

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

JHOJAN ALEXIS SEVILLANO
CASTANEDA,

Petitioner,

v.

TONY NORMAND, Warden,
Folkston ICE Processing Center, .

Respondent.

Civil Action No.: CV 525-206

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Johan Alexis Sevillano Castañeda has resided in the United States since January 18, 2023. He was apprehended during a traffic stop on November 1, 2025, in Georgia and is currently detained at the Folkston ICE Processing Center.

2. For nearly three years, Petitioner lived lawfully in Georgia under valid parole granted by the Department of Homeland Security (“DHS”). DHS also granted him employment authorization, permitted him to file an affirmative asylum application with U.S. Citizenship and Immigration Services (“USCIS”), and imposed no supervision requirements beyond routine check-ins. During this period, Petitioner’s U.S. citizen child was born, and Petitioner complied with all parole conditions, maintained lawful employment, and established deep community ties.

3. On November 1, 2025—nearly three years after his release—Immigration and Customs Enforcement (“ICE”) detained Petitioner during a traffic stop without any prior warning, without written notice of parole revocation as required by 8 C.F.R. § 212.5(e)(2)(i), and without any individualized assessment of whether he poses a danger to the community or flight risk.

4. This case presents a straightforward due process violation. After nearly three years of liberty during which Petitioner established significant ties to the community, became the father of a U.S. citizen child, obtained lawful employment, and complied with all parole conditions, Petitioner acquired a protected liberty interest in remaining free from detention. The complete absence of any pre-deprivation or post-deprivation process upon his re-detention violates the Fifth Amendment Due Process Clause.

5. Multiple federal courts—including the Eastern District of Virginia just days ago—have granted habeas relief under these circumstances. *Molina Lopez v. Lyons*, 2025 WL 3285493, at *2–3 (E.D. Va. Nov. 25, 2025) (granting habeas where petitioner was paroled at border in 2016, lived in U.S. for nine years, and was re-arrested in the interior; holding § 1226(a) applies to “aliens already in the country” and § 1225(b) applies only to those “actively seeking admission”); *Omer G.G. v. Kaiser*, No. 1:25-cv-01471-KES-SAB, 2025 WL 3254999, at *6–9 (E.D. Cal. Nov. 22, 2025) (granting habeas relief where petitioner was paroled for over one year,

established community ties, and was re-detained without hearing); *Lopez-Arevelo v. Ripa*, No. 1:25-cv-01838-AJT-IDD, 2025 U.S. Dist. LEXIS 188232 (W.D. Tex. Sept. 21, 2025) (same); *Savane v. Francis*, No. 1:25-cv-6666-GHW, 2025 U.S. Dist. LEXIS 194889, (S.D.N.Y. Sept. 28, 2025) (same); *J.S.H.M. v. Wofford*, No. 1:25-CV-01309 JLT SKO, 2025 U.S. Dist. LEXIS 204422, (E.D. Cal. Oct. 16, 2025) (same).

6. The liberty interest analysis is straightforward under *Morrissey v. Brewer*, 408 U.S. 471 (1972). After nearly three years on parole, Petitioner’s situation is materially indistinguishable from the parolee in *Morrissey*: he lived at home, worked lawfully, supported his family, raised his U.S. citizen child, and relied on “an implicit promise that parole [would] be revoked only if he fail[ed] to live up to the parole conditions.” *Morrissey*, 408 U.S. at 482. Petitioner complied with all conditions. His re-detention without any process violates due process.

7. Additionally, DHS violated its own regulations. Under 8 C.F.R. § 212.5(e)(2)(i), when parole expires, the noncitizen “shall again be released on parole” if their “exclusion, deportation, or removal order cannot be executed within a reasonable time,” unless a DHS official determines in writing that “the public interest requires that the alien be continued in custody.” *Omer G.G. v. Kaiser*, 2025 WL 3254999, at *5. Here, no removal order exists—DHS never even initiated removal proceedings. DHS provided no written determination that the public interest

required Petitioner's detention before re-detaining him. This regulatory violation independently supports habeas relief. *See Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232, at *30 (W.D. Tex. Sept. 21, 2025); *Savane v. Francis*, 2025 U.S. Dist. LEXIS 194889, at *18–19 (S.D.N.Y. Sept. 28, 2025).

8. This petition presents pure questions of law suitable for immediate habeas review: (1) whether Petitioner acquired a protected liberty interest after three years on parole; (2) whether due process requires a bond hearing before or after re-detention; and (3) whether DHS's failure to comply with 8 C.F.R. § 212.5(e)(2)(i) renders the revocation of Petitioner's parole.

CUSTODY

9. Petitioner is in the physical custody of Respondent at the Folkston ICE Processing Center in Folkston, Georgia.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). 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.

11. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(a)(5), 1252(b)(9), 1225(g), or 1226(e).

12. District courts have jurisdiction under 28 U.S.C. § 2241 to decide habeas claims by individuals challenging the lawfulness or constitutionality of their civil immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

13. Venue properly lies within the Southern District of Georgia, Waycross Division, under 28 U.S.C. § 1391(e), because Respondent is acting under the direction of federal officers and agencies, Petitioner is detained in this District, and substantial events giving rise to this action occurred here.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

14. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to Respondent “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondent to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

15. Petitioner is “in custody under or by color of the authority of the United States” because ICE arrested and detained Petitioner at Folkston, ICE Processing Center. 28 U.S.C. § 2241.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

16. There is no statutory exhaustion requirement for habeas challenges under 28 U.S.C. § 2241. In the absence of a statutory exhaustion requirement, “sound judicial discretion governs.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992).

17. Under *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), and *Matter of Q. LI*, 29 I&N Dec. 66 (BIA 2025), Immigration Judges lack jurisdiction to grant bond hearings to individuals allegedly subject to § 1225(b) mandatory detention. Any request for a bond hearing would be immediately denied on jurisdictional grounds.

18. A court may waive prudential exhaustion when it would be futile to seek administrative remedies. *Jones v. Zenk*, 495 F. Supp. 2d 1289, 1297 (N.D. Ga. 2007). Significantly, Immigration Courts and the Board of Immigration Appeals (“BIA”) lack jurisdiction to review Petitioner’s claim of unlawful custody in violation of his due process rights. Thus, it would be futile for him to pursue administrative remedies here. *Carr v. Saul*, 593 U.S. 83, 93 (2021) (“It makes little sense to require litigants to present claims to adjudicators who are powerless to grant the relief requested.”)

19. This case presents pure constitutional questions: whether Petitioner’s three-year liberty interest triggers due process protections, and whether DHS violated mandatory regulatory requirements under 8 C.F.R. § 212.5(e). These questions do not benefit from initial agency consideration and are reviewable by this Court. Appeal of bond denials typically average six months. *Vazquez v. Bostock*, 779 F.

Supp. 3d 1239, 1245 (W.D. Wash. 2025). Thus, requiring Petitioner to pursue a futile appeal would only prolong his detention and impose unnecessary hardship on him—particularly separation between Petitioner and his family and U.S. citizen child.

PARTIES

20. Petitioner Johan Alexis Sevillano Castañeda is detained at Folkston ICE Processing Center. Before detention, he resided in Rincon, Georgia, with his partner and minor children, including his U.S. citizen child.

21. Respondent Tony Normand is sued in his official capacity as Warden of Folkston ICE Processing Center. He is the individual in charge of the facility where Petitioner is currently detained. He has immediate physical custody over Petitioner, and in conjunction with DHS, ICE and their agents, has the authority to release him.

LEGAL BACKGROUND

22. The Immigration and Nationality Act (“INA”) prescribes three basic forms of detention for noncitizens in removal proceedings.

23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

24. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

25. Last, the INA provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

26. The Supreme Court has held that civil immigration detention is “nonpunitive in purpose and effect” and is justified only when a noncitizen presents a risk of flight or danger to the community. *Zadvydas*, 533 U.S. at 690; *Omer G.G.*, 2025 WL 3254999, at 7.

27. DHS may parole a noncitizen “for urgent humanitarian reasons or significant public benefit, provided the [noncitizen] present[s] neither a security risk nor risk of absconding.” 8 C.F.R. § 212.5(b). “Release [therefore] reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.” *Omer G.G.*, 2025 WL 3254999 at 2 (quoting *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017)).

28. Federal regulations provide that parole may be terminated upon written notice when the purpose has been accomplished or humanitarian reasons no longer warrant the alien’s presence. 8 C.F.R. § 212.5(e)(2)(i). However, if parole expires, the noncitizen “shall again be released on parole” if their “exclusion, deportation, or

removal order cannot be executed within a reasonable time,” unless a DHS official determines “the public interest requires that the alien be continued in custody.” *Id.*; *Omer G.G.*, 2025 WL 3254999, at 5.

29. A protected liberty interest arises from conditional release from physical restraint. *Young v. Harper*, 520 U.S. 143, 147–49 (1997). Even when a statute allows the government to detain an individual, a protected liberty interest under the Due Process Clause may entitle the individual to procedural protections not found in the statute. *Id.*; *Morrissey*, 408 U.S. at 482.

30. In *Morrissey*, the Supreme Court explained that parole “enables [the parolee] to do a wide range of things open to persons” who have never been criminally convicted, including living at home, working, and forming “the other enduring attachments of normal life.” 408 U.S. at 482. “The parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions.” *Id.* Therefore, a parolee possesses a protected interest in “continued liberty.” *Id.*

31. Multiple federal courts have applied *Morrissey* to immigration parole cases with facts materially identical to Petitioner’s. *Omer G.G.*, 2025 WL 3254999, at 5–6 (petitioner paroled for over one year acquired protected liberty interest); *Ramirez Tesara*, 2025 WL 2637663, at 3 (same); *Rodriguez Cabrera v. Mattos*, 2025 WL 3072687, at 2 (D. Nev. Nov. 3, 2025) (same); *Maklad v. Murray*, 2025 WL 2299376,

at 5–8 (E.D. Cal. Aug. 8, 2025) (same); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025) (“even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody”).

32. Courts evaluate the procedural protections required using the *Mathews v. Eldridge* factors: (1) the private interest affected; (2) the risk of erroneous deprivation and probable value of additional safeguards; and (3) the government’s interest, including fiscal and administrative burdens. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

33. In *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), the Attorney General held that individuals placed into expedited removal under § 1225(b)(1) who pass credible-fear screening remain detained under § 1225(b)(1)(B)(ii) throughout standard removal proceedings under § 1229a and are ineligible for bond hearings before an Immigration Judge unless DHS grants parole under § 1182(d)(5)(A). *Id.* at 519.

34. In *Matter of Q. LI*, 29 I&N Dec. 66 (BIA 2025), the BIA held that parole revocation returns the individual to the custody status existing before parole—namely, § 1225(b) mandatory detention.

35. Neither decision addresses—or forecloses—the constitutional due process claims presented here. *M-S-* and *Q. LI* address statutory interpretation, not

constitutional requirements. As courts have held: “even assuming that Petitioner is an ‘applicant for admission’ subject to § 1225 whose parole was only legally permitted under § 1182(d)(5)(A), Respondents’ revocation of his parole violated his statutory due process rights.” *Savane*, 2025 U.S. Dist. LEXIS 194889, at 20; *Omer G.G.*, 2025 WL 3254999, at 4; *Molina Lopez*, 2025 WL 3285493, at 3.

36. Critically, *Matter of Q. LI* presumed lawful parole revocation. The decision did not address parole revocation that violates federal regulations under 8 C.F.R. § 212.5(e)(2)(i) or constitutional due process. An unlawful parole revocation in violation of DHS regulations cannot serve as the basis for mandatory detention under any statute, and Petitioner’s liberty interest limits ICE’s authority to re-detain him without any due process whatsoever.

FACTUAL BACKGROUND

37. Petitioner Johan Alexis Sevillano Castañeda is a 22-year-old native and citizen of Colombia, born September 2003. He entered the United States at El Paso, Texas, on January 18, 2023, presenting himself to U.S. Border Patrol without valid entry documents and expressing fear of return to Colombia.

38. DHS processed Petitioner under 8 U.S.C. § 1225(b)(1) and referred him for credible fear screening. On February 6, 2023, an asylum officer determined he established credible fear of persecution. On February 7, 2023, DHS issued a Notice

of Appear (“NTA”) but never filed it with the Immigration Court. No removal proceedings under § 1229a were initiated for Petitioner in 2023.

39. On February 18, 2023, DHS granted Petitioner parole under 8 U.S.C. § 1182(d)(5)(A) for one year, authorizing release pending asylum adjudication. By granting parole, DHS necessarily determined that Petitioner posed neither danger nor flight risk. *Saravia*, 280 F. Supp. 3d at 1176; *Omer G.G.*, 2025 WL 3254999, at 2.

40. For nearly three years, Petitioner lived lawfully in Rincon, Georgia, under valid parole. DHS imposed no supervision requirements beyond routine check-ins. Petitioner filed affirmative asylum with USCIS in February 2024. USCIS issued an Employment Authorization Document, and Petitioner lawfully worked to support his family. Petitioner’s immediate family includes his partner and two minor children—one Colombian citizen and one U.S. citizen. Petitioner is the primary financial provider for his family, has no criminal history, and complied with all civil obligations and parole conditions.

41. Petitioner’s liberty interest during this period mirrors the protected interest recognized in *Morrissey*. Like the parolee in *Morrissey*, Petitioner lived at home, worked lawfully, supported his family, raised his U.S. citizen child, and relied on “an implicit promise that parole [would] be revoked only if he fail[ed] to live up to the parole conditions.” *Morrissey*, 408 U.S. at 482. Petitioner complied with all

conditions. His freedom during this period was “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

42. On November 1, 2025, local law enforcement stopped Petitioner for an alleged traffic violation in Georgia. Petitioner presented his valid Georgia driver’s license. Local law enforcement contacted ICE, which took Petitioner into custody and transported him to Folkston ICE Processing Center, where he has been continuously detained.

43. Although Petitioner’s formal one-year parole period expired in February 2024, his liberty interest did not expire with it. Petitioner was paroled “pending a final decision” in removal proceedings—proceedings that DHS never initiated. DHS issued a Notice to Appear but never filed it with the Immigration Court, and § 1229a removal proceedings were not commenced at that time. Under 8 C.F.R. § 212.5(e)(2)(i), when parole expires, the noncitizen “shall again be released on parole” if their “exclusion, deportation, or removal order cannot be executed within a reasonable time,” unless a DHS official determines “the public interest requires that the alien be continued in custody.” *Omer G.G.*, 2025 WL 3254999, at 5. Here, not only does no removal order exist, but DHS never even initiated removal proceedings at that time. DHS provided no written determination that the public interest required Petitioner’s custody, conducted no individualized assessment of

danger or flight risk, and did not afford Petitioner a hearing before or after re-detention.

44. Following Petitioner's re-detention, ICE issued a new NTA charging him as inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i) and set his Master Calendar Hearing for December 11, 2025. This is the first time removal proceedings were ever initiated against Petitioner.

45. Petitioner has not filed a bond request before an Immigration Judge because it would be futile. Under *M-S-* and *Q. LI*, Immigration Judges are instructed to decline jurisdiction over bond hearings for individuals allegedly subject to § 1225(b) mandatory detention. The Immigration Judge would deny the request on jurisdictional grounds without an individualized hearing on danger or flight risk.

CLAIMS FOR RELIEF

COUNT ONE

FIFTH AMENDMENT DUE PROCESS VIOLATION (Substantive and Procedural Due Process Violations)

46. Petitioner repeats and incorporates by reference all preceding paragraphs as if fully set forth herein.

47. The Fifth Amendment provides that “[n]o person shall... be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. This protection extends to all persons within the United States, regardless of immigration status. *Zadvydas*, 533 U.S. at 693. “Once an alien enters the country, the legal

circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.*

48. Petitioner challenges his re-detention without any process—not any determination regarding admissibility. *See Omer G.G.*, 2025 WL 3254999, at 4 (rejecting government’s argument that petitioner has no due process rights). Courts have distinguished the government’s reliance on *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020) and *Landon v. Plasencia*, 459 U.S. 21, 32 (1981) to contend that noncitizens present in the United States pursuant to a grant of parole have no due process rights. *See, e.g., Omer G.G.*, 2025 WL 3254999, at 4. The crucial distinction is that individuals already present in the United States are entitled to due process, while individuals attempting to enter the country are not. *Id.* at 3 (collecting cases).

49. Petitioner has a fundamental liberty interest in freedom from physical restraint. *Zadvydas*, 533 U.S. at 690. After nearly three years on parole, Petitioner’s situation is materially indistinguishable from the parolee in *Morrissey*. 408 U.S. at 482.

50. “For over [nearly three years], [parole] allowed [Petitioner] to establish ties in the community while pursuing relief in his removal proceedings. He ultimately received employment authorization, was gainfully employed, and supported his

family. He and his partner raised their [children] and attended church. These actions were made possible by petitioner's freedom, which is 'the most elemental of liberty interests.'" *Omer G.G.*, 2025 WL 3254999, at 5 (quoting *Hamdi*, 542 U.S. at 529).

51. The government has deprived Petitioner of his liberty interest by detaining him under the wrong detention authority, and in doing so deprive Petitioner of an individualized custody hearing to determine whether he presents a danger or flight risk, as required by law.

52. Petitioner's liberty interest did not expire with his parole period. Although Petitioner's formal one-year parole expired in February 2024, DHS took no action to re-detain him for 21 months thereafter. During this extended period, USCIS issued Petitioner an Employment Authorization Document, demonstrating the government's determination that Petitioner should remain at liberty while his asylum claim was pending. See *Omer G.G. v. Kaiser*, 2025 WL 3254999, at *5 (finding continuing liberty interest where government granted five-year work authorization). Moreover, regulations provide that even after parole terminates, if the removal order "cannot be executed within a reasonable time, the alien shall again be released on parole unless . . . the public interest requires that the alien be continued in custody." 8 C.F.R. § 212.5(e)(2)(i); *Omer G.G.*, 2025 WL 3254999, at *5. Here, there is no removal order against Petitioner. Indeed, DHS never even initiated removal proceedings—the Notice to Appear was never filed with the Immigration Court.

Petitioner had not had any removal hearing when ICE arbitrarily re-detained him nearly three years after his initial parole.

53. The fact that DHS had initial discretion to parole Petitioner does not eliminate his protected liberty interest after three years of freedom. "Even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody." *Pinchi*, 792 F. Supp. 3d at 1032; *see also Hernandez v. Session*, 872 F.3d 976, 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process"); *Omer G.G.*, 2025 WL 3254999, at 6 (rejecting identical government argument).

54. Due process "is a flexible concept that varies with the particular situation." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). The procedural protections required are evaluated using the *Mathews v. Eldridge* factors. *Mathews*, 424 U.S. at 335.

55. First Petitioner has a significant private interest in remaining free from detention. "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*, 533 U.S. at 690. Petitioner had been out of custody for nearly three years, established ties in the community, gained lawful

employment, and supported his family when ICE detained him. His unjustified re-detention denies him that freedom.

56. Second, “the risk of an erroneous deprivation [of liberty] is high” where Petitioner “has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, 2025 WL 1424382, at 5 (E.D. Cal. May 16, 2025). Civil immigration detention is justified only when a noncitizen presents a risk of flight or danger. *Zadvydas*, 533 U.S. at 690. Here, DHS did not afford any procedural safeguards to determine if Petitioner’s re-detention was justified. “The probable value of additional procedural safeguards, i.e., a bond hearing, is high.” *A.E.*, 2025 WL 1424382, at 5.

57. Third, although the government has a strong interest in enforcing immigration laws, the government’s interest in detaining Petitioner without a hearing is low. *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). In immigration court, custody hearings are routine and impose “minimal” cost. *Doe v. Becerra*, 2025 WL 691664, at 6 (E.D. Cal. March 3, 2025). “If the government wishes to re-arrest [petitioner] at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing is low.” *Ortega*, 415 F. Supp. 3d at 970.

58. On balance, the *Mathews* factors demonstrate that Petitioner is entitled to a bond hearing to determine whether his re-detention is justified. Irrespective of the government’s assertion of mandatory detention, the result here remains unchanged

because Petitioner has an established liberty interest in his freedom. *Molina Lopez*, 2025 WL 3285493, at 3 (determining that § 1226(a) applied, and holding that “Petitioner’s continued detention under section 1226 without a bond hearing violates his substantive and procedural due process rights.” The statute does not override the Constitution.

COUNT TWO
VIOLATION OF 8 C.F.R. § 212.5(e)(2)(i)
(Failure to Follow Implementing Regulations)

59. Petitioner repeats and incorporates by reference all preceding paragraphs.

60. Petitioner’s parole was granted “pending a final decision” in his removal proceedings. Although Petitioner’s one-year parole period expired in February 2024, DHS never initiated the removal proceedings contemplated by his parole grant—the Notice to Appear was never filed with the Immigration Court.

61. Under 8 C.F.R. § 212.5(e)(2)(i), when parole expires, the noncitizen “shall again be released on parole” if their “exclusion, deportation, or removal order cannot be executed within a reasonable time,” unless a DHS official determines in writing that “the public interest requires that the alien be continued in custody.” Here, no removal order exists, and no removal proceedings were ever initiated—thus Petitioner’s removal cannot be executed within any reasonable time.

62. DHS provided no written determination that the public interest required Petitioner’s detention. DHS conducted no individualized assessment of whether

Petitioner posed a danger to the community or flight risk. DHS simply re-detained Petitioner 21 months after his parole expired, without complying with the mandatory regulatory requirement to re-release him on parole.

63. Federal agencies must comply with their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267 (1954) (government agencies are required to follow their own regulations). Multiple courts have held that parole termination without compliance with 8 C.F.R. § 212.5(e) violates due process. *Lopez-Arevelo*, 2025 U.S. Dist. LEXIS 188232, at *30; *Savane*, 2025 U.S. Dist. LEXIS 194889, at *18–19; *J.S.H.M.*, 2025 U.S. Dist. LEXIS 204422, at *22.

64. Because DHS failed to comply with the mandatory regulatory requirement to re-release Petitioner on parole under § 212.5(e)(2)(i), and because DHS provided no written determination justifying continued custody, Petitioner’s detention is unlawful.

COUNT THREE
VIOLATION OF 8 U.S.C. § § 1226(a)
(Misclassification Without Opportunity to Contest)

65. Petitioner repeats and incorporates by reference all preceding paragraphs.

66. To the extent this Court finds the statutory interpretation question relevant, Petitioner contends his detention is properly governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A).

67. Section 1226(a) is the “default rule” that governs “aliens already in the country” subject to removal proceedings, whereas section 1225(b) governs “aliens seeking admission into the country.” *Jennings*, 583 U.S. at 288–89. Petitioner has been present since January 2023—nearly three years—and thus falls in the category of “aliens already in the country” subject to § 1226(a)’s discretionary detention provisions.

68. By contrast, 8 U.S.C. § 1225(b)(2)(A) applies to “applicants for admission” who are actively seeking admission and remain in ongoing border-processing custody. Petitioner does not fall within this category. He was processed over two years ago, passed credible fear, and DHS released him on parole into the interior, where he was permitted to reside openly for nearly three years.

69. The Court should reject any argument that Petitioner falls under § 1225(b)(2) on the basis that he is an “applicant for admission” or was paroled at a port of entry because such arguments ignore Petitioner’s years-long liberty in the United States. *Molina Lopez*, 2025 WL 3285493, at 3 (“Respondents’ contention that Petitioner falls under section 1225(b)(2) because he . . . presented himself at a port of entry and was paroled . . . fails as a matter of law”); *Henriquez-Perez v. Crawford*, No. 1:25-cv-01782, slip op. at 4 (E.D. Va. Nov. 21, 2025) (same). Such an interpretation would “subject millions more undocumented immigrants to mandatory detention, while simultaneously narrowing § 1226(a) such that it would

have an extremely limited (if any) application.” *Benitez v. Francis*, 2025 U.S. Dist. LEXIS 157214, at *23 (S.D.N.Y. Aug. 8, 2025).

70. Section 1226(a) and implementing regulations provide that noncitizens present in the United States pending removal decisions, like Petitioner, are eligible for release on bond unless subject to mandatory detention under § 1226(c). 8 U.S.C. § 1226(a); 8 C.F.R. §§ 1236.1(d), 1003.19(a)-(f). Petitioner has no disqualifying criminal convictions and thus qualifies for a bond hearing.

71. Noncitizens paroled without first being placed in removal proceedings “cannot later be designated for expedited removal.” *Mejia v. Woosley*, Civil Action No. 4:25-cv-82-RGJ, 2025, 2025 U.S. Dist. LEXIS 203256, at 9 (W.D. Ky. Oct. 15, 2025) (citing *Patel v. Tindall*, Civil Action No. 3:25-cv-373-RGJ, 2025 U.S. Dist. LEXIS 196325, at *10 (W.D. Ky. Oct. 3, 2025)).

72.. Here, DHS paroled Petitioner on February 18, 2023, and never placed him in standard removal proceedings under § 1229a for nearly three years. DHS permitted Petitioner to file affirmative asylum with USCIS rather than defensive asylum in immigration court—a benefit available only to individuals not in removal proceedings. DHS cannot retroactively assert § 1225(b) jurisdiction after choosing not to apply that provision to Petitioner for three years.

73. Accordingly, if the Court reaches this statutory interpretation question, Petitioner's detention is properly governed by § 1226(a), and he is entitled to a bond hearing under that provision.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondent to show cause within three days why this Petition should not be granted;
3. Order that Petitioner not be transferred outside the jurisdiction of this District pending the resolution of this case;
4. Declare that Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A) is unlawful, and instead is properly governed by 8 U.S.C. § 1226(a), which entitles him to immediate release or a bond hearing;
5. Issue a Writ of Habeas Corpus ordering Respondent to release Petitioner immediately on his own recognizance, parole, or reasonable conditions of supervision;
6. In the alternative, order Respondent to provide Petitioner an individualized custody redetermination hearing before an impartial immigration judge within seven (7) days,;

7. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act and on any other basis justified under the law; and
8. Grant any further relief this Court deems just and proper.

Dated: December 4, 2025

Respectfully Submitted,

/s/ Alexis Ruiz

Alexis Ruiz (GA 419757)

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/s/Jorge E Munoz Leguizamo

Jorge E. Munoz Leguizamo (*pro hac vice
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Counsel for Petitioner

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

I hereby submit this verification on behalf of Petitioner, Johan Alexis Sevillano Castañeda as his attorney. I have discussed with Mr. Sevillano Castañeda the events described in this Petition. On the basis of those discussions and upon my review of those documents, on information and belief, 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.

Date: December 4, 2025

/s/Jorge E Munoz Leguizamo
Jorge E. Munoz Leguizamo