IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

LEYTON ABISAI MIRANDA NAVARRO Petitioner v. PAMELA BONDI, in her capacity as Attorney General of the United States; KRISTI NOEM, in her capacity as Secretary, U.S. Department of Homeland Security; TODD LYONS, in his capacity as Acting Director, U.S. Immigration and Customs Enforcement; BRET BRADFORD, in his capacity as Field Office Director Houston Field Office U.S. Immigration and Customs Enforcement; Devery Mooneyham, in his capacity as Warden of the Limestone County Detention Center Respondents.	§	Case No. 6:25-cv-00569

PETITION FOR WRIT OF HABEAS CORPUS
AND FOR ORDER TO SHOW CAUSE

1. Petitioner, Leyton Abisai Miranda Navarro, is in the physical custody of Respondents at the Limestone County Detention Center in Groesbeck, Texas. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) of the Department of Justice (DOJ) have erroneously concluded Petitioner is subject to mandatory detention under U.S.C. § 1225(b)(2).

2. Petitioner is a twenty-one-year-old native and citizen of Guatemala who has resided continuously in the United States since 2019, when he arrived as an unaccompanied minor and was released to the care of his brother in Houston, Texas. He has never been convicted of a crime, has no pending criminal charges, and has lived here peacefully for the past six years. Petitioner has an application for asylum pending with U.S. Citizenship and Immigration Services (USCIS), and his prior removal proceedings were dismissed in 2023.
3. Despite his long-term residence and the dismissal of his prior removal proceedings, Petitioner was unlawfully detained by ICE officers while driving to work on October 25, 2025, without probable cause or explanation. He was then placed in new removal proceedings, where he is charged with, *inter alia*, having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).
4. On July 8, 2025, DHS issued a new policy instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under Section 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for admission" under Section 1225(b)(2)(A) and therefore subject to mandatory detention. Consistent with this policy, DHS has denied Petitioner release from immigration custody.

5. On September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

6. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act (INA). Section 1225(b)(2) does not apply to individuals like Petitioner, who entered the United States many years ago and is now residing in the country. Instead, such individuals are subject to discretionary detention under Section 1226(a), which allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

7. Respondents' new legal interpretation is plainly contrary to the statutory text, statutory framework, Congressional intent, decades of agency practice, and decisions of federal courts across the nation, which apply Section 1226(a) to people like Petitioner. Further, Respondents' detention of Petitioner without

a bond hearing to determine whether he is a flight risk or danger to others violates his right to due process under the Fifth Amendment.

8. Furthermore, ICE's warrantless arrest and detention of Petitioner without the required justification and based solely on his apparent ethnicity violates his Fourth Amendment rights. Petitioner complied with all requests made of him by the immigration officers who pulled over his car, including providing a valid driver's license and vehicle registration. There was no reason to believe, based on the totality of circumstances, that Petitioner was both unlawfully present in the United States and likely to escape before a warrant could be obtained for his arrest, U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2); yet he was arrested, zip-tied in the back of an unmarked vehicle, forced to abandon his truck on the highway, and taken to a detention center.
9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released from detention immediately, or in the alternative, that he be provided a prompt bond hearing before a neutral decisionmaker.
10. Petitioner further requests that the Court issue an Order to Show Cause, directing Respondents to show cause within five (5) days why the writ should not be granted, and to set a hearing on this Petition within five (5) days of the return, as required by 28 U.S.C. § 2243.

CUSTODY

11. Petitioner is in the physical custody and under the direct control of Respondents and their agents. He is detained at the Limestone County Detention Center in Groesbeck, Texas.

PARTIES

12. Petitioner is presently detained at the direction of Respondents at the Limestone County Detention Center located at 910 Tyus Road, Groesbeck, Texas 76642.

13. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. She is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review (EOIR). 8 U.S.C. § 1103(g). She routinely transacts business in this district and is legally responsible for Petitioner's detention. As such, she is the legal custodian[1] of Petitioner.

14. Respondent Kristi Noem is named in her official capacity as the Secretary of the Department of Homeland Security (DHS). She is responsible for the administration of Immigration and Customs Enforcement (ICE) and the

[1] No binding Supreme Court or Fifth Circuit cases have adopted the immediate custodian rule in the removal context. *Rumsfeld v. Padilla*, 542 U.S. 426 at 435 n. 8 (2004) (expressly "left open the question whether the Attorney General is a proper respondent to a *habeas* petition filed by an [noncitizen] detained pending deportation"). The Petitioner is held at a private prison which contracts with the federal government to house immigration detainees at the direction of Respondent. Therefore, Respondent is a proper party because they oversee government agencies and/or offices under whose authority Petitioner is being detained.

implementation and enforcement of the Immigration and Nationality Act. 8 U.S.C. § 1103(a). She routinely transacts business in this district and is legally responsible for Petitioner's detention. As such, she is a legal custodian[2] of Petitioner.

15. Respondent Todd Lyons is named in his official capacity as the Acting Director of ICE. As director of ICE, the agency within DHS that detains and removes noncitizens, Respondent Lyons is a legal custodian[3] of Petitioner.

16. Respondent Bret Bradford is named in his official capacity as the Field Office Director responsible for the Houston Field Office of ICE with administrative jurisdiction over Petitioner's case. He routinely transacts business within the boundaries of this district, and his office serves the Limestone County Detention Center. Pursuant to Respondent Bradford's orders, Petitioner remains detained. As such, he is a legal custodian[4] of Petitioner.

17. Respondent Devery Mooneyham is named in his official capacity as the Warden, or Facility Administrator, of the Limestone County Detention Center where Petitioner is held. In this capacity, he is a legal custodian of Petitioner.

[2] *ibid.*
[3] *ibid.*
[4] *ibid.*

JURISDICTION

18. This Court has subject matter jurisdiction over this Petition under 28 U.S.C. § 2241 (power to grant habeas corpus) and 28 U.S.C. § 1331 (federal question jurisdiction); the All Writs Act, 28 U.S.C. § 1651; and the Administrative Procedure Act, 5 U.S.C. § 701.

19. Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness of their detention under federal law. *See, e.g. Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) ("We note at the outset that the primary habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases.").

VENUE

20. Venue properly lies in Western District of Texas–Waco Division because Petitioner is physically present and in the custody of Respondents within the District. *See* 8 U.S.C. § 2241(a) (providing for habeas petitions "within [a court's] respective jurisdiction").

EXHAUSTION OF ADMINISTRATIVE REMEDIES

21. There is no statutory requirement to exhaust administrative remedies. "Under the [Immigration and Nationality Act] exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal." *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007); *see* 8 U.S.C. §

1252(d)(1) ("A court may review a final order of removal only if . . . the alien has exhausted all administrative remedies."). Petitioner does not seek review of a final order of removal. Instead, Petitioner challenges the constitutionality of detention procedures under § 1226(a).

22. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *See Lopez Benitez v. Francis,* 25 Civ. 5937, 2025 WL 2371588, at *13 (S.D.N.Y. Aug. 13, 2025). A court may waive the prudential exhaustion requirement if administrative remedies are inadequate, irreparable injury will result, administrative remedies would be futile. *See Laing v. Ashcroft,* 370 F.3d 994, 1000 (9th Cir. 2004). When a "'legal question is fit for resolution and delay means hardship,' a court may choose to decide the issues itself." *Pizarro Reyes v. Raycraft,* No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sep. 9, 2025) (quoting *Shalala v. Ill. Council on Long Term Care, Inc.,* 529 U.S. 1, 13 (2000)).

23. To the extent the doctrine of prudential exhaustion would apply, exhaustion should be waived because the administrative remedies are futile. DHS has taken the position that a noncitizen like Petitioner, who entered without inspection, is subject to mandatory detention under 8 U.S.C. § 1225, and EOIR has affirmed that view. In a published decision, the Board recently held that "Immigration Judges lack authority to hear bond requests or to grant bond

to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Accordingly, there are no effective administrative remedies that he could exhaust before seeking habeas relief. *See Singh v. Lewis*, No. 4:25-CV-96-RGJ, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025) ("[t]he United States has made clear their position on Section 1225, and it is being applied at all levels within the DHS. Therefore, it is unlikely that any administrative review would lead to the United States changing its position and precluding judicial review"); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025) ("Because exhaustion would be futile and unable to provide Lopez-Campos with the relief he requests in a timely manner, the Court waives administrative exhaustion and will address the merits of the habeas petition.").

24. Furthermore, requiring Petitioner to request a bond hearing and undergo that process, only to receive the inevitable denial, then appeal the bond decision to the Board would result in irreparable harm. Continued detention as he this pursues this futile remedy and awaits the outcome of a bond appeal would exacerbate his constitutional injury. "Bond denial appeals typically take six

months or more to be resolved at the [Board].'" *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025) (quoting *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025)). Other courts faced with similar issues have found that preventing six months or more of unlawful detention outweigh the Board's interest in detaining an individual while his or her determination is resolved on appeal. *See Lopez-Arevelo v. Ripa,* No. EP-25-cv-337, 2025 WL 2691828, at *6 (W.D. Tex. Sep. 22, 2025) (waiving exhaustion in a case because "[t]o wait, indefinitely, for a ruling on that appeal would be inappropriate because it would exacerbate [the petitioner's] alleged constitutional injury – detention without a bond hearing").

LEGAL FRAMEWORK

Statutory Framework: The Plain Text of Sections 1225 and 1226

25. Two statutes principally govern the detention of noncitizens pending removal proceedings: 8 U.S.C. Sections 1225 and 1226. Section 1225 applies to "applicants for admission" – noncitizens who are either "present in the United States who ha[ve] not been admitted' or who "arrive[] in the United States." 8 U.S.C. § 1225(a)(1). Applicants for admission are screened under either Section 1225(b)(1) or Section 1225(b)(2). *Jennings v. Rodriguez,* 583 U.S. 281, 287 (2018).

26. Section 1225(b)(1) applies to those initially determined inadmissible for fraud, misrepresentation, or lack of valid documentation. 8 U.S.C. § 1225(b)(1)(A)(i)-(ii). Section 1225(b)(2) serves as a "catchall provision that applies to almost all other applicants for admission not covered by 1225(b)(1). *Jennings,* 583 U.S. at 287. A person who is "not clearly and beyond a doubt entitled to be admitted," and "shall be detained." 8 U.S.C. § 1225(b)(2)(A). Individuals detained under either Subsections 1225(b)(1) or 1225(b)(2) are not entitled to a bond hearing, and thus, subject to mandatory detention through the duration of their removal proceedings.

27. By contrast, Section 1226 governs apprehension and detention of noncitizens already present in the United States and eligible for removal. *See Jennings,* 583 U.S. at 288; *Rodriguez Diaz v. Garland,* 53 F.4th 1189, 1196 (9th Cir. 2022). Section 1226 establishes a discretionary process where a noncitizen may be arrested and detained while a decision on whether the noncitizen should be removed is pending. Except as provided in Section 1226(c), which applies to the detention of criminal noncitizens, the Attorney General (1) may detain the arrested noncitizen; (2) may release the noncitizen on a bond of at least $1,500, with conditions; or (3) may release the noncitizen on conditional parole. 8 U.S.C. § 1226(a).

Legislative History and Congressional Intent

28. The statutory scheme codified at 8 U.S.C. Sections 1225 and 1226 was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"). The legislative history demonstrates that Congress deliberately maintained the long-standing bifurcation between the treatment of "applicants for admission" and noncitizens already present within the United States.

29. Before IIRIRA, immigration law similarly distinguished between exclusion proceedings (for those seeking entry) and deportation proceedings (for those already in the United States). IIRIRA unified these into a single form of "removal" proceedings but preserved the difference in how detention would be managed depending on the individual's status at the time of apprehension.

30. Noncitizens residing in the United States, who had previously entered without inspection, were generally subject to deportation hearings and discretionary release on bond. *See Rodriguez Vazquez v. Bostock,* No. 3:25-CV-05240-TMC, ---F. Supp. 3d, ---, 2025 WL 1193850, at *15 (W.D. Wash. Apr. 24, 2025) (noting that prior to passage of the IIRIRA, a deportation hearing was the typical procedure for an alien already physically present, but not lawfully present, in the country, while an exclusion hearing was the typical

procedure for an alien outside the United States, seeking admission); *see also* 8 U.S.C. § 1252(a) (1994).

31. When passing the IIRIRA, Congress observed that the new Section 1226(a) "restates" the Attorney General's authority to arrest, detain, and release on bond, as previously provided in Section 1252(a). *See Rodiguez,* 2025 WL 1193850, at *15 (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

32. In 2024, Congress passed the Laken Riley Act, which reinforced the long-standing interpretation that Section 1226, not Section 1225, governs the detention of noncitizens who are already physically present in the United States. In January 2025, the Laken Riley Act added one such category subject to mandatory detention under 8 U.S.C. § 1226(c). Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). The Laken Riley Act created additional exceptions to Section 1226 and authorized mandatory detention for certain categories of noncitizens under Subsection 1226(c). See Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c). Specifically, Section 1226(c)(1)(E) (enacted by the Laken Riley Act) requires mandatory detention for noncitizens who have been arrested for, charged with, or convicted of certain enumerated crimes *and* are inadmissible under Section 1226(a)(6)(A) (for entry without inspection), Section 1182(a)(6)(C) (for fraud or willful misrepresentation of a

material fact), or Section 1182(a)(7) (for lacking valid documentation to enter the United States). The Laken Riley amendments continued to authorize discretionary detention of noncitizens charged with being inadmissible who do not fall into those enumerated exceptions.

DHS's July 2025 Policy Guidance Expanding Section 1225(b) Applicability

33. DHS's "longstanding interpretation" had been that Section 1226, not 1225, applies to noncitizens who are already present in the country. See Savane, 2025 WL 277452, at *5. Historically, noncitizens who resided in the United States, but who had previously entered without inspection, were not deemed "applicants for admission" under Section 1225(b), but were instead subject to § 1226(a). *See Jennings*, 583 U.S. at 287 ("In sum, U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).") (emphasis added); *Rodriguez,* 2025 WL 1193850, at *15 (noting ICE's "longstanding agency practice [of] applying Section 1226(a) to inadmissible noncitizens already residing in the country.").

34. DHS announced a new policy on July 8, 2025, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission." Pursuant to the

new policy, DHS changed its position to deem all persons who entered the United States without inspection as "applicants for admission" under 8 U.S.C. § 1225(a) and therefore argue that they are subject to mandatory detention under § 1225(b)(2)(A).

Judicial Interpretation of Sections 1225 & 1226 in the Context of Interior Arrests

35. Numerous federal courts, including in this District, have issued decisions consistent with Petitioner's position, concluding that the statutory text, the statute's history, congressional intent, and the Defendants' application of this authority for the past three decades, support a finding that Section 1226 applies to noncitizens already present in the United States. *See, e.g.*, *Santiago Santiago v. Noem*, No. 25-361 (W.D. Tx. Oct. 1, 2025) (Cardone, J.); *Buenrostro-Mendez v. Bondi,* No. 25-3726, (S.D. Tx. Oct. 7, 2025) (Rosenthal, J.); *BDVS v. Forestal*, No. 25-1968 (S.D. In. Oct. 8, 2025) (Evans Barker, J.); *Eliseo v. Olson*, No. 25-3381, Oct. 8, 2025) (Blackwell, J.); *Echevarria v. Bondi*, No. 25-3252, 2025 LX 492534 (D. Ariz. Oct. 3, 2025); *Belsai D.S. v. Bondi*, No. 25-3682 (D. Mn. Oct. 1, 2025) (Menendez, J.); *Quispe-Ardiles v. Noem*, No. 25-1382, 2025 WL 2783799 (E.D. Va. Sept. 30, 2025) (Nachmanoff, J.); *Rodriguez Vazquez v. Bostock*, No. 25-5240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (Cartwright, J.); *Da Silva v. ICE*, No. 25-284, 2025 WL 2778083 (D.N.H. Sept. 29, 2025) (McCafferty, J.);

Quispe v. Crawford, No. 25-1471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025) (Trenga, J.); *Inlago Tocagon v. Moniz*, No. 25-12453, 2025 WL 2778023 (D. Mass. Sept. 29, 2025) (Joun, J.); *Barrios v. Shepley*, No. 25-406, 2025 WL 2772579 (D. Maine Sept. 29, 2025) (Woodcock, Jr.); *J.U. v. Maldonado*, No. 25-4836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025) (Merchant, J.); *Savane v. Francis*, No. 25-6666, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025) (Woods, J.); *Zumba v. Bondi*, No. 25-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025) (Hayden, J.); *Villanueva Herrera v. Tate*, No. 25-3364 (S.D. Tx. Sept 26, 2025) (Hittner, J.); *Gamez Lira v. Noem*, No. 25-855 (D.N.M. 25-855) (Johnson, J.); *Singh v. Lewis*, No. 25-96, 2025 LX 400065 (W.D. Ky. Sept. 22, 2025) (Jennings, J.); *Chafla v. Scott*, No. 25-437, 2025 LX 422663 (D. Maine Sept. 21, 2025) (Neumann, J.); *Hasan v. Crawford*, No. 25-1408, 2025 LX 499354 (E.D. Va. Sept. 19, 2025) (Brinkema, J.); *Barrera v. Tindall*, No. 25-451, 2025 LX 435572 (W.D. Ky. Sept. 19, 2025) (Jenning, J.); *Salazar v. Dedos*, No. 25-835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025) (Urias, J.); *Garcia Cortes v. Noem*, No. 25-2677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025) (Sweeney, J.); *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (White, J.); *Sampiao v. Hyde*, No. 25-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (Kobick, J.); *Jimenez v. FCI Berlin*, No. 25-326, 2025

LX 360066 (D.N.H. Sept. 8, 2025) (McCafferty, J.); *Doe v. Moniz*, No. 25-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025) (Talwani, J.); *Lopez Benitez v. Francis*, No. 25-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025) (Ho, J.); *Lopez-Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (McMillion, J.); *Diaz v. Mattivelo*, No. 25-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025) (Kobick, J.); *Jose J.O.E. v. Bondi*, No. 25-3051, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) (Tostrud, J.); *Leal-Hernandez v. Noem*, No. 25-2428, 2025 WL 2430025 (D. Md. Aug. 24, 2025) (Rubin, J.); *Romero v. Hyde*, No. 25-11631, __ F.Supp.3d __, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (Murphy, J.); *Samb v. Joyce*, No. 25-6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025) (Ho, J.); *dos Santos v. Noem*, No. 25-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (Kobick, J.); *Diaz Martinez v. Hyde*, No. 25-11613, __ F.Supp.3d __, 2025 WL 2084238 (D. Mass. July 24, 2025) (Murphy, J.); *Gomes v. Hyde*, No. 25-11571, 2025 WL 1869299 (D. Mass. July 7, 2025) (Kobick, J.); *Tumba Huamani v. Francis*, No. 25-CV-8110 (LJL), 2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025); *Reyes Arizmendi v Noem*, No. 25 C 13041, 2025 WL 3089107 (N.D. Ill. Nov. 5, 2025).

36. Moreover, this interpretation of the statutory scheme is entirely consistent with the Supreme Court's construction of Sections 1225 and 1226 in *Jennings*,

583 U.S. at 288–89. There, the Supreme Court, explained that Section 1225(b) covers "aliens seeking admission *into* the country," while Section 1226 covers "aliens *already in* the country" who are subject to "removal proceedings." *Id.* (emphasis added)."

37. Most recently, a district court in California certified a nationwide class of noncitizens who are in immigration detention and being denied access to a bond hearing based on the government's allegation that they entered the United States without admission or inspection. *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). The Court granted declaratory relief to the entire class, holding that the government is unlawfully subjecting them to mandatory detention and that class members are eligible for release on bond under the immigration laws. Despite this ruling, however, multiple practitioners and class counsel have reported that the DOJ issued internal guidance instructing immigration judges to ignore the *Maldonado Bautista* Court's order and instead continue following *Matter of Yajure Hurtado* when determining bond jurisdiction—in other words to continue erroneously applying the mandatory detention provision of Section 1225(b)(2)(A) to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

STATEMENT OF FACTS

38. Petitioner is a twenty-one (21) year old native and citizen of Guatemala, who resides in Houston, Texas. He has never been convicted of a crime and has no pending charges.

39. Petitioner arrived in the United States on June 18, 2019, as an unaccompanied minor. He entered the U.S. near Roma, Texas, at a place other than a port of entry and was not inspected or admitted by an immigration officer. ***Exh. 1, First Notice to Appear (June 19, 2019).***

40. Upon entry, Petitioner encountered border immigration officials, who detained him, designated him an Unaccompanied Child (UAC), and subsequently transferred him to the custody of the Office of Refugee Resettlement (ORR).

41. On July 29, 2019, Petitioner was released from ORR custody into the care of his older brother in Houston, Texas. ***Exh. 2, Verification of Release Form***. He has continuously resided in Houston, Texas with his family since that time.

42. In November 2020, DHS initiated removal proceedings against Petitioner by filing his Notice to Appear with the Immigration Court, wherein they charged him with removability under the Immigration and Nationality Act ("INA") Section 212(a)(6)(A)(i) (codified as 8 U.S.C. § 1182(a)(6)(A)(i)) because he was "an alien present in the United States without being admitted or paroled,

or who arrived in the United States at any time or place other than as designated by the Attorney General." ***Exh. 1, First Notice to Appear.***

43. On June 12, 2020, Petitioner filed an application for asylum with U.S. Citizenship and Immigration Services (USCIS). ***Exh. 3, USCIS Receipt Notice.*** USCIS has initial jurisdiction over the application pursuant to Section 208(b)(3)(C) of the INA, as amended by the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Pub. L. No. 110-457, tit. II, § 235(d)(7)(B); 122 Stat. 5044, (2008), codified at 22 USC § 7101, as well as the settlement agreement in *J.O.P., et al. v. U.S. Dep't of Homeland Sec., et al.*, Civil Action No. 8:19-CV-01944-SAG (D. Md. July 30, 2024).

44. In September 2021, the Secretary of Homeland Security issued the *Mayorkas Memorandum on Guidelines for the Enforcement of Civil Immigration Law*[5], which directed DHS and Office of Principal Legal Advisor (OPLA) attorneys to focus immigration enforcement on individuals who posed threats to national security, public safety, or border security. The memorandum also encouraged the exercise of prosecutorial discretion in cases involving noncitizens who did not fall within those priority categories, emphasizing fairness, efficient use of resources, and humanitarian considerations.

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[5] *See* Memorandum from Alejandro N. Mayorkas, Secretary, DHS, *Guidelines for the Enforcement of Civil Immigration Law* (Sept. 30, 2021), https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf ("Mayorkas Memo").

45. In May 2023, DHS determined that Petitioner did not fall within DHS's enforcement priority categories, including national security, public safety, or border security; and consistent with that finding, DHS made a motion to dismiss the removal proceedings, which Petitioner joined. On October 10, 2024, an Immigration Judge granted the motion and dismissed Petitioner's removal proceedings. ***Exh. 4, Order of the Immigration Judge.***

46. On Saturday, October 25, 2025, Petitioner was detained by ICE officials after they conducted an immigration stop of the vehicle he was driving. Petitioner was on his way to work, where he works in roofing, driving a white van. He was approximately three minutes from his home when he was stopped by an unmarked beige Tahoe on the highway. It was around 5:30 am in the morning.

47. According to a document recently filed by DHS in the Immigration Court, "ERO Houston Joint Operation Team was conducting target enforcement near 6130 Southwest Frwy, Houston, Texas" when they encountered Petitioner and "identified [him] as a collateral alien." ***Exh. 5, Form I-213.*** In the section titled "Immigration Record," the ICE document states, "History was expected but not provided." *Id.* at 2.

48. Two officers spoke with Petitioner during this encounter, one in English and one in Spanish. Neither one indicated to Petitioner why they had stopped him. The first officer spoke to him in English, asking for his driver's license and

vehicle registration. Petitioner replied in English and provided the two documents to the officer, who returned to his vehicle.

49. The second officer then returned to the vehicle and, unprompted, spoke to him in Spanish. He told Petitioner that his documents did not afford him any legal permission to be here in the United States. Petitioner then showed his Employment Authorization Document (EAD), showing that he is lawfully authorized to work in the United States on the basis of a pending asylum application. The officer indicated that the EAD did not allow him to be here either. Petitioner did not respond to the officers' statements alluding to his immigration status.

50. Petitioner was asked to step out of his vehicle, with which he complied. He was then led to the backseat of the Tahoe, where his hands were zip-tied. From the car, while zip-tied, he was allowed to place a call to his brother to come pick up his van on the side of the highway, as one of the officers left the keys in it. Petitioner was then taken to a police station then to Montgomery Processing Center in Conroe, Texas. He has been transferred within immigration custody twice since that time, first to Joe Corley Processing Center, and then to the Limestone County Detention Center where he is currently being held.

51. Petitioner was issued a new Notice to Appear a few days later. ***Exh. 6, Second Notice to Appear (Oct. 28, 2025).*** The Notice to Appear represented that Petitioner was being detained under INA § 212(a)(6)(A)(i) (codified as 8 U.S.C. § 1182(a)(6)(A)(i)) because he was "an alien present in the United States who ha[d] not been admitted or paroled." It also now contained a new allegation and charge, that Petitioner was being detained under INA § 212(a)(7)(A)(i)(I) (codified as 8 U.S.C. § 1182(a)(7)(A)(i)(I)) because he was "not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document." *Id.* at 3. On the Notice to Appear, the box indicated, "You are an alien present in the United States who has not been admitted or paroled" was checked. *Id.* at 1. The box marked "You are arriving alien" was not checked. *Id.*

52. After detaining him, ICE did not set a bond. The undersigned counselor communicated with Petitioner's Deportation Officer thereafter and requested that ICE set a bond or release Petitioner on parole; the officer replied that ICE would not do either. Petitioner is set for a Master Calendar Hearing in Immigration Court on December 18, 2025.

53. Pursuant to Respondents' new policy, discussed *infra*, Petitioner remains in mandatory detention. Absent relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family

and community without ever receiving an individualized hearing justifying his detention in violation of the INA and Due Process.

54. Moreover, Petitioner's asylum application remains pending with USCIS, and pursuant to the *J.O.P. v. DHS* settlement agreement, of which he is a class member, the Defendants are enjoined from removing him until he receives a decision from USCIS on his application. See However, just this week, USCIS issued a "hold on all Forms I-589 (Application for Asylum and for Withholding of Removal)…pending a comprehensive review." U.S. Citizenship & Immigration Servs., Dep't of Homeland Sec., Policy Memorandum PM-602-0192, *Hold and Review of All Pending Asylum Applications and All USCIS Benefit Applications Filed by Aliens from High-Risk Countries* (Dec. 2, 2025).[6] This unprecedented halt to the adjudication of asylum applications "will remain in effect until lifted by the USCIS Director through a subsequent memorandum." *Id.* at 2-3. Therefore, absent this Court's intervention, Petitioner faces an untenable situation in which he cannot receive a decision on his asylum application or be removed from the United States, yet he faces indefinite detention under the Defendants'

[6] *Available at* https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf.

currently erroneous interpretation and application of immigration law, resulting in egregious harm and constitutional violations.

CLAIMS FOR RELIEF

COUNT ONE
Violation of the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

55. Petitioner realleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

56. Under the statutory framework of the Immigration and Nationality Act, detention under Section 1225(b) applies only to "applicants for admission," such as individuals arriving at a port of entry or apprehended at or near the border shortly after entry. Petitioner, by contrast, was arrested within the interior of the United States and placed into removal proceedings under 8 U.S.C. Section 1229a. Accordingly, his detention is governed by 8 U.S.C. Section 1226(a), which provides for discretionary detention and entitles him to an individualized bond hearing.

57. Petitioner is being unlawfully detained under 8 U.S.C. § 1225(b) despite having been physically present in the United States for six years before his arrest. Respondents' interpretation of "applicants for admission" ignores the fact that that term is further limited in Subsection 1225(b)(2) by the active construction of the phrase "seeking admission" which entails some kind of

affirmative action taken to obtain authorized entry. *See e.g., Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); see also Lopez Benitez v. Francis, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 at *7 (S.D.N.Y. Aug. 13, 2025). Here, Petitioner was already present and residing in the United States, and, at the time of apprehension on October 25, 2025, not taking any affirmative acts that constitute "seeking admission."

58. Respondents' application of Section 1225(b) to detain Petitioner is contrary to the plain language of the statute, congressional intent, longstanding agency practice, and decades of judicial interpretation. The continued detention of Petitioner under the incorrect statutory authority violates the Act and is ultra vires.

COUNT TWO
Violation of the Fourth Amendment of the U.S. Constitution

59. Petitioner realleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

60. Petitioner's warrantless arrest violates his right to be protected against illegal seizures under the Fourth Amendment to the United States Constitution.

61. ICE does not have authority to make stops for the purpose of identifying and detaining individuals solely based on being Hispanic to determine their immigration status. Such conduct violates the Fourth Amendment. *See United States v. Brignoni-Ponce,* 422 U.S. 873 (1975); *see also Noem v. Perdomo,*

222 L.Ed.2d 1213 (U.S. 2025) ("To be clear, apparent ethnicity alone cannot furnish reasonable suspicion.").

62. On October 25, 2025, Petitioner was pulled over while driving from his home to work. At the time of the arrest, Petitioner had a valid driver's license, and all documentation relating to his car was current. Upon information and belief, the ICE officers did not have a reasonable suspicion that Petitioner was in violation of immigration laws or any other law to justify stopping his vehicle. Instead, Petitioner contends that ICE officers topped him because he appeared Hispanic. Defendants did not provide any justification for stopping his car or taking him into custody. His continued detention arising from this illegal arrest violates the Fourth Amendment.

63. 8 U.S.C. § 1357(a)(2) allows an official to conduct a warrantless arrest if he has reason to believe that a noncitizen (a) is unlawfully present in the United States and (b) is likely to escape before a warrant can be obtained for the arrest. 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2). "Reason to believe" is "considered the equivalent of probable cause," *Au Yi Lau v. U.S. Immigr. & Naturalization Serv.*, 445 F.2d 217, 222 (D.C. Cir. 1971), which "must be particularized with respect to the person to be searched or seized," *Barham v. Ramsey*, 434 F.3d 565, 573 (D.C. Cir. 2006). "Probable cause exists when the totality of facts and circumstances within a police officer's knowledge at the

moment of arrest are sufficient for a reasonable person to conclude that the suspect had committed or was committing an offense." *Flores v. City of Palacios*, 381 F.3d 391, 402 (5th Cir. 2004). Section 1357(a)(2) must be construed within the limits of the Fourth Amendment because Congress cannot statutorily create exceptions to Constitutional Amendments. *Almeida-Sanchez v. United States*, 413 U.S. 266 (1973).

64. Respondents' arrest of Petitioner does not satisfy the requirements for warrantless arrests because there was no indication he was "likely to escape" before a warrant could be obtained. Rather, Petitioner complied with all requests made of him by the immigration officers and presented valid, unexpired documents showing that he was in compliance with state and federal law and had a pending application for immigration relief. Probable cause cannot be based solely on categorial assumptions about an individual's circumstances or behaviors. *See Illinois v. Wardlow,* 528 U.S. 119, 124 (2000). Instead, ICE must make an individualized determination pursuant to section 1357(a)(2). Here, ICE failed to make the individualized determination before conducting a warrantless arrest.

COUNT THREE
Violation of the Fifth Amendment of the U.S. Constitution

65. Petitioner realleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

66. Petitioner's continued detention without an individualized bond hearing violates his right to due process under the Fifth Amendment to the United States Constitution.

67. The government's misapplication of Section 1225(b) categorically denies Petitioner any opportunity to be heard regarding the necessity of his detention, despite the fact that he is not an applicant for admission and is entitled to procedural protections under the Due Process Clause.

68. The Fifth Amendment requires, at a minimum, a meaningful opportunity to contest one's detention before a neutral decisionmaker. Petitioner's detention under Section 1225(b), which mandates automatic and indefinite detention without a bond hearing, violates this constitutional guarantee as applied to individuals already present within the United States and not seeking admission.

COUNT FOUR
Violation of the Administrative Procedure Act, 5 U.S.C. § 702 et seq.

69. Petitioner realleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

70. DHS's application of Section 1225(b) detention authority to individuals arrested within the United States constitutes final agency action that is arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law, in violation of 5 U.S.C. Section 706(2)(A).

71. Moreover, to the extent that DHS is operating under a revised interpretation or policy—such as the July 2025 directive expanding Section 1225(b) detention to include individuals already present in the interior of the country—such a change in agency policy constitutes unlawful agency action in excess of statutory jurisdiction, authority, or limitations, in violation of 5 U.S.C. § 706(2)(C).

72. The agency's new position lacks reasoned explanation, contradicts longstanding practice, and results in the misclassification of individuals like Petitioner as "applicants for admission" despite their undisputed presence within the United States. This misclassification deprives Petitioner of the opportunity for a bond hearing under Section 1226(a), without lawful justification, in violation of the APA.

REQUEST FOR ORDER TO SHOW CAUSE

73. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court immediately issue an Order to Show Cause directing Respondents to file a return within three (3) days of the Court's order, showing cause, if any, why the writ of habeas corpus should not be granted, and to provide Petitioner an opportunity to file a reply within five (5) days after Respondents file the return.

74. "In habeas corpus proceedings the court sits as a court of law to determine 'in a summary way' whether the petitioner is unlawfully restrained of his liberty." *Overholser v. Treibly,* 147 F.2d 705, 708 (CADC 1945) (footnotes and citations omitted); accord *Walker* v. *Johnston*, 312 U. S. 275, 283–84 (1941) ("The court or judge 'shall proceed in a summary way to deter-mine the facts of the case, by hearing the testimony and arguments, and thereupon to dispose of the party as law and justice require.' ") (citation omitted). Given this summary nature, 28 U.S. § 1657(a) provides that the "court[s] shall expedite the consideration of any action brought under chapter 153…of this title."

75. Petitioner is seeking a general writ of habeas corpus under 28 U. S. C. § 2241, as opposed to one filed under § 2254, or § 2255. As per § 2243, when a court "entertain[s] an application for a writ of habeas corpus," it "shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted." "The person to whom the writ or order is directed shall make a return certifying the true cause of the detention." § 2243.

76. Courts frequently issue such orders to show cause for the government to respond to habeas petitions by individuals in immigration detention. *See, e.g., De La Caridad Mendez Velasquez v. Noem et al,* Civil Action No. 4:25-cv-04527, (Dkt 3) (S.D. Tex. Sept. 25, 2025); *Diallo v. Pitts,* Civil Action No.

1:19-cv-216, 2020 WL 714274 (S.D. Tex. Jan. 15, 2020); *Abdulle v. Gonzales*, 422 F. Supp. 2d 774, 775 (W.D. Tex. 2006) (Briones, J.); *D.G.L. v. Collins*, No. A-20-CV-1126-RP-SH, 2020 WL 10355163, at *2 (W.D. Tex. Nov. 18, 2020) (Hightower, M.J.); *Melika Mohammadi Gazvar Olga, v. Angel Garite*, 25-cv-00083, (Dkt. 7) (W.D. Tex, Mar. 19, 2025) (Guadderrama, J.); *John Doe v. Angel Garite*, 24-cv-00046, (Dkt. 5) (W.D. Tex. Feb. 21, 2025) (Cardone, J.).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court

1) Assume jurisdiction over this matter;
2) Order Respondents to show cause why the writ should not be granted within five days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
3) Declare that Petitioner's detention violates the Fourth Amendment to the U.S. Constitution;
4) Declare that Petitioner's detention under 8 U.S.C. § 1225(b) is unlawful and that Petitioner is properly subject to detention under 8 U.S.C. § 1226(a);
5) Issue a writ of habeas corpus ordering Petitioner's immediate release;

6) In the alternative, issue a writ of habeas corpus requiring Respondents to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226 within seven (7) days;

7) Order Respondents to immediate release Petitioner from detention, if they do not provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a);

8) Order Respondents are enjoined from invoking the automatic stay provision pursuant to 8 C.F.R. § 1003.19(i)(2) if Petitioner is granted bond;

9) Order Respondents to file a status report with this Court within three (3) days of the bond hearing; and

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

Dated: December 8, 2025

Respectfully submitted,

By: */s/ Alexa L. Sendukas*

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Pro Bono Attorney for Petitioner

Verification of Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I, Alexa L. Sendukas, have personally discussed with Petitioner the events described in the Petition. I hereby certify that the statements made in this attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Alexa L. Sendukas
Alexa L. Sendukas

Date: December 8, 2025