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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

Angel Zamora Concepcion Petitioner, v. **TONY NORMAND,** Irwin County Detention Center; **LADEON FRANCIS,** Director of Atlanta Field Office, U.S. Immigration and Customs; Enforcement; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement, In his official capacity; **KRISTI NOEM,** Secretary of the U.S. Department of Homeland Security; and **PAM BONDI,** Attorney General of the United States, in their official capacities, Respondents.	Case No. _____ **PETITION FOR WRIT OF HABEAS CORPUS** **ORAL ARGUMENT** REQUESTED

COMES NOW, Petitioner, Angel Zamora Concepcion, through undersigned counsel, hereby respectfully petitions this Honorable Court for a writ of habeas corpus under 28 U.S.C. § 2241 and in furtherance thereof states:

INTRODUCTION

1. Petitioner, Angel Zamora Concepcion, a national of Cuba, is unlawfully detained in the physical and legal custody of Respondents at the Irwin County Detention Center in Ocilla, Georgia.

2. Petitioner is a Cuban national who is prima facie eligible for adjustment of status under the Cuban Adjustment Act (CAA) and also a pending asylum applicant. Petitioner was lawfully processed for inspection as an arriving alien through the CBP One parole process and subsequently granted parole under INA § 212(d)(5) on August 11, 2023. [Exhibit 1, I-94 and Exhibit 2, Cuban passport].

3. Petitioner fully complied with every requirement of DHS and ICE since his initial entry. He attended all scheduled appointments, complied with supervision, maintained a stable U.S. residence, and has never been arrested or charged with any crime. Petitioner has been physically present in the United States for more than one year, rendering him statutorily eligible to adjust status to lawful permanent resident under the Cuban Adjustment Act of 1966, Pub. L. 89-732.

4. On April 18, 2025, Petitioner's parole expired. He was then detained by ICE on October 14, 2025 presumably asserting that parole termination automatically triggers mandatory detention under 8 U.S.C. § 1225(b). This legal conclusion is erroneous.

5. Despite full compliance and statutory eligibility for lawful permanent residence, ICE abruptly detained him without a warrant and without any individualized determination of danger or flight risk in Florida on or about October 14, 2025, in violation of the Immigration and Nationality Act and of her Fourth and Fifth Amendment Due Process Rights under the U.S. Constitution. Accordingly, to vindicate Petitioner's constitutional and statutory rights this court should grant the instant petition for writ of habeas corpus.

6. The Department of Justice's Executive Office of Immigration Review has issued precedential decisions of the board of Immigration Appeals that purport to unlawfully subject the Petitioner to indefinite mandatory detention in violation of his Due Process rights under the constitution and in violation of the Immigration and Nationality Act.

7. Federal courts overwhelmingly reject the Government's theory that termination of parole converts a paroled arriving alien inside the United States into a person subject to § 1225(b) mandatory detention. Custody of a noncitizen residing inside the U.S. after parole is governed by 8 U.S.C. § 1226(a), which requires an individualized custody determination—not automatic incarceration.

8. Additionally, Petitioner's detention violates 8 U.S.C. § 1357(a)(2) and the Castanon Nava ICE Policy on Warrantless Arrests, as no officer documented the required finding that Petitioner was likely to escape before a warrant could be obtained.

9. Subsequent to his unlawful detention in Florida on about October 14, 2025, Petitioner was transferred by the Respondents to the Pinellas County jail which U.S. Immigration and Customs enforcement, an agency within DHS, has partnered with to hold and detain immigrants under a 287(g)(1) of the Immigration and Nationality Act partnership, which authorizes ICE to delegate specific immigration officer functions to state and local law enforcement officials under the agency's direction and supervision.

10. He was then transferred to the Baker Correctional Institute in North Florida and subsequently transferred to the Irwin County Detention Center on November 24, 2025, where he is now located.

11. At the time of his warrantless arrest and detention, Petitioner had a pending Application for Adjustment of Status, I-485 [Exhibit 3, I-797C Notice for Biometrics Appointment

pursuant to Form I-485, Application to Register Permanent Residence or Adjust Status], and an immigration court date of October 23, 2026 [Exhibit 4, Notice from the Orlando Immigration Court with next hearing date]. The Petitioner has complied with everything required of him by the government since his initial entry and humanitarian parole into the United States.

12. Petitioner has no criminal history in the United States or anywhere else in the world and has participated fully and actively in pursuing relief under the laws of this country. Yet on October 14, 2025, on information and belief Respondents detained the Petitioner without cause and without a warrant while leaving his residence in violation of 8 U.S.C. § 1357(a)(2).

13. Respondents have detained the Petitioner based not on his personal circumstances or individualized facts but because of Respondent's incorrect categorical determination that the 5th amendment notwithstanding, non-citizens are not entitled to Due Process of law.

14. But Respondents cannot evade the law so easily the US constitution requires the Respondents provide Petitioner at minimum with the rights available to Petitioner when Petitioner filed an application for asylum after releasing her into the United States and instituting all proceedings in immigration court.

15. To the extent that the Respondents intend the subject to the Petitioner to indefinite mandatory detention throughout the remainder of all his proceedings in the United states based on the BIA's recent presidential decisions in *Matter of Q.Li*, 29 I. & N. Dec. 66, 69 (BIA 2025) (holding that "all non-citizens who fall within this scope of 8 U.S.C. § 1225 (b)(1) (arriving aliens) must be detained under that section and are 'ineligible for any subsequent release on bond' under § 1226(a)" and to oppose bond before the Immigration Judge (IJ) pursuant to *Matter of Yahure Hurtado*, 29 I & N Dec. 216, 229 (BIA) (holding that IJ's have no jurisdiction to consider bond for

persons charged as "arriving aliens" in removal proceedings), Petitioner's detention is unlawful, in violation of his Due Process rights and the INA.

16. ICE detained Petitioner without a warrant, without establishing probable cause that he was likely to escape, and without conducting any individualized assessment of danger or flight risk, violating the Immigration and Nationality Act ("INA"), ICE's own regulations and settlement obligations, and the Due Process Clause of the Fifth Amendment.

17. Because Petitioner is a Cuban national eligible to adjust status, poses no danger or flight risk, and is currently pursuing asylum and other relief, his continued detention is unlawful.

18. Petitioner seeks immediate release or, in the alternative, a prompt custody redetermination hearing where DHS bears the burden of proving by clear and convincing evidence that detention is necessary.

19. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court: (a) to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law; (b) to immediately issue an order preventing Petitioner's transfer out of this district; and, (c) to order either a bond hearing before an immigration judge or to order the Respondent's immediate release from detention, or in the alternative to show cause in writing within three (3) days why the writ of habeas corpus and other relief requested in the petition should not be granted.

JURISDICTION

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

21. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), the Immigration and Nationality Act ("INA"), 8 U.S.C. §§

1101-1537, regulations implementing the INA, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-706, and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

22. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All-Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.SC. § 1252(e)(2).

23. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C § 702. In addition, sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

VENUE

24. Venue is proper because Petitioner is detained at Irwin County Detention Center in Ocilla, Georgia, which is within the jurisdiction of this District. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of the immigration detention. See e.g. *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

25. Venue is further proper because Respondents are employees, officers, and agencies of the United States and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia.

26. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Georgia, the judicial district in which the Petitioner is currently detained.

REQUIREMENTS OF 28 U.S.C. § 2243

27. 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).

28. There is no statutory exhaustion requirement in 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement prudential exhaustion may be judicially required. Whether or not to require prudential exhaustion falls within the Honorable Courts sound judicial discretion provided that such discretionary requirement complies with statutory schemes and the intent of Congress. See *Leonardo v. Crawford*, 646 F.3d 1157 (9th Cir. 2011), citing *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992), superseded by statute on other grounds as stated in *Booth v. Churner*, 532 U.S. 731 (2001); *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007).

29. As noted above the presidential decisions issued by the BIA in *Matter of Q. Li* and *Matter of Yajure-Hurtado* stand for the proposition that the Petitioner is subject to indefinite mandatory detention and is ineligible for a bond hearing before an immigration judge.

30. The BIA's presidential decisions serve as precedents in all proceedings involving the same issue or issues. 8 C.F.R. §§ 1003.1(g)(2), (d)(1). Therefore, requiring the Petitioner to seek a bond hearing and when denied, appeal that denial to the BIA will certainly result in a holding that anyone who is deemed "[a]n alien present in the United States without being admitted or paroled" will be subjected to mandatory detention without bond under 8 U.S.C. § 1225(b)(2).

31. Moreover, the fundamental question presented by this petition is whether 8 U.S.C. § 1225 or 8 U.S.C. § 1226 applies to the Petitioner's detention which is a purely legal question of statutory interpretation which would not be impacted by any administrative record developed in

immigration or an appeal to the BIA.

32. This Honorable Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright v. Raimondo*, 603 U.S. 369, 413 (2024) (holding that federal judges are not required to, and pursuant to the Administrative Procedure Act (the "APA"), are not to defer to an agency interpretation of the law simply because a statute is ambiguous as that is the role of the federal courts).

33. Finally, the Petitioner's constitutional challenge to her detention does not require exhaustion. The Ninth Circuit has noted that Due Process challenges such as the one raised by Petitioner here generally does not require exhaustion because the BIA cannot review constitutional challenges. *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011)

34. Thus, requiring prudential exemption is a futile exercise and will only result in the extended unlawful detention of the Petitioner.

35. The Court must grant the Petition for Writ of Habeas Corpus or issue an Order to Show Cause (OSC) to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an Order to Show Cause is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

36. The Petitioner is in custody for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

37. Petitioner **Angel Zamora Concepcion** is a pending applicant for adjustment of status and asylum pursuant to 8 U.S.C § 1158 and is a citizen and national of Cuba**.** Petitioner entered the United States through a port of entry on August 11, 2023, and was paroled under a

humanitarian parole. Upon obtaining more than one year of continuous presence in the United States, Petitioner filed his application for adjustment of status to lawful permanent residency. At the time of his unlawful arrest Petitioner had a pending in person hearing scheduled at the Orlando Immigration Court on October 23, 2026. Petitioner is present within the Middle District of Georgia as of the time of filing of this petition and is currently detained at the Irwin County Detention Center in Ocilla, GA.

38. Respondent is the Warden of Irwin County Detention Center and has immediate physical custody of the Petitioner pursuant to the facilities contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

39. Respondent, Ladeon Francis, is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations Division, a component of the Department of Homeland Security. As such he is Petitioner's immediate custodian for purposes of habeas and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

40. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, the federal agency responsible for implementing and enforcing the INA including the detention and removal of non-citizens and a component agency of the Department of Homeland Security.

41. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA") and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

42. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice. In that capacity she has

the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR") which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

A. Cuban Nationality and Eligibility for the Cuban Adjustment Act

43. Petitioner is a citizen and native of Cuba.

44. Petitioner was processed for inspection and paroled into the U.S. on August 11, 2023. [Exhibit 1, I-94]

45. Petitioner has resided continuously in the U.S. for more than one year, making him prima facie eligible to adjust status under the Cuban Adjustment Act (CAA).

46. Petitioner has already submitted Form I-485 under the CAA. [Exhibit 3]

47. Because Petitioner is CAA-eligible, DHS policy and long-standing federal practice have treated Cuban nationals as low-flight-risk humanitarian entrants.

48. Petitioner was in the process of preparing his Form I-589 application for asylum, withholding of removal, and CAT protection with the assistance of undersigned counsel as a second form of relief when he was abruptly transferred to the Irwin County Detention Center on 11/24/25, thereby complicating the logistics of meeting with counsel to physically sign forms.

B. Entry, Parole, and Compliance

49. Petitioner is a citizen of Cuba. [Exhibit 2, Petitioner's passport]. Petitioner entered the United States as an arriving alien through a scheduled CBP One inspection appointment at the Paso del Norte Port of Entry on August 11, 2023.

50. DHS granted Petitioner parole under INA § 212(d)(5), codified under 8 U.S.C. § 1182(d)(5)(A). He complied with all parole conditions, including:

A. appearing at all ICE check-ins;

B. updating his address;

C. attending all immigration court hearings; and

D. complying with all instructions given by ICE and EOIR.

51. Petitioner has no criminal history other than minor traffic infractions and poses no danger to the community. He has strong ties, including partner, who had a miscarriage of his child shortly after the Petitioner was detained, and family members.

C. **Parole Revocation and Warrantless Arrest**

52. On October 14, 2025, ICE abruptly detained him at the Pinellas County Jail.

53. ICE did not issue a warrant, did not identify facts suggesting Petitioner was "likely to escape before a warrant could be obtained," and did not provide any individualized reason for detention in violation of 8 U.S.C. § 1357(a)(2).

54. ICE asserted that because parole was expired, Petitioner was now subject to mandatory detention under § 1225(b)—a legal conclusion rejected by federal courts. However, at the time of arrest, Petitioner was already inside the United States for more than two (2) years, in full removal proceedings, compliant, reachable, and fully cooperative.

55. ICE produced no documentation showing that Petitioner was likely to escape before a warrant could be obtained; or any individualized danger or flight risk factors. ICE's own policy (Castanon Nava Settlement) requires release where warrantless arrests violate § 1357(a)(2).

56. Petitioner was placed in removal proceedings on August 11, 2023, when he entered with a parole. [Exhibit 5, Notice to Appear] He filed his I-485, Application to Register Permanent Residence or Adjust Status with USCIS and is awaiting adjudication of his application for which he is prima facie eligible for adjustment of status to become a lawful permanent resident under the

Cuban Adjustment Act ("CAA") as a Cuban National that has been physically present in the United States for more than one (1) year.

57. Detention is causing severe physical, emotional, and legal harm and is impeding Petitioner's ability to pursue CAA adjustment and asylum.

LEGAL FRAMEWORK

A. Effect of Parole and Constitutional Due Process

58. Petitioner's history of parole under section 1182(d)(5)(A) does not change the result on whether he is subject to mandatory detention after he was detained on October 14, 2025. At the expiration of his parole, Petitioner was required to "forthwith return" or else the Department "forthwith return"—or else the Department of Homeland Security ("DHS") was required to return Petitioner—"to the custody from which he was paroled." 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. §§ 212.5(e)(1)(ii), 212.5(e)(2)(i) (providing that, when parole expires, a non-citizen "shall be restored to the status that he or she had at the time of parole"); *see also Velasquez Rincon v. Hyde,* — F. Supp. 3d —, 2025 WL 3122784, at *4 (D. Mass. Nov. 7, 2025) (further explaining this mechanism). DHS apparently failed, or declined, however, to detain Petitioner when his parole expired.

59. However, if a Petitioner "developed strong ties to the country" that highlight the serious concern his detention without bond raises under the Fifth Amendment's Due Process Clause. *See Nielsen v. Preap*, 586 U.S. 392, 419-20 (2010). In *Dep't of Homeland Sec. v. Thuraissigiam*, the Supreme Court affirmed the long-held principle that "aliens who have established connections in this country have due process rights." 591 U.S. 103, 107.

60. Similarly, in constitutional due-process protections regarding detention flow simply as a matter of "geographic" presence within the United States, see Velasquez Rincon v. Hyde, F. Supp. 3d, 2025 WL 3122784, at *5–7 (D. Mass. Nov. 7, 2025) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)), notwithstanding any legal fiction that might affect a non-citizen's "rights regarding admission," *see id.* (emphasis added) (quoting *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140).

61. Whatever theoretical route one takes, the only conclusion that makes sense is that Petitioner is a "person" who cannot "be deprived of life, liberty, or property, without due process of law." U.S. CONST. amend. V.

B. Warrantless Arrest Violated 8 U.S.C. § 1357(a)(2)

1. ICE cannot arrest without a warrant unless both prongs are met: (1) probable cause of removability; and (2) likelihood to escape before a warrant can be obtained. Here, ICE documented neither, violating 8 U.S.C. § 1357(a)(2) and the *Castanon Nava* Settlement (requiring documentation).

C. Cuban Adjustment Act ("CAA") Eligibility Undercuts Any Flight-Risk Argument

2. The CAA provides:

> "Any native or citizen of Cuba who has been inspected and admitted or paroled into the United States and has been physically present for at least one year may be adjusted to lawful permanent resident status." — Pub. L. 89-732 (1966)

3. Petitioner has been: (1) paroled into the U.S.; (2) been physically present for more than one year; (3) no criminal history; (4) an available path to lawful permanent residence. CAA-eligible applicants have a statutory incentive to appear for hearings, not to abscond.

D. Asylum and Refugee Law

4. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the "historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands." Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

5. The "motivation for the enactment of the Refugee Act" was the United Nations Protocol Relating to the Status of Refugees, "to which the United States had been bound since 1968." *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose "to give 'statutory meaning to our national commitment to human rights and humanitarian concerns.'" *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

6. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

7. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of "refugee." Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

8. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen "who is physically present in the United States or who arrives in the United States[.]" 8 U.S.C. § 1158(a)(1).

9. Because of the life-or-death stakes, the statutory right to apply for asylum is robust. The right necessarily includes the right to counsel, at no expense to the government, *see* 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, *see* 8 U.S.C. § 1158(d)(4), and the right to access information in support of an application, *see* § 1158(b)(1)(B) (placing the burden on the applicant to present evidence to establish eligibility.).

10. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993). Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with Due Process, noncitizens may seek administrative appellate review before the Board of Immigration Appeals of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) *et seq*.

E. ICE Broadcast Statement of Policy

11. On November 23, 2021, ICE issued a Broadcast Statement of Policy as a nationwide policy regarding warrantless arrests and vehicle stops as part of its settlement agreement with class members in *Castañon Nava et al. v. Dep't of Homeland Security et al.*, No. 18-cv-3757 (N.D. Ill.), which was approved on February 8, 2022. [Exhibit 6] It took effect on May 13, 2022, and remains in effect until February 2, 2026, and may be extended given recent violations of the settlement agreement.

12. Under the policy, ICE **must** document the facts and circumstances surrounding a warrantless arrest or vehicle stop in the individual's arresting documentation, called an I-213, including whether the individual was arrested without an administrative warrant; the location of the arrest (e.g., place of business, residence, vehicle, or a public area); if arrested at a business,

whether the individual is an employee of the business; if arrested at a residence, whether the person resides at that place of residence; ties to the community, if known at the time of arrest, including family, home, or employment; the specific, particularized facts supporting the conclusion that the individual was likely to escape before a warrant could be obtained; and a statement of how the ICE officers identified themselves as ICE and "state[d] that the person is under arrest and the reason for the arrest." With respect to vehicle stops, ICE must also document specific facts that formed the basis for its reasonable suspicion that a person in the vehicle did not have legal status.

13. Under 8 U.S.C. § 1357(a)(2), ICE may conduct warrantless arrests if there is "reason to believe that the alien [] [to be] arrested is [present] in the United States in violation of any [U.S. immigration] law and is likely to escape before a warrant can be obtained for [the] arrest." Both factors are required. However, mere presence within the United States in violation of U.S. immigration law is not, by itself, sufficient to conclude that an alien is likely to escape before a warrant for arrest can be obtained. Further, the policy above applies to all warrantless arrests resulting from vehicle stops.

14. Upon information and belief, the Respondents' arrest of the Petitioner violated 8 U.S.C. § 1357(a)(2) and ICE's nationwide policy in compliance with this statute. Under the terms of the settlement, in the event of a violation and arrest contrary to the terms of the agreement, a class member must be released from ICE custody as soon as practicable, without paying a bond or being subject to conditions of release. Even though the Petitioner is not a class member, she should be afforded the same relief for having been arrested contrary to law and ICE's nationwide policy.

15. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are

unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001).

F. Release and Indefinite, Mandatory Detention

16. On July 8, 2025, ICE issued interim guidance instructing all ICE employees to consider anyone charged with inadmissibility under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. The July 8, 2025, DHS policy memorandum states it was issued "in coordination with the Department of Justice (DOJ)." **[Exhibit 7, July 8, 2025, ICE Guidance Regarding Detention Authority for Applications for Admission]**

17. Petitioner's Notice to Appear charges him with inadmissibility pursuant to INA § 212(a)(7)(A)(i)(I), codified at 8 U.S.C. § 1182(a)(7)(A)(i)(I). **[Notice to Appear]** Even though the Petitioner was not charged under the specific charge in the interim guidance, Respondents purport that he is purportedly subject to indefinite, mandatory detention. However, whether or not Respondents are correct turns on what provision of law governs Petitioner's detention.

18. As this Honorable Court has jurisdiction over this Petition for a Writ of Habeas Corpus, it must next determine whether the Petitioner's detention is governed by the mandatory detention provisions in 8 U.S.C. § 1225(b)(2) or the discretionary detention provisions in 8 U.S.C. § 1226(a).

19. 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 IJ at any time before entry of a final removal order." *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1247 (W.D. Wash. 2025).

20. Since July 8, 2025, Respondents have begun widespread arrests and detentions of persons such as the Petitioner, who entered the U.S. without inspection and have been present for years. Respondents now take the position that persons in Petitioner's situation are "applicants for admission" and therefore subject to indefinite, mandatory detention under 8 U.S.C. § 1225(b)(2).

21. To the contrary, the Petitioner is detained pursuant to 8 U.S.C. § 1226(a).

22. 8 U.S.C. § 1225(a)(1) provides that a noncitizen "present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." The statute defines an "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United State" 8 U.S.C. § 1225(a)(1). The Petitioner was paroled but is not admitted as he is currently pending admission.

23. The Respondents have argued to various courts around the United States that persons such as the Petitioner are subject to § 1225(b)(2), which provides that, "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A).

24. In other words, § 1225(b)(2)(A) generally requires mandatory detention of certain "applicant[s] for admission" during their removal proceedings. Individuals subject to mandatory detention under § 1225(b)(2)(A) may, however, be "temporarily released on parole 'for urgent humanitarian reasons or significant public benefit.'" *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting § 1182(d)(5)(A)). This parole "shall not be regarded as an

admission" of the noncitizen. 8 U.S.C. § 1182(d)(5)(A).

25. By contrast, § 1226(a) sets forth "the default rule" for detaining noncitizens "already present in the United States." *Jennings*, 583 U.S. at 303. Section 1226(a) provides that, "[o]n 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." 8 U.S.C. § 1226(a).

26. The Respondents have taken the position in courts across the country that § 1226(a), and the possibility of release on bond, only applies to individuals who are present in the country with lawful status but are in removal proceedings. However, section 1226(a) does not contain a requirement of lawful status, and "courts are not free to read into the language [of a statute] what is not there." *See O'Hara v. Nika Techs., Inc.*, 878 F.3d 470, 475 (4th Cir. 2017). *Id.*

27. Further, applying § 1225 to all persons who have not been admitted into the United States would conflict with the statute's broader structure, the Supreme Court's traditional understanding of the relationship between §§ 1225(b) and 1226(a), and decades of immigration practice. "[O]ne of the most basic canons" of statutory interpretation is that "a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." *Corley v. United States*, 556 U.S. 303, 314 (2009) (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004)) (internal brackets omitted).

28. By contrast, the Respondents' position that § 1225(b) applies to all persons who have not been admitted into the United States would render multiple provisions of § 1226 superfluous. For instance, § 1226(c)(1)(A), (D), and (E) already require mandatory detention of certain categories of inadmissible noncitizens. Indeed, Congress added § 1226(c)(1)(E)—

which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

29. If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.

30. The Respondents' theory also conflicts with the Supreme Court's previous interpretation of the relationship between §§ 1225(b) and 1225(a). In *Jennings*, the Supreme Court explained that § 1225(b) governs noncitizens "seeking admission into the country," whereas § 1226(a) governs noncitizens "already in the country" who are subject to removal proceedings. *Jennings*, 583 U.S. at 289. That interpretation is consistent with the core logic of our immigration system. "[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.

31. In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely "on the threshold of initial entry." *Leng May Ma*, 357 U.S. at 187 (*quoting Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)); *accord Zadvydas*, 533 U.S. 678, 693 (2001) ("The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law.").

32. Given this precedent, it is doubtful that Congress intended § 1225(b)(2) to apply to individuals like the Petitioner who were detained after being present in the U.S. for an extended period of time, who had not committed any crimes, and who were fully compliant with all requirements to attend ICE check-ins and immigration court hearings.

33. Respondents' position is at odds with DHS's own historic understanding of the statute's meaning. DHS's longstanding interpretation of § 1226 "like any other interpretive aid— can inform a court's determination of what the law is." *Hasan v. Crawford*, No. 1:25-cv-1408, 2025 WL 2682255 at *9 (E.D. Va. Sept. 19, 2025) (*quoting Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024)). "DHS's long-standing interpretation has been that § 1226(a) applie[d] to those who have crossed the border between ports of entry and are shortly thereafter apprehended." *Id.* (quoting Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954)); *see also Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588 at *8 (S.D.N.Y. Aug. 13, 2025) (observing that DHS's "novel position would expand § 1225(b) far beyond how it has been enforced historically").

34. DHS's historic practice reinforces § 1226(a)'s application to noncitizens in the Petitioner's position who are arrested well after arriving to this country.

FACTUAL BACKGROUND

35. Petitioner **Angel Zamora Concepcion,** a national and citizen of Cuba**,** escaped the Communist regime of Cuba.

36. Seeking refuge, he left his country and traveled to the United States.

37. Petitioner entered the United States and was paroled on August 11, 2023, at which point the U.S. Department of Homeland Security ("DHS") which issued him a Notice to Appear dated on August 11, 2023 instructing him to appear on October

38. After his entry, the Petitioner relocated to Florida where he has been living until his unlawful detention in Florida on October 14, 2025.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process

39. The allegations in the above paragraphs are realleged and incorporated herein.

40. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without Due Process of law." U.S. Const. Amend. V. Due Process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

41. To determine whether a civil detention violates a detainee's Fifth Amendment procedural Due Process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Matthews v. Eldridge* test in the context of immigration).

42. *Matthews v. Eldridge* requires a court to consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos v. Raycraft, et al.*, No. 2:25- cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) at *9 (*citing Mathews*, 424 U.S. at 335).

43. The Petitioner was detained without a warrant, based on no individualized circumstances applicable to him and in violation of 8 U.S.C. § 1357(a)(2) and ICE's Broadcast Statement of Policy. Further, the Petitioner was detained based upon the Administration's novel interpretation of existing law, and without notice or any opportunity to contest the redetermination of his custody. All of the foregoing violates his Due Process rights.

44. Subjecting the Petitioner to indefinite, mandatory detention on the flimsy legal

pretext of the July 8, 2025, ICE guidance violates her Due Process rights.

45. Detention must be nonpunitive and reasonably related to statutory purposes. Detaining a CAA eligible Cuban asylum seeker with no criminal history violates due process.

46. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations Not in Accordance with Law and in Excess of Statutory Authority Unlawful Detention

47. The allegations in the above paragraphs are realleged and incorporated herein.

48. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A). An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

49. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

50. By categorically detaining the Petitioner and transferring Petitioner away from the district in which he resides or the district in which he lives without consideration of Petitioner's individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA.

51. On information and belief, Respondents have made no finding that Petitioner is a danger to the community or a flight risk.

52. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because, since the agency made its initial determination to release the Petitioner into the United States, on information and belief, there have been no changes to Petitioner's facts or circumstances that support detention.

53. Respondents have already considered Petitioner's facts and circumstances and determined that Petitioner was not a flight risk or danger to the community when they initially released him into the United States. On information and belief, there have been no changes to the facts that justify his detention.

54. For these reasons, Petitioner's detention violates 5 U.S.C. § 706(2)(A).

COUNT THREE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Violation of 8 C.F.R. § 239.2(c)

55. The allegations in the above paragraphs are realleged and incorporated herein.

56. Under the APA, a court "shall . . . hold unlawful . . . agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

57. Petitioner does not concede that DHS has the authority to reverse its initial processing choice to parole him pursuant to 1225 and redetain him pursuant to 1225(b)(2).

58. Under the APA, an agency must provide "reasoned explanation for its action" and "may not depart from a prior policy *sub silentio* or simply disregard rules that are still on

the books." *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). *see also Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24-33 (2020) (holding that rescission of immigration policy without considering "particular reliance interests" is arbitrary and capricious in violation of the APA).

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

(3) Declare that Petitioner's warrantless arrest and detention without an individualized determination violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1357(a)(2);

(4) Declare that the application of the July 8, 2025, ICE Guidance to Petitioner violates the Due Process Clause of the Fifth Amendment;

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or in the alternative, promptly provide him with bond hearing before an immigration judge;

(6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

(7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

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

Dated: November 26, 2025

Respectfully submitted,

/s/ Eszter Bardi
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**Motion for Special Admission pending*

Counsel(s) for Petitioner

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

I represent Petitioner, **Angel Zamora Concepcion,** and submit this verification on her behalf because the Petitioner is currently detained and because of the urgent nature of the relief requested. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge. I am authorized to make this verification as the legal representative of the Petitioner, **Angel Zamora Concepcion.**

Dated this 26 November 2025

/s/ Michelle M. Reyes
Michelle M. Reyes, Esq.