UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Juan Carlos QUINTERO CAMPOS, Petitioner, - against - FRANCIS DELEON, in his official capacity as Acting Assistant Field Office Director for the Newark Field Office for Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of Homeland Security; PAMELA BONDI, in her official capacity as Attorney General of the United States of America, Respondents.	No. **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Juan Carlos Quintero Campos, brings this challenge following his unlawful search, seizure and eventual detention by Respondents in Staten Island, New York. Mr. Quintero Campos has resided in New York for 20 years and is the father of two U.S.-citizen children. His detention is not individualized but rather part of a coordinated campaign of race-based stops in immigrant neighborhoods of New York City such as Port Richmond. These stops have no basis apart from race: Latino men like Petitioner are stopped and pretextually questioned by officers who masquerade as police, then swiftly detained and disappeared without so much as a word of explanation and without any individualized analysis of whether Petitioner or others like him poses a flight risk or a danger.

2. Worse still, Mr. Quintero Campos now has no means of obtaining release from custody. Under Respondents' recent unlawful reinterpretation of the immigration statutes, he is ostensibly subject to indefinite mandatory detention under 8 U.S.C. § 1225(b)(2), notwithstanding his longtime presence in the U.S.

3. Petitioner's confinement is unlawful—as confirmed by a cascade of decisions, including within this District, that have rejected Respondents' interpretation of Section 1225(b)(2). Accordingly, he brings this petition seeking immediate and unconditional release. He also asks this Court to enjoin his transfer outside this District. *Local 1814, Intern. Longshoremen's Ass'n, AFL-CIO v. New York Shipping Ass'n, Inc.*, 965 F.2d 1224, 1237 (2d Cir. 1992) ("Once the district court acquires jurisdiction over the subject matter of, and the parties to, the litigation, the All Writs Act [28 U.S.C. § 1651] authorizes a federal court to protect that jurisdiction" (cleaned up)); *Khalil v. Joyce*, No. 2:25-cv-1963 (MEF) (D.N.J.) Mar. 19, 2025), ECF No. 81 (enjoining transfer and removal of an immigration habeas petitioner under the All Writs Act). Alternatively, Petitioner respectfully asks the Court to issue an order to show cause and hold a hearing pursuant to 28 U.S.C. § 2243 on the expedited basis set forth in the statute, during which the Court should (1) find that Petitioner's detention violates federal law and (2) order his release.

PARTIES

4. Petitioner is resident of Staten Island, New York. He was detained this afternoon.

5. Respondent LaDeon Francis is named in his official capacity as the Acting Field Office Director of the New York Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. In this capacity, he is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Francis's address is New York ICE Field Office Director, 26 Federal Plaza, 7th Floor, New York, New York 10278.

6. Respondent Todd Lyons is sued in his official capacity as Acting Director of U.S. Immigrations and Customs Enforcement. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Oliver.

7. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Southern District of New York; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue SE, Washington, District of Columbia 20528.

8. Respondent Pam Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Southern District of New York and is legally responsible for administering Petitioner's removal and custody proceedings and for the standards used in those proceedings. As such, she is the custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

JURISDICTION

9. Federal district courts have jurisdiction to hear habeas corpus petitions by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g.*, *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

10. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. § 2202.

The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

VENUE

11. Venue is proper in this Court because on information and belief Petitioner is currently in Manhattan. Petitioner was detained by Respondents in the jurisidction of the New York City ICE Field Office, which normally detains and processes people in Manhattan.

SPECFIC FACTS ABOUT PETITIONER

12. Mr. Quintero Campos is a Staten Island resident. He is Hispanic. He has resided in New York for approximately twenty years. He has two U.S.-citizen children, ages 10 and 15.

13. Port Richmond, New York is a predominantly Hispanic neighborhood.

14. On December 4, Mr. Quintero Campos was detained by ICE agents in Port Richmond who seized, questioned, and then ultimately transported him to detention.

15. On information and belief, Respondents stopped, questioned, and ultimately detained him not because of anything that Petitioner may have done but as part of an operation of indiscriminate stops of Hispanic people in immigrant neighborhoods in New York City. This campaign has led to a growing number of stops of Hispanic men on sidewalks and even in their own yards.

16. Respondents did not conduct any individualized custody assessment or flight-risk assessment of Petitioner.

LEGAL FRAMEWORK

The Government's Statutory Authority to Detain Noncitizens

17. The two primary provisions of the United States Code that govern the detention of noncitizens prior to an order of removal are 8 U.S.C. § 1226(a) and 8 U.S.C § 1225(b).[1]

18. Section 1226(a) governs the detention of most noncitizens who are already in the United States and subject to formal removal proceedings before an immigration court under 8 U.S.C. § 1229a. 8 U.S.C. § 1226(a); *see also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) ("[U.S. immigration law] authorizes the Government to detain certain [noncitizens] ***already in the country*** pending the outcome of removal proceedings under §§ 1226(a) and (c).") (emphasis added).

19. As the Supreme Court has made clear, "Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an [noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States.'" *Jennings,* 583 U.S. at 287-89.

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

21. Under the Section 1226 framework, release is appropriate where a noncitizen "demonstrate[s] to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8). *See Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) ("8

[1] Section 1226(c) concerns mandatory detention for noncitizens who have been convicted, or in some circumstances arrested, for certain criminal offenses, and is irrelevant to the instant petition, as none of Petitioner's arrest fit the relevant offenses under Section 1226(c). Moreover, Respondents are not relying on Section 1226(c) to justify Petitioner's detention.

U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination"); *see also Lopez Benitez v. Francis*, No. 25-CV-5937, 2025 WL 2371588, at *20 (S.D.N.Y. Aug. 13, 2025).

22. If, after an individualized consideration, ICE chooses to detain the noncitizen pursuant to Section 1226(a) pending removal proceedings, the individual may ask for a bond redetermination hearing before the immigration judge. 8 C.F.R. § 1003.19.

23. In contrast with Section 1226, which applies to "certain [noncitizens] *already in the country*," *Jennings*, 583 U.S. at 289 (emphasis added), Section 1225(b) governs detention of noncitizens seeking entry into the United States (*i.e.*, "applicants for admission"). In other words, Section 1225(b) mandates detention for those noncitizens subject to it, and they are not eligible to be considered for release.

24. Section 1225(b)(2)(A) applies to a narrower subset of applicants for admission. It provides that, "if the examining officer determines that a[] [noncitizen] *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] *shall be detained* for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A) (emphasis added).

25. For decades, courts and the agencies Respondents lead recognized that the detention of individuals who entered the U.S. without inspection is governed by 8 U.S.C. § 1226(a). Regulations promulgated nearly thirty years ago provide that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination" under Section 1226. 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Until now, Respondents consistently adhered to this interpretation. *See, e.g., Matter of Garcia-Garcia*, 25 I&N. Dec. 93 (BIA 2009); *Matter of D-J-*, 23 I&N. Dec. 572 (A.G. 2003); *see also* Transcript of

Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954) ([Solicitor General]: "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.").

26. However, since at least September 2025, Respondents have contended that individuals who entered the U.S. without inspection and are detained in the interior of the country are detained pursuant to 8 U.S.C. § 1225(b)(2)(A). *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 218 (BIA 2025).

27. Since Respondents adopted their new policies, dozens of federal courts around the country, including many in this district, have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE. *See, e.g., Lopez Benitez v. Francis*, 1:25-cv-05937-DEH, 2025 WL 2267803, slip. op. at *10-18 (S.D.N.Y. August 8, 2025) (ECF No. 14) ("*Lopez Benitez*"); *Savane v. Francis*, No. 1:25-CV-6666-GHW, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *4 (D. Mass. July 24, 2025). *Gomes v. Hyde*, No. 25 Civ. 11571 (JEK), 2025 WL 1869299, at *5-9 (D. Mass. July 7, 2025); *Rodriguez v. Bostock,* No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *14 (W.D. Wash. Apr. 24, 2025).

28. A declaratory judgement was also issued recently in a nationwide class action rejection Respondents' statutory interpretation *Maldonado Bautista v. Santacruz* is a nationwide class-action case challenging Respondents' reenvisioning of the detention statutes. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and, on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d

----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

29. Respondents are bound by the judgment in *Maldonado Bautista* as to class members nationwide, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). However, since the decision was issued, Respondents have instructed immigration judges that the declaratory judgement does not bind them and judges should continue to adhere to *Matter of Yajure Hurtado.* As a result, immigration judges continue use boilerplate language to deny bond to individuals like petitioner notwithstanding their detention inside the U.S.

Procedural Warrantles Stops and Initial Custody Determinations

30. Under the Immigration and Nationality Act, an agent can make an immigration arrest without an administrative warrant only if the agent "has reason to believe that [1] the alien so arrested is in the United States in violation of any such law or regulation and [2] is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2); *see also* 8 C.F.R. § 287.8(c)(2)(i)-(ii) (similar).

31. An administrative warrant can only be issued at the same time Notice to Appear is issued, or anytime thereafter. 8 C.F.R. §§ 236.1, 1236.1. *See Castanon Nava v. Dep't of Homeland Sec.*, No. 18-CV-3757, 2025 WL 2842146, at *17 (N.D. Ill. Oct. 7, 2025) (ICE lacks "statutory and regulatory authority" to issue I-200 warrants "in the field without the concurrent or prior issuance of an NTA").

32. DHS makes initial custody determinations pursuant to 8 C.F.R. § 1236.1(c)(8), which requires that noncitizens be released from custody *only* "if they demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding."

Noncitizens' Procedural Due Process Rights

33. The Due Process Clause of the Fifth Amendment entitles noncitizens to due process of law. *Reno v. Flores*, 507 U.S. 292, 306 (1993). As clearly enunciated by the Supreme Court, the protection of the Due Process Clause applies to noncitizens in the United States "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001) (citations omitted).

34. Stated simply, "while [DHS] might want to enforce this country's immigration laws efficiently, it cannot do that at the expense of fairness and due process." *Ceesay v. Kurzdorfer*, No. 25-CV-267, 2025 WL 1284720, at *1 (W.D.N.Y. May 2, 2025) (citing *United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954)).

35. Further, noncitizens are entitled to procedural due process protections, even in the face of policy shifts between administrations. While a "new administration can change the rules . . . it cannot change them and make up new rules as it goes along when the new rules abridge constitutional rights." *Velasquez v. Kurzdorfer*, No. 25-CV-493, 2025 WL 1953796, at *14 (W.D.N.Y. Jul. 16, 2025).

36. In the context of immigration detention due process claims, the Second Circuit has applied the three-factor balancing test set forth in *Mathews v. Eldridge* to determine what due process requires. These factors are: (i) "the private interest that will be affected by the official action"; (ii) "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 (iii) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).

37. In light of a noncitizen's due process rights and the procedural rights conferred by Section 1226(a) and the implementing regulations, a decision to detain a noncitizen requires an individualized determination as to the noncitizen's risk of flight and danger to the community. *See Velesaca v. Decker*, No. 20-CV-1803, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020); *Lopez Benitez*, 2025 WL 2371588, at *10; *Kelly v. Almodovar*, No. 25-CV-6448, 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025).

38. Under the *Mathews* rubric, freedom from imprisonment, physical restraint, or other forms of government custody is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *Lopez Benitez*, 2025 WL 2371588, at *9 ("[Petitioner] invokes the most significant liberty interest there is—the interest in being free from imprisonment") (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)) (citing *Hamdi*, 542 U.S. at 529); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. Nov. 22, 2019) (noncitizens in immigration custody had an arguably even greater liberty interest in remaining out of detention than criminal parolees who required due process protection).

39. With respect to the second *Mathews* factor, given the strong liberty interest at stake, the Fifth Amendment's guarantee of due process requires at least some notice and an opportunity to be heard before a person can be placed in immigration detention. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Further, due process requires that "notice must be afforded within a reasonable time and in such manner as will allow [noncitizens] to actually seek . . . relief[.]" *Id.*

40. For the third *Mathews* factor, "the Attorney General's discretion to detain individuals under 8 U.S.C. § 1226(a) is valid where it advances a legitimate government purpose." *Velasco Lopez*, 978 F.3d at 854. The recognized government interests in immigration detention are "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." *Zadvydas*, 533 U.S. at 690. Absent evidence in the record that a noncitizen is dangerous, and in situations when the noncitizen has appeared for immigration proceedings, district courts have held that the government cannot demonstrate a significant interest in their detention. *See Lopez Benitez*, 2025 WL 2371588, at *13; *Valdez*, No. 25-CV-4627, 2025 WL 1707737, at *4 (S.D.N.Y. Jun. 18, 2025).

41. Recent decisions by federal courts in various jurisdictions confirm that due process requires the government to make individualized determinations to detain noncitizens and give them notice and a meaningful opportunity to be heard when challenging their detention. Further, if a noncitizen does not receive individualized consideration pre-deprivation, his due process rights are irrevocably violated, and no amount of procedure provided post-detention can remedy that violation. *See, e.g.*, *Lopez Benitez*, 2025 WL 2371588, at *14 ("Given the nature of the constitutional violation Mr. Lopez Benitez sustained here—i.e., Respondents' failure to conduct any kind of individualized assessment before detaining him—any post-deprivation review by an immigration judge would be inadequate."); *see also Chipantiza-Sisalema*, 2025 WL 1927931, at *3 (finding bond "hearing is no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause.") (citation modified); *Kelly*, 2025 WL 2381591, at *3 (same).

42. As a result, courts have ordered a noncitizen's immediate release where their pre-detention due process rights have been violated. Here, immediate release is appropriate because Respondents have not—and cannot—show that they conducted an individualized determination regarding Petitioner before his summary arrest standing in front of his home. Respondents' reliance on Section 1225(b)(2)'s mandatory detention provision establishes their decision to forego any evaluation of whether Petitioner's circumstances would otherwise warrant detention under Section 1226, which provides the sole lawful authority for detaining individuals residing in the U.S. Indeed, in what is becoming a routine litigation strategy, Respondents will likely advance a two-part argument to perpetuate their unlawful detention scheme: first, they will claim Petitioner's detention is lawful under Section 1225(b)(2), and then, as a fallback, acknowledge that Section 1226 applies but that Petitioner should seek an administrative bond hearing. All the while, Petitioner will likely remain in detention awaiting such a hearing and for any administrative appellate process to run its course. Immediate release is the only remedy that would end this game of bait-and-switch.

43. In the alternative, Petitioner seeks at a minimum a bond hearing at which Respondents bear the burden of justifying his continued detention by clear and convincing evidence. *See Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). Although he submits this is insufficient to vindicate the immense due-process violation inherent in his race-based detention, a bond hearing is a mechanism to mitigate his continued unlawful confinement.

TIMELINE PURSUANT TO 28 U.S.C. § 2243

44. Courts considering petitions for writs of habeas corpus are directed to either issue a writ "forthwith," or to direct the respondent to show cause why the writ should not be granted within three days, or, with good cause, within twenty days. 28 U.S.C. § 2243.

45. Once the government has responded, the statute directs the Court to schedule a hearing on the petition "not more than five days after the return unless for good cause additional time is allowed." *Id.*

46. Because Petitioner's liberty remains heavily burdened during his continued detention, we ask the Court to adhere to the clear schedule set forth in § 2243 and order the Government to Show Cause within three days as to why the Petition should not be granted.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION (Failure to Conduct an Individualized Pre-Detention Assessment)

47. Petitioner realleges and incorporates by reference each and every allegation contained above.

48. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

49. The Second Circuit applies the *Mathews v. Eldridge* factors to determine what due process requires in the context of immigration detention, balancing: (i) "the private interest that will be affected by the official action"; (ii) "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 (iii) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Velasco Lopez*, 978 F.3d at 851 (citing 424 U.S. at 335).

50. Petitioner's private interests here are strong: he has been deprived of his liberty. Indeed, detention is the "carefully limited exception" and implicates the "most significant liberty interest there is—the interest in being free from imprisonment." *Velasco Lopez*, 978 F.3d at 851.

51. Further, Respondents detained Petitioner without notice, without an opportunity to respond, and without any meaningful evaluation as to his particular circumstances, including whether he poses a flight risk or a danger to the community.

52. With respect to the government's interest, Respondents have not offered any individualized purpose for Petitioner's detention. *Zadvydas*, 533 U.S. at 690–91.

53. Necessarily, therefore, based on ICE's view that Petitioner's detention was mandatory, an individualized assessment of the factors in his case—including his strong ties to the U.S. and nearly 20 years of residence in this country—was not made prior to his detention. *See Lopez Benitez*, 2025 WL 2371588, at *11 ("The problem is that Respondents have not offered any explanation for Mr. Lopez Benitez's detention other than their initial assertion that it is mandatory—that is, that it is *non-discretionary*. Such an assertion is precisely the *opposite* of an exercise of discretion, which entails some sort of judgment") (emphasis in original).

54. For the foregoing reasons, Respondents' detention of Petitioner violates the rights guaranteed to him by the Due Process Clause of the Fifth Amendment to the United States Constitution. As multiple courts have held, no amount of post-deprivation process can cure the foregoing violation, and Petitioner should be released.

COUNT TWO
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION
(Substantive Due Process)

55. Petitioner realleges and incorporates by reference each and every allegation contained above.

56. The Due Process Clause prohibits the government from depriving any person of "life, liberty, or property, without due process of law[.]" U.S. Const. amend. V. At its core, a person's protected liberty interest mandates freedom from arbitrary imprisonment and applies with equal force to individuals in immigration detention. *Zadvydas*, 533 U.S. at 690; *Doherty v. Thornburgh*, 943 F.2d 204, 209 (2d Cir. 1991). Because "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception," the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *U.S. v. Salerno*, 481 U.S. 739, 755 (1987)).

57. In the immigration context, detention is nonpunitive and therefore held to different standards than criminal detention. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 491 (1999). Specifically, Courts have recognized only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Zadvydas,* 533 U.S. at 690; *Velasco Lopez*, 978 F.3d at 853–54; *Faure v. Decker*, No. 15-CV-5128, 2015 WL 6143801, at *3 (S.D.N.Y. Oct. 19, 2025). Detention is nevertheless the "carefully limited exception" and implicates the "most significant liberty interest there is—the interest in being free from imprisonment." *Velasco Lopez*, 978 F.3d at 851.

58. Petitioner does not pose a flight risk or a danger to the community at large. *See Zadvydas*, 533 U.S. at 690–91 (noting that immigration detention aims to ensure the detainee's appearance at immigration proceedings and protect the community from dangerous individuals). Because Respondents' detention of Petitioner detention bears no "reasonable relation" to the government's interests in preventing flight and danger, *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), his detention is devoid of any reasoned justification.

59. For the foregoing reasons, Respondents' arbitrary and abrupt detention of Petitioner violated his substantive due process rights.

COUNT THREE

VIOLATION OF THE FOURTH AMENDMENT TO THE CONSTITUTION (Freedom from Unlawful Stop and Seizure)

60. Petitioner realleges and incorporates by reference each and every allegation contained above.

61. The Fourth Amendment protects "the right of the people to be secure in their persons . . . against unreasonable searches and seizures" and establishes that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing . . . the persons or things to be seized." U.S. Const. amend. IV.

62. Except at the border and its functional equivalents, the Fourth Amendment prohibits Respondents from conducting a detentive stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975). The Government bears the burden of providing "specific and articulable facts" to support reasonable suspicion. *See Terry v. Ohio*, 392 U.S. 1, 21 (1968). The race of an individual cannot itself create reasonable suspicion, even for a temporary stop. *United States v. Brignoni-Ponce*, 422 U.S. 873, 887 (1975); *Noem v. Vasquez Perdomo*, No. 25A169, --- S.Ct. ---, 2025 WL 2585637, at *3 (Sep. 8, 2025) (Kavanaugh, J., concurring). Officers lacked reasonable suspicion to even approach Petitioner, and certainly lacked probable cause to arrest him.

63. "[T]o establish reasonable suspicion, an officer cannot rely solely on generalizations that, if accepted, would cast suspicion on large segments of the law-abiding population." *United States v. Manzo-Jurado*, 457 F.3d 928, 935 (9th Cir. 2006); *see also Noem v. Vasquez Perdomo*,

606 U.S. __ (2025), 2025 WL 2585637, at *3 (Kavanaugh, J., concurring) ("To be clear, apparent ethnicity alone cannot furnish reasonable suspicion[.]").

64. Petitioner's detention had no basis to stop, search and detain petitioner apart from his race. Rather, his detention was part of a coordinated, indiscriminate sweep of individuals who appeared to be of Hispanic descent in certain communities of New York City. Hispanic individuals are stopped, detained, questioned, and in some cases threatened based solely on their race.

65. Petitioner's detention violates the Fourth Amendment because he was arrested without probable cause or a proper warrant. *See, e.g., Gamez Lira v. Noem*, No. 1:25-CV-00855, 2025 WL 2581710, at *3–4 (D.N.M. Sept. 5, 2025) (finding habeas petitioner's Fourth Amendment claim likely to succeed in showing arrest and continued detention unconstitutional when Respondents failed to make a probable cause determination before re-arresting and detaining noncitizen in removal proceedings).

66. The appropriate remedy for this violation is release from detention. *See, e.g., Rosado*, 2025 WL 2337099, at *18, *report and recommendation adopted*, 2025 WL 2349133 (ordering habeas petitioner's "release from detention . . . granted because her Fourth Amendment rights were violated.").

COUNT FOUR

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a), Implementing Regulations and *Maldonado Bautista*

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

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

69. However, Petitioner was, at the time of his arrest and detention by Respondents, not seeking admission to the United States. He was already residing in the United States. Section 1226 governs the detention of individuals residing within the United States, like Petitioner, and implements a discretionary detention regime with the opportunity for release.

70. Moreover, on November 20, 2025, a district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

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

COUNT FIVE

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

72. Petitioner realleges and incorporates by reference each and every allegation contained above.

73. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious or contrary to law. 5 U.S.C. § 706(2)(A).

74. ICE officers' authority to conduct warrantless arrests is prescribed in 8 U.S.C. 1357(a)(2). That statute requires that officers have "reason to believe" a person is in the U.S. in violation of laws *and* "is likely to escape before a warrant can be obtained for his arrest." That assessment must be individualized.

75. On information and belief, no individualized assessment of flight risk was conducted for petitioner and Respondents did not have probable cause to believe he was likely to escape before a warrant could be obtained.

76. Instead, his detention was part of an operation to stop, question and detain Hispanic New Yorkers based solely on their race and presence in certain neighborhoods of New York. Respondents' policy and practice of making warrantless arrests without the required individualized flight risk analysis is "final agency action" that violates the Administrative Procedure Act. *See Escobar Molina,* 2025 WL 3465518, at *2 ("enjoin[ing] preliminarily defendants from continuing any policy or practice of conducting warrantless civil immigration arrests in the District without making individualized probable cause determinations as to each arrestee's risk of escape, as required by 8 U.S.C. § 1357(a)(2)"). The appropriate remedy is release. *See also Orellana v. Nobles Cnty.*, 230 F. Supp. 3d 934, 945 (D. Minn. 2017) ("because no warrant was issued for Orellana's arrest, Orellana's arrest and continued detention is lawful only if officers acted within their statutory authority for affecting a warrantless arrest [under] Section 1357" and "[t]here is [] no evidence that ICE or any other immigration officer had probable cause to believe that Orellana was 'likely to escape before a warrant can be obtained for his arrest,' the second half of what is needed before a warrantless arrest under § 1357(a)(2) is lawful").

77. 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)). An 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*, 588 U.S. 752, 773 (2019) (citation omitted).

78. Respondents' decision to detain Petitioner and suddenly subject him to mandatory detention under Section 1225(b)(2) as a result of their indiscriminate stop operation, irrespective Petitioner's individual circumstances, is arbitrary and capricious and contrary to law.

79. Respondents' campaign of race-based stops of New Yorkers who appear to be Hispanic is also arbitrary and capricious; contrary to law; and unconstitutional.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

b. Declare that Respondents' actions violate the Fourth Amendment;

c. Declare that Respondents' actions violate the Administrative Procedure Act;

d. Grant a writ of habeas corpus ordering Respondents to immediately and unconditionally release Petitioner from custody;

e. Alternatively, order that a bond hearing be held before a neutral adjudicator where the Government bears the burden of proof of establishing by clear and convincing evidence that Petitioner is a flight risk or a danger to the community;

f. In the alternative, issue an order to show cause directing the government to respond to this Amended Petition within three (3) days, and hold a hearing within eight (8) days, pursuant to 28 U.S.C. § 2243;

g. Order a stay of removal and enjoin respondent's removal from the jurisdiction of the ICE New York City Field Office to retain the Court's jurisdiction while these proceedings are pending;

h. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

i. Grant such further relief as this Court deems just and proper.

Dated: New York, NY
December 4, 2025

/s/ Paige Austin

MAKE THE ROAD NY
Harold A. Solis
Paige Austin
301 Grove Street
Brooklyn, NY 11237
(718) 418-7690
Harold.Solis@maketheroadny.org
Paige.Austin@maketheroadny.org