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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

Francisco E. FLORES-GRACIAS,

Petitioner-Plaintiff,

v.

Kristi NOEM, in her Official Capacity, Secretary, U.S. Department of Homeland Security;

Pam BONDI, in her Official Capacity, Attorney General of the United States;

Todd M. LYONS, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

Jason KNIGHT, Salt Lake City Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement, Department of Homeland Security; and

Darin BALAAM, Sherriff, Washoe County Detention Center.

Respondents-Defendants.

Agency No.

[redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration Under Color of Immigration Detention Statutes; Request for Declaratory and Injunctive Relief

INTRODUCTION

1. Petitioner Francisco E. Flores-Gracias ("Mr. Flores-Gracias"), Agency Number [redacted] by and through his undersigned counsel, respectfully submits this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to stop the U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) from unlawfully detaining him in immigration custody while his removal proceedings are pending.

2. Petitioner seeks his immediate release from the Washoe County Detention Center, where he is being unlawfully held by ICE. Although the Immigration Judge concluded that she lacked jurisdiction over his case, she nonetheless found that, if jurisdiction existed, Petitioner posed neither a danger to the community nor a flight risk and would have ordered his release on a $5,000 bond. Petitioner therefore requests that the court uphold the judge's alternative determination.

3. By way of background, Mr. Flores-Gracias came to the attention of Immigration and Customs Enforcement ("ICE") after his arrest on October 18, 2025, on a charge of possessing drug paraphernalia. He was booked into the county jail and later appeared before the criminal court, which ordered his release on his own recognizance ("OR") on October 20, 2025. The following day, October 21, 2025, ICE took Mr. Flores-Gracias into their custody and transferred him to the ERO Salt Lake City – Reno Sub Office for processing. He continues to be detained at the Washoe County Detention Center.

4. He was scheduled to appear for a criminal arraignment on November 3, 2025, but was unable to do so because he remained in ICE custody and ICE did not transport him to the hearing. Consequently, the criminal court issued a bench warrant for his failure to appear.

5. A bond hearing was held on November 28, 2025. At the hearing, the Department of Homeland Security argued that Mr. Flores-Gracias was an applicant for admission and that, as a result, the Court lacked jurisdiction to grant bond. Immigration Judge Lindsy Roberts agreed and concluded, pursuant to *Matter of Yahure Hurtado*, that she lacked authority to set bond. Nevertheless, she made an alternative finding that, if she did have jurisdiction, she would authorize Mr. Flores-Gracias's release on a $5,000 bond, having determined that he posed neither a danger to the community nor a flight risk.

6. In light of the published decision, an appeal to the Board of Immigration Appeals would be futile, as it was the Board itself that issued that precedent.

7. Mr. Flores-Gracias's prolonged detention violates the Due Process Clause of the Fifth Amendment, as DHS has failed to establish, by clear and convincing evidence, that Mr. Flores-Gracias is either a danger to the community or a flight risk. Furthermore, Mr. Flores-Gracias is not subject to mandatory detention and therefore entitled to bond.

8. Mr. Flores-Gracias respectfully requests his immediate release from detention or, in the alternative, that this Court order the Immigration Judge's alternative determination to be upheld.

CUSTODY

9. Mr. Flores-Gracias is currently in custody of ICE at the Washoe County Detention Center in Reno, Nevada. Mr. Flores-Gracias is therefore in "'custody' of [the DHS] within the meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. §§ 2201 *et seq.* (Declaratory Judgment Act), the All Writs Act, 28 U.S.C. § 1651, Article I, Section 9, Clause 2 of the U.S. Constitution (the Suspension Clause), Article III of the U.S. Constitution, and under the common law.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." *Id.* (emphasis added).

13. Courts have long recognized the significance of the habeas statute in protecting

individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

14. Habeas corpus must remain a swift remedy. Importantly, "the statute itself directs courts to give petitions for habeas corpus 'special, preferential consideration to insure expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit warned against any action creating the perception "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Id.*

VENUE

15. Venue is proper in this Court under 28 U.S.C. § 1391(e) because the Respondents are officers or employees of the United States acting in their official capacities.

16. Mr. Flores-Gracias is currently under the supervision of the ERO Salt Lake City – Reno Sub Office, which falls within the jurisdiction of this District. This action does not involve any real property.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17. In the context of habeas corpus claims, exhaustion of administrative remedies is a *prudential* requirement rather than a *jurisdictional* one, as it is not explicitly required by statute. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Courts have discretion to waive prudential exhaustion where administrative remedies are inadequate or ineffective, when pursuing them would be futile, when irreparable harm would result, or where the administrative process would be void. *Id.* (citing *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). The burden is on the party seeking waiver of prudential exhaustion to demonstrate that at least one of the *Laing* factors applies. *Aden v. Nielsen*, 2019 WL 5802013, at 2 (W.D. Wash. Nov. 7, 2019).

18. In this case, any appeal to the Board is futile in light of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)." The Ninth Circuit has made clear that exhaustion is not required where administrative recourse would be futile—such as when the agency's position on the relevant issue is already established and the outcome of the appeal is certain. *El Rescate Legal Servs., Inc. v. Exec. Off. of Imm. Rev.*, 959 F.2d 742, 747 (9th Cir. 1992).

19. The *Matter of Yajure Hurtado* was issued as a precedential decision by the BIA. Under 8 C.F.R. § 1003.1(g)(1), such decisions are binding in all cases involving the same issue(s); *see* also 8 C.F.R. § 1003.1(d)(1)(i). Because the BIA has already exercised its expertise and reached a conclusive determination in *Yajure Hurtado*, further exhaustion is unnecessary. The decision establishes that individuals found inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)—that is, those present in the U.S. without being admitted or paroled—are subject to mandatory detention without bond under 8 U.S.C. § 1225(b)(2) upon BIA review.

20. BIA decisions are binding on immigration judges, and *Hurtado* thus precludes an Immigration Judge from finding jurisdiction over noncitizens like Mr. Flores-Gracias to hold a custody redetermination hearing. Therefore, judicial intervention enjoining Respondents from preventing Mr. Flores-Gracias from having a bond hearing pursuant to the holding in *Hurtado* is necessary to enable him to avail himself of his administrative remedies.

21. Therefore, Mr. Carlos respectfully requests that the Court waive the prudential exhaustion requirement on grounds of futility. As established in *Aden*, 2019 WL 5802013, at 2, satisfying just one of the *Laing* factors is sufficient; therefore, analysis of the remaining factors is unnecessary.

PARTIES

22. Mr. Flores-Gracias is a citizen and national of El Salvador who last entered the United

States in April 2005 and has continuously resided in the country since that time. He is a resident of Reno, Nevada, and is currently detained and under the direct custody and control of Respondents and their agents.

23. Respondent Darin Balaam is the Sherriff of the Washoe County Detention Center, where Petitioner is currently held. He has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and, as such, serves as one of Petitioner's legal custodians.

24. Respondent Jason KNIGHT is sued in his official capacity as the Acting Director of the Salt Lake City Field Office of U.S. Immigration and Customs Enforcement. Respondent KNIGHT is a legal custodian of Petition and has authority to release him.

25. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of Mr. Flores-Gracias.

26. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the INA and all other laws relating to the immigration of noncitizens. In her capacity as Secretary, Respondent Noem has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). Respondent Noem is the ultimate legal custodian of Mr. Flores-Gracias.

27. Respondent Pam BONDI is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the authority to interpret immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

STATEMENT OF FACTS

Mr. Flores-Gracias, a 45-year-old native and citizen of El Salvador, has established the entirety of his adult life in the United States over the past twenty years. He entered the United States without inspection in April 2005 and has remained continuously present since his arrival.

Since that time, Mr. Flores-Gracias has made Reno Nevada his home. He has maintained steady employment in the auto repair industry and is widely regarded within the community as a quiet, dependable, and hardworking individual who has consistently contributed to the local economy and community well-being.

Family Relationships and dependents

Mr. Flores-Gracias maintains significant and deeply rooted family ties in the United States, spanning multiple generations, all of whom rely on him emotionally and, in some cases, financially. His immediate and extended family includes U.S. citizens and lawful permanent residents who have expressly demonstrated their support for him in these proceedings.

His sister, Sandra Mira, a United States citizen, during the bond hearing, provided a letter detailing their shared upbringing, which included the hardship of being raised in a single-parent household after their father's departure. She explains the strong sibling bond they maintain and the vital role he continues to play in the family. His mother, Rita Gracias, is a lawful permanent resident who likewise submitted a statement describing her significant dependence on her son for support and stability. Additionally, his niece, [redacted], a U.S. citizen, has confirmed through her letter his positive involvement in her life, and his sister, Rita Flores-Gracias, has written in support, attesting to his good moral character and the closeness of their relationship.

Most critically, Mr. Flores-Gracias is the devoted father of a 17-year-old United States citizen daughter, [redacted]. Although he does not reside in the same household as her mother, the child's mother also submitted a heartfelt statement during the bond hearing emphasizing that he has been continuously present in their daughter's life. She affirms that he provides both emotional and financial support, remains actively involved in her upbringing, and consistently prioritizes her needs and well-being.

Commencement of immigration proceedings

On October 18, 2025, Mr. Flores-Gracias was taken into custody solely because of a warrant related to an unpaid traffic citation—an administrative matter that does not involve violence or any threat to public safety. During that arrest, a new complaint was issued alleging possession of drug paraphernalia. The case remains pending and there has been no conviction.

A second warrant later issued when Mr. Flores-Gracias did not appear for an arraignment scheduled on November 3, 2025. At the time of that hearing, he was already in ICE custody and therefore unable to attend. He had no ability to request transportation, no authority to secure his own appearance, and no control over the situation preventing his presence in criminal court.

On October 21, 2025, the Department of Homeland Security (DHS) initiated removal proceedings against Mr. Flores-Gracias by filing a Notice to Appear (NTA), charging him as removable pursuant to INA § 212(a)(6)(A) for being present in the United States without admission or parole. He was additionally charged as removable pursuant to INA § (a)(7)(A)(i)(I). The NTA stated:

1. You are not a citizen or national of the United States;
2. You are a native of Mexico and a citizen of Mexico;
3. You entered the United States at or near UNKNOWN, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.
5. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act; and/or
6. You are an immigrant not in possession of a valid unexpired passport, or other suitable travel document, or document of identity and nationality.

The NTA further charged him as being an alien present in the United States who has not been admitted or paroled.

After detaining Mr. Flores-Gracias, ICE did not initially set a bond. On November 20, 2025, Mr. Flores-Gracias filed a request for a bond redetermination hearing before the

Immigration Court in Las Vegas, Nevada. In support of his request, he submitted evidence demonstrating that he did not pose a danger to the community or a flight risk.

A bond hearing was conducted on November 28, 2025, before Immigration Judge Lindsy Roberts. At that time, the Department asserted that Mr. Flores-Gracias was subject to mandatory detention pursuant to 8 U.S.C. § 1225(b), thereby precluding the Court from exercising bond jurisdiction. The Immigration Judge ultimately agreed that she lacked jurisdiction pursuant to *Matter of Yajure Hurtado*. However, in the alternative, she explicitly stated that if jurisdiction were proper, she would find that Mr. Flores-Gracias does not pose a flight risk nor a danger to the community. She further indicated that she would have set bond in the amount of $5,000, with enrollment in the Alternatives to Detention (ATD) program at ICE's discretion.

Mr. Flores-Gracias's continued detention has resulted in substantial hardship to his close family members who depend on him. His United States citizen daughter is experiencing emotional distress due to the prolonged separation from her father. In addition, his sister and mother, both of whom rely on his support for daily stability and well-being, have been significantly impacted—facing both financial strain and emotional hardship in his absence. His detention has also interfered with his ability to effectively participate in his removal proceedings, limiting his access to legal counsel, documents, witnesses, and other necessary evidence. Mr. Flores-Gracias has experienced mental and emotional distress as a result of his separation from his family, particularly knowing the difficulties they are facing during his absence.

LEGAL FRAMEWORK

Right to Liberty and Due Process

The Fifth Amendment of the U.S. Consitituion guarantees that "[no] person shall… be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. Importantly, the supreme court has clarified that this protection extends to noncitizens, stating: "Once an alien teres the country, the legal circumstances changes, for the Due Process clause applies to all 'persons" within the United States. *Zadvydas v. Davis*, 533 U.S. 678, 699–701 (2001).

Civil immigration detention is meant to serve limited regulatory purposes: ensuring

appearance at proceedings and protecting the community. The Supreme Court in *Demore v. Kim*, 538 U.S. 510 (2003), emphasized that detention may only last for the "brief period necessary for… removal proceedings" and cannot be punitive.

Where detention extends beyond those limited purposes or rests on mere allegations, it violates due process. As the Court stressed in *Zadvydas:* "freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that the Clause protects." 533 U.S. at 690.

Civil Nature of Immigration Detention

The Supreme Court has repeatedly held that immigration detention is civil, not punitive. In *Bell v. Wolfish*, 441 U.S. 520, 535 (1979), the Court explained: "If a restriction or condition is not reasonably related to a legitimate governmental objective, it amounts to punishment."

FIRST CAUSE OF ACTION

I. Procedural Due Process

Under the Due Process Clause of the Fifth Amendment to the United States Constitution, no person shall be "deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. That interest is particularly weighty when government detention is at issue. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001).

These due process rights apply to noncitizens residing in the United States. The Supreme Court has firmly established that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693; *see also Trump v. J.G.G.*, 604 U.S. 670, 673, 145 S. Ct. 1003, 221 L. Ed. 2d 529 (2025) ("It is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings." (*citation omitted*)). Indeed, once a noncitizen is present in the United States, they have a "weighty" liberty interest in remaining in the United States, as they stand to lose rights to "stay and live and work" in the country and "to

rejoin [their] immediate family." *Landon v. Plasencia*, 459 U.S. 21, 34, 103 S. Ct. 321, 74 L. Ed. 2d 21 (1982) (citation omitted). This is true "regardless of how someone entered the country: '[O]nce passed through our gates, even illegally,' noncitizens 'may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law.'" *Make the Rd.*, 2025 WL 2494908, at 10 (*quoting Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212, 73 S. Ct. 625, 97 L. Ed. 956 (1953)).

a. Petitioner Is Not Subject to Mandatory Detention Under 8 U.S.C. § 1225.

8 U.S.C. § 1225

Section 1225 applies to "applies to 'applicants for admission,' who are, as relevant here, noncitizens 'present in the United States who [have] not been admitted.'" *Gomes v. Hyde*, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at 2 (D. Mass. July 7, 2025) (quoting 8 U.S.C. § 1225(a)(1)). Under this Section, all applicants must be inspected by an immigration officer. 8 U.S.C. § 1225(a)(3). Under subsection (b), certain applicants for admission may be subject to removal proceedings. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108-09, 140 S. Ct. 1959, 207 L. Ed. 2d 427 (2020). Because Section 1225 is mandatory, a "noncitizen detained under Section 1225(b)(2) may be released only if he is paroled 'for urgent humanitarian reasons or significant public benefit.'" Gomes, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at 1 (emphasis added). However, Section 1225(b) only "authorizes the Government to detain certain aliens seeking admission into the country." 8 U.S.C. § 1225(b). (emphasis added).

8 U.S.C. § 1226

While section 1225 "authorizes the Government to detain certain aliens seeking admission into the country," section 1226 "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez, 583 U.S. 281, 289, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018)* (emphasis added). Section 1226(a) sets out the "default rule" for noncitizens already present in the country. *Id.* at 288. It provides:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. . . [T]he Attorney General--(1) may continue to detain the arrested

alien; and (2) may release the alien on--(A) bond . . . ; or (B) conditional parole . . .

8 U.S.C. § 1226(a). "Section 1226(a), therefore, establishes a discretionary detention framework." *Lopez Benitez*, 2025 WL 2371588, at 3 (*internal citations omitted*). An immigration officer makes the initial determination to either detain or release the noncitizen, but after that decision has been made, the noncitizen may request a bond hearing before an immigration judge. 8 C.F.R. § 1236.1(c)(8), (d)(1). At any such bond hearing, "the burden is on the non-citizen to 'establish to the satisfaction of the Immigration Judge . . . that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight.'" *Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017) (*citing In re Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006)).

Recently, Congress amended 8 U.S.C. § 1226. While Section 1226(a) is a discretionary framework, Congress added two new mandatory detentions to Section 1226 codified in Section 1226(c) through the Laken Riley Act. Pub. L. No. 119-1, § 2, 139 Stat. 3, 3 (2025). Added as a two-step process, the Attorney General must detain a noncitizen if (1) they are inadmissible because they are in the United States without being admitted or paroled, obtained documents or admission through misrepresentation or fraud, or lacks valid documentation and (2) "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, or any crime that results in death or serious bodily injury to another person." U.S.C. §§ 1226(c)(1)(E)(i)-(ii).

"Summarizing the relevant distinctions. . . noncitizens detained under Section 1225(b)(2) must remain in custody for the duration of their removal proceedings, while those detained under Section 1226(a) are entitled to a bond hearing before an [immigration judge] at any time before

entry of a final removal order." *Vazquez v. Bostock*, 779 F. Supp.3d 1239, 1247 (W.D. Wash. 2025). In other words, Section 1225(b) "supplement[s] § 1226's detention scheme." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022).

i. Section 1225(b)(2)(A) Does Not Apply to Mr. Flores-Gracias.

Here, the government contends that Mr. Flores-Gracias is properly detained under Section 1225 because he is "seeking admission" into the United States, even though he has been in the United States for the last twenty years.

The text of Section 1225 reads as, an "applicant for admission" is "an alien present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). "Admission" and "admitted" are defined as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13). Section 1226 more broadly states that a noncitizen can be detained on "a warrant issued by the Attorney General." 8 U.S.C. § 1226(a).

The question before the Court is whether "an alien present in the United States who has not been admitted" includes someone like Mr. Flores-Gracias, who is not presently seeking admission and has been in the United States for the last twenty years without inspection or authorization. In other words, present without admittance.

Section 1225 is titled *"Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing,"* and the inclusion of the term *"arriving"* indicates that the statute applies specifically to noncitizens who are arriving at the border, rather than those already present in the United States. *Pizarro Reyes*, 2025 U.S. Dist. LEXIS 175767, 2025 WL 2609425, at 5. This interpretation is supported by the statutory text, which centers on inspection procedures for individuals entering as "crewmen" or "stowaways." 8 U.S.C. §

1225(b)(2). These narrow and specific categories of entry suggest that § 1225 applies only to noncitizens at the border or a port of entry who are actively seeking admission to the United States. *See Pizarro Reyes*, 2025 WL 2609425, at 5 (citing *Dubin v. United States*, 599 U.S. 110, 118, 143 S. Ct. 1557, 216 L. Ed. 2d 136 (2023)). This analysis supports a more limited interpretation of § 1225. *Id.*

Beyond its title, the placement and context of Section 1225 within the broader statutory framework offer further interpretive guidance. Courts are instructed to interpret statutes as a whole, not as isolated provisions. *King v. Burwell*, 576 U.S. 473, 486, 135 S. Ct. 2480, 192 L. Ed. 2d 483 (2015). In this context, the Supreme Court has identified Section 1226 as the "default rule" governing the detention of noncitizens who are already physically present in the United States. *Jennings v. Rodriguez*, 583 U.S. 281, 288, 301, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018). As noted in *Pizarro Reyes*, the structure of the statute suggests that Congress intentionally placed the broader, catchall provision of Section 1226 after the more specific and narrowly focused Section 1225 to encompass noncitizens who do not fall within the categories defined in Section 1225. *Pizarro Reyes*, 2025 U.S. Dist. LEXIS 175767, 2025 WL 2609425, at 5; *see also Vazquez*, 779 F. Supp. 3d at 1258.

Recent Congressional amendments must also be taken into account—specifically, the Laken Riley Act, which modified Section 1226, as discussed above. As the Supreme Court has recognized, "when Congress acts to amend a statute, we presume it intends the amendment to have real and substantive effect." *Stone v. I.N.S.*, 514 U.S. 386, 397, 115 S. Ct. 1537, 131 L. Ed. 2d 465 (1995). The Laken Riley Act introduced a new subsection under Section 1226(c), imposing mandatory detention for certain individuals, within an otherwise discretionary detention framework. As other courts have observed, this amendment reflects Congress's intent

to expand specific mandatory detention provisions without altering the default applicability of Section 1226 to noncitizens already present in the United States.

> If § 1225(b)(2) already mandated detention of any alien who has not been admitted, regardless of how long they have been here, then adding § 1226(c)(1)(E) to the statutory scheme was pointless' and this Court, too, 'will not find that Congress passed the Laken Riley Act to 'perform the same work' that was already covered by § 1225(b)(2).

Lopez-Campos v. Raycraft, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379 at 8 (E.D. Mich. Aug. 29, 2025) (*quoting Maldonado v. Olsen*, 2025 U.S. Dist. LEXIS 158321, 2025 WL 2374411, at 12 (D. Minn. Aug. 15, 2025)). If "Congress had intended for Section 1225 to govern all noncitizens present in the country, who had not been admitted, then it would not have recently adopted an amendment to Section 1226 that prescribes a subset of noncitizens be exempt from the discretionary bond framework.".

In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the BIA described it as a "legal conundrum" for an individual to be physically present in the United States without having been admitted, yet no longer considered "seeking admission." *Id.* at 221. The BIA concluded that such individuals fall under Section 1225 because they fail to cite any legal authority establishing that, after residing unlawfully in the interior for an unspecified period, they are no longer applicants for admission. *Id.*

We respectfully urge this Court to reject that interpretation for several reasons. First, courts are not required to defer to agency interpretations of law simply because a statute is ambiguous. As the Supreme Court recently held in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412–13, 144 S. Ct. 2244, 219 L. Ed. 2d 832 (2024), "[c]ourts must exercise their independent judgment in deciding whether an agency has acted lawfully," and under the Administrative Procedure Act, deference is not warranted solely due to statutory ambiguity.

Second, the structure and context of the Immigration and Nationality Act make it difficult to classify a noncitizen as "seeking admission" when they have never presented themselves at a port of entry or made any affirmative attempt to enter. Interpreting the statute to cover individuals who have lived in the interior for years without lawful status stretches the meaning of "seeking admission" beyond recognition.

Third, while the BIA in *Yajure Hurtado* maintained that its reading of Section 1225(b) does not render the Laken Riley Act superfluous, *id.* at 222, this position is unconvincing. As discussed above, if the BIA's interpretation were adopted, it would effectively nullify the recent statutory amendments enacted through the Laken Riley Act—contrary to the principle that congressional amendments are presumed to have meaningful effect. *See Lopez-Campos*, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379, at 8.

The Immigration Judge's holding that section 1225(b)(2)(A) applies to all noncitizens present in the United States without admission is erroneous as the interpretation of the statute (1) disregards the plain meaning of section 1225(b)(2)(A); (2) disregards the relationship between sections 1225 and 1226; (3) would render a recent amendment to section 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice.

Other district courts have reached a similar conclusion. *See*, e.g., *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 U.S. Dist. LEXIS 153952, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at 9 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at 8 (D. Mass. July 7, 2025); *Vasquez Garcia v. Noem*, 2025 U.S. Dist. LEXIS 171714, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v.*

Trump, No. 3:25-cv-01093-JE, Doc. 20 (W.D. La. Aug. 27, 2025); Doc. 11, *Benitez v. Noem*, No. 5:25-cv-02190 (C.D. Cal. Aug. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 U.S. Dist. LEXIS 165015, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 U.S. Dist. LEXIS 160622, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 U.S. Dist. LEXIS 157488, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted 2025 U.S. Dist. LEXIS 156336, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); Doc. 11, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM, (C.D. Cal. July 28, 2025).

Aside from the Board of Immigration Appeals' recent decision in *Matter of Yajure Hurtado*, no authority has been identified that holds noncitizens like Petitioner—who have resided in the United States for many years—subject to section 1225(b)(2)(A).

SECOND CAUSE OF ACTION

II. Substantive Due Process

Substantive due process forbids arbitrary or punitive detention. As the Supreme Court has emphasized, "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). In the context of civil immigration proceedings, the government's authority to detain is limited to two legitimate purposes: (1) protecting the public from danger, and (2) ensuring the individual's appearance at future proceedings. *Demore v. Kim*, 538 U.S. 510, 518–19 (2003). Detention that does not serve either purpose amounts to unconstitutional punishment.

In this case, while Mr. Flores-Gracias was taken into custody following an arrest, he has not been convicted of any criminal offense. He has submitted extensive evidence establishing that he is neither a danger to the community nor a risk of flight. Indeed, the Immigration Judge issued an alternative ruling expressly finding that he does not present a public-safety concern and is likely to comply with all future proceedings. The Court further stated that, absent the jurisdictional bar, she would have granted release on bond. As the Supreme Court held in *Bell v. Wolfish*, 441 U.S. 520, 535 (1979), "[i]f a restriction or condition is not reasonably related to a legitimate governmental objective, it amounts to punishment." Petitioner's continued detention—based on speculation rather than evidence—bears no reasonable relation to a lawful objective and is therefore punitive and unconstitutional.

a. Application of the *Mathews v. Eldridge* Balancing Test

To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976). The Court must weigh: (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 United States' interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id.* at 335.

Private Interest

It is beyond dispute that Mr. Flores-Gracias has a compelling and constitutionally protected interest in avoiding continued detention. The right to be free from government-imposed confinement is among the most fundamental of all liberty interests. As the Supreme Court held in *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004), "[l]iberty is the most elemental of liberty interests." Similarly, in Zadvydas v. Davis, 533 U.S. 678, 690 (2001), the Court reaffirmed that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty the Due Process Clause protects."

In assessing due process violations, courts may also examine the conditions of confinement to determine whether civil detention is effectively indistinguishable from criminal incarceration. *Martinez v. Noem*, 2025 U.S. Dist. LEXIS 174415, 2025 WL 2598379, at 2 (W.D. Tex. Sep. 8, 2025). Mr. Flores-Gracias is currently confined at the Washoe County Detention Center under conditions that mirror those of penal detention and is unjustly separated from his family. Such confinement, absent a lawful and individualized justification, is a grave intrusion on his liberty and runs afoul of due process protections.

Risk of Erroneous Deprivation

The second *Mathews* factor considers "the risk of an erroneous deprivation of [Petitioner's] interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). In this case, that risk is substantial.

Federal Respondents have failed to provide any evidence that Mr. Flores-Gracias poses a danger to the community or is a flight risk. Without such a showing, the likelihood of an unjustified deprivation of his fundamental liberty interest is unacceptably high. It is important to reiterate that the Immigration Judge did not find Mr. Flores-Gracias to present a danger to the community of a flight risk. The absence of meaningful procedural safeguards—such as a constitutionally adequate bond hearing—only amplifies the risk of error and underscores the urgent need for judicial intervention.

Government's Interest

The third and final *Mathews* factor examines "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

While the government's interests in protecting the public from dangerous noncitizens and ensuring an individual's eventual removal are undeniably important, *Rodriguez Diaz*, 53 F.4th 1189–90, those interests are fully addressed through an individualized bond determination by an Immigration Judge under § 1226. As the Ninth Circuit has made clear, "the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the

community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017).

Where the government cannot articulate any specific justification for continuing to detain a noncitizen who has already prevailed—or would prevail—at a proper bond hearing, the detention ceases to serve a lawful immigration purpose. As Justice Kennedy warned in *Demore v. Kim*, such circumstances raise serious constitutional concerns: "[w]hether the detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons." *Demore*, 538 U.S. 510, 532–33 (Kennedy, J., concurring).

Conclusion on Causes of Action

Mr. Flores-Gracias's continued detention violates both procedural and substantive due process. The Immigration Judge denied his liberty based on a misapplication of the law, and DHS failed to carry its burden of proving that Mr. Flores-Gracias poses a flight risk or danger to the community. Despite this, his detention persists without any lawful or evidentiary basis.

Accordingly, the Constitution requires either Petitioner's immediate release or, at minimum, a custody redetermination hearing that fully complies with due process.

PRAYER FOR RELIEF

WHEREFORE, Mr. Flores-Gracias prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Declare that the Immigration Judge's November 28, 2025, Order Denying Motion for Bond Determination and detention of Mr. Flores-Gracias was an unlawful exercise of authority;

(3) Order ICE to immediately release Mr. Flores-Gracias from his unlawful detention;

(4) Declare a hearing can be held before a neutral adjudicator to determine whether his incarceration would be lawful because the government has shown that he is a danger or a flight risk by clear and convincing evidence;

(5) Declare that Mr. Flores-Gracias cannot be re-arrested unless and until he is

afforded a hearing on the question of whether his incarceration would be lawful—i.e., whether the government has demonstrated to a neutral adjudicator that he is a danger or a flight risk by clear and convincing evidence;

(6) Award reasonable costs and attorney fees; and

(7) Grant such further relief as the Court deems just and proper.

Dated this 1st day of December 2025

Respectfully submitted,

Karen S. Monrreal, Esq.
Attorney for Mr. Flores-Gracias

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 1st day of December 2025 in Reno, NV.

Karen S. Monrreal
Attorney for Petitioner Flores-Gracias