at *3 (W.D. Tex. Oct. 21, 2025)(citing *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958)). Petitioner has resided in the United States for over 20 years. He has two U.S. citizen children, a spouse, a clean criminal history, and a documented history of established work and employment as the sole breadwinner in his family. The first factor weighs in his favor.

54. The second factor likewise weighs in favor of Petitioner. Continuing to detain him without holding a bond hearing creates a substantial risk that Petitioner will be erroneously deprived of his liberty. A bond hearing is the precise manner to ameliorate that risk. Indeed, agency decisionmakers regularly "conduct[] individualized custody determinations . . . consider[ing] flight risk and dangerousness." *Velesaca v. Decker*, 458 F. Supp. 3d 224, 242 (S.D.N.Y. 2020) (citation omitted); see also 8 C.F.R. §§ 236.1(c)(8), 1003.19(h)(3). That is exactly the type of proceeding that would give Petitioner an opportunity to be heard and to receive a meaningful assessment of his dangerousness or likelihood of absconding while also greatly reducing the risk of an erroneous deprivation of his liberty.

55. The government interest in detaining a person without a bond is unknown, "other than perhaps their general interest in enforcing the INA as they interpret it." *Martinez,* 2025 WL 2965859, at *4. Additionally, the government likely has an interest in "ensuring that noncitizens appear for their removal hearings and do

not pose a danger to the community." *Id.* These factors similarly weigh in favor of the Petitioner as there's no evidence he poses a danger to the community.

56. To balance liberty interests against the government interests in assuring appearance at future hearings and safety of the community, the INA explicitly provides bond hearings for noncitizens who are not described in § 1226(c) or 8 C.F.R. § 1003.19(h). The government interest in detaining everyone they encounter is not sufficient to counter the private interests affected and the risk of erroneous deprivation under the current procedures.

57. Petitioner's arbitrary detention without a bond hearing by a neutral adjudicator violates Petitioner's due process rights as guaranteed by the Fifth Amendment.

## CLAIMS FOR RELIEF

### COUNT ONE
### Violation of Fifth Amendment Right to Due Process

58. Petitioner incorporates all foregoing paragraphs by reference.

59. On information and belief, Petitioner is currently being detained by federal agents contrary to the law and in violation of his constitutional rights to due process of law.

60. Petitioner's due process rights have been violated in that he has been deprived of liberty without sufficient purpose and in the absence of any special interest or compelling justification which would outweigh his liberty interest.

61. Petitioner's due process rights have been violated in that he has been denied a

bond hearing and remains in detention in spite of presenting neither a danger to the community nor a risk of absconding.

**COUNT TWO**
**Violation of the Immigration & Nationality Act**

62. Petitioner incorporates all foregoing paragraphs by reference.

63. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), § 1231, or 8 C.F.R. § 1003.19(h).

64. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA as well as the U.S. Constitution.

**PRAYER FOR RELIEF**

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

(1) Assume jurisdiction over this matter;

(2) Enter an order that Petitioner shall not be transferred outside the Southern District of Texas for the pendency of this matter;

(3) Declare that Petitioner's detention violates the Fifth Amendment and the Immigration & Nationality Act;

(4) Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 ordering Peititoner's immediate release or, in the alternative, ordering Respondents to provide Petitioner with a bond hearing before a neutral IJ pursuant to 8 U.S.C. § 1226(a) within three days.

(5) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Date: December 2, 2025

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**UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF TEXAS**

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Exhibit 1—Notice to Appear
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Exhibit 3—Order of the Immigration Judge (October 21, 2025)
Exhibit 4—Copy of *Ortiz-Ortiz v. Bondi*