UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Civil Action No: 1:25-CV-3953

HECTOR MANUEL VARGAS SEVILLA,

Petitioner,

v.

JUAN BALTASAR, in his official capacity as Warden of the Denver Contract Detention Facility;
KRISTI NOEM, Secretary of the Department of Homeland Security;
DAREN K. MARGOLIN, Director of the Executive Office of Immigration Review;
TODD M. LYONS, Acting Director of U.S. Immigration Customs Enforcement; and ROBERT GUADIAN, Field Office Director of the Denver Field Office, U.S. Immigration and Customs Enforcement,

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Hector M. Vargas Sevilla is a 39-year-old Mexican national, born in January 1986, who entered the United States without inspection in August 2006. He has lived in this country continuously for nearly twenty years and has established connection to the United States, including to his U.S. citizen family members, and a life entirely rooted in the United States.

2. Petitioner is married to Thelma Jackeline Roman, a U.S. citizen, since February 29, 2016. Together they have two minor U.S. citizen children. Petitioner is the primary provider and stabilizing force for his household. His family depends on him emotionally, financially, and for daily care. His wife suffers from post-partum depression and a family history of mental illness, and both children have medical conditions requiring ongoing parental attention, making his presence in the household indispensable.

3. He has no criminal history, aside from a minor traffic infraction involving speeding and an expired driver's license.

4. On September 12, 2016, Mrs. Roman filed Form I-130, Petition for Alien Relative on Petitioner's behalf, which was approved on March 30, 2017. Petitioner is prima facie eligible for Cancellation of Removal based on his lengthy continuous physical presence, good moral character, and qualifying relatives who would suffer exceptional and extremely unusual hardship in the event of his removal.

5. Petitioner was taken into ICE custody following a minor traffic stop on November 7, 2025. He is physically detained by U.S. Immigration and Customs Enforcement ("ICE") at the Denver Contract Detention Facility in Aurora, Colorado. His detention has caused—and continues to cause—significant harm to his physical and mental health, exacerbated by the instability and uncertainty of ICE's actions.

6. During Petitioner's Master Calendar hearing in Immigration Court on November 21, 2025, ICE failed to produce Petitioner for his hearing. Immigration Judge Rodríguez de Jongh expressly advised undersigned counsel that a writ of habeas corpus was appropriate to compel ICE to produce Petitioner and to secure judicial review of his custody. Because Petitioner entered without inspection, DHS and the Executive Office of Immigration Review ("EOIR") assert that he is statutorily ineligible for a bond redetermination before the Immigration Court.

7. Respondents based their position on the precedential decision, *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), where the Board of Immigration Appeals ("BIA") held that Immigration Judges ("IJs") lack statutory authority to conduct custody redeterminations for individuals who entered without admission or parole. Accordingly, habeas corpus under 28 U.S.C. § 2241 is Petitioner's sole legal avenue to challenge his detention and ICE's continued failure to produce him for his immigration proceedings.

8. This case concerns a pure question of law regarding which statutory authority governs Petitioner's detention. For nearly three decades, Respondents applied 8 U.S.C. § 1226(a)'s discretionary detention framework to noncitizens who entered without inspection and were later detained for removal proceedings. This year, Respondents abruptly reversed course and now claim that all such individuals—

regardless of how long they have lived in the United States or where they were apprehended—are "seeking admission" under 8 U.S.C. § 1225(b)(2)(A) and thus ineligible to seek bond before an IJ.

9. Respondents' interpretation of 8 U.S.C. § 1225(b)(2)(A) violates the plain text of the Immigration and Nationality Act ("INA") and its implementing regulations, as well as decades of legal precedent and the near-unanimous decisions of this Court and federal courts nationwide. *See, e.g.*, *Hernandez v. Baltazar*, Civil Action No. 1:25-cv-03094-CNS, 2025 U.S. Dist. LEXIS 210449, at *22 n.3 (D. Colo. Oct. 24, 2025) (Sweeney, J.) (collecting cases); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 U.S. Dist. LEXIS 208290, at *21 (D. Colo. Oct. 22, 2025) (Wang, J.); *Pineda v. Baltasar*, Civil Action No. 25-cv-02955-GPG, 2025 U.S. Dist. LEXIS 216494, at *4 (D. Colo. Oct. 20, 2025) (Gallagher, J.).

10. Petitioner, who has resided in the U.S. for 19 years and who was apprehended in the interior of the United States, should not be considered an "applicant for admission" who is "seeking admission." Rather, his detention is governed by 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond.

11. By applying the incorrect detention authority to Petitioner, Respondents violate the INA and Petitioner's constitutional rights. Petitioner seeks declaratory relief that he is subject to discretionary detention under Section 1226(a) and its

implementing regulations and asks that this Court to grant him a Writ of Habeas Corpus ordering Respondents to release him from custody or provide him with an immediate bond hearing before an IJ.

CUSTODY

12. Petitioner is in the physical custody of ICE at the Denver Contract Detention Facility located at 3130 North Oakland Street, Aurora, CO 80010. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

13. This Court has 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 (the Suspension Clause), and the INA, 8 U.S.C. § 1101 *et. seq.*

14. 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.*, the All Writs Act, 28 U.S.C. § 1651, and the INA, 8 U.S.C. § 1252(e)(2).

15. 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). 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).

16. Petitioner seeks this Court's determination on the appropriate legal authority governing his detention, and consequently whether he may be afforded a bond hearing. The Supreme Court determined that Section 1252 does not preclude judicial review of noncitizens' claims regarding their eligibility for bond hearings pending resolution of their immigration proceedings. *Jennings*, 583 U.S. at 292–95, *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 n.4 (2021) (finding jurisdiction and citing *Jennings*). Importantly, Petitioner does not challenge any of the three discrete actions set forth in Section 1252(g). *See* 8 U.S.C. § 1252(g) (precluding judicial review of decision to "commence proceedings, adjudicate cases, or execute removal orders against any alien").

VENUE

17. Venue is proper under 28 U.S.C. § 1391(e) because Respondents, all of whom are officers, employees, or agencies of the United States acting in their official capacities, have detained Petitioner at the Denver Contract Detention Facility, located in Aurora, Colorado which is within the jurisdiction of this District. In addition, venue is proper in this District because a substantial part of the events giving rise to Petitioner's claims occurred in this District.

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

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

19.Petitioner is "in custody" for purposes of 28 U.S.C. § 2241 because Respondents arrested and detained Petitioner.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. 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).

21. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because the BIA recently issued a precedential decision holding that anyone who has entered the United States without inspection is considered an "applicant for admission" who is "seeking admission" and therefore subject to mandatory detention under Section 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Sacvin v. Anda-Ybarra*, No. 2:25-cv-01031-KG-

JFR, 2025 U.S. Dist. LEXIS 224815, at *4 (D.N.M. Nov. 14, 2025) (noting that the BIA's decision in *Yajure Hurtado* renders prudential exhaustion futile).

22. Additionally, the BIA does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *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.")

PARTIES

23. Petitioner Hector Manuel Vargas Sevilla has been in ICE custody since November 7, 2025, when he was arrested by ICE agents. ICE originally detained Petitioner at Florida Soft Side Detention Center, commonly referred to as "Alligator Alcatraz." ICE recently transferred Petitioner to the Denver Contract Detention Facility where he remains in custody. Before detention, Petitioner resided in Dunedin, Florida with his wife and children.

24. Respondent Juan Baltasar is sued in his official capacity as Warden of the Denver Contract Detention Facility. He is the individual in charge of the institution where Petitioner is currently detained. He has immediate physical custody of Petitioner and the authority to release him.

25.Respondent Kristi Noem is sued in her official capacity as the Secretary of Department of Homeland Security. Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees ICE, which is the agency responsible for Petitioner's detention. She is the legal custodian of Petitioner and has the authority to release him.

26.Respondent Daren K. Margolin is sued in his official capacity as the Director of the EOIR which is an agency within the Department of Justice responsible for implementing and enforcing the Immigration and Nationality Act in removal proceedings before the Immigration Courts and the Board of Immigration Appeals, including bond determinations. He is the legal custodian of Petitioner.

27.Respondent Todd M. Lyons is sued in his official capacity as the Acting Director of ICE, a component agency of the Department of Homeland Security. Respondent Lyons has authority over the operations of ICE and broad authority over the enforcement of immigration laws. He is the legal custodian of Petitioner and has the authority to release him.

28.Respondent Robert Guadian is sued in his official capacity as Field Officer Director responsible for the Denver Field Office of ICE. He is the legal custodian of Petitioner and has the authority to release him.

LEGAL FRAMEWORK

29. There are three statutes that govern civil immigration detention. *See* 8 U.S.C. §§ 1225, 1226, 1231.

30. Section 1226(a) authorizes discretionary detention of noncitizens in standard removal proceedings under 8 U.S.C. § 1229a.

31. Noncitizens in detention under Section 1226(a) are entitled to an initial bond hearing. *Jennings*, 583 U.S. at 306 (noting "[f]ederal regulations provide that aliens detained under §1226(a) receive bond hearings at the outset of detention."); 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a). Within Section 1226 is a carve-out provision that requires mandatory detention for noncitizens with specified criminal history. 8 U.S.C. § 1226(c).

32. Section 1225 authorizes mandatory detention of individuals subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals "seeking admission" to the United States under Section 1225(b)(2).

33. Finally, Section 1231 authorizes detention of noncitizens with a final or reinstated removal order. *Id.* § 1231(a)-(b).

34. This Petition presents a legal question regarding whether Petitioner's detention is governed by 8 U.S.C. §§ 1225 or 1226.

Statutory Context and Legal Background

35. The detention provisions at Sections 1226(a) and 1225(b)(2) were enacted as

part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208. Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Congress most recently amended Section 1226 earlier this year through the Laken Riley Act. 8 U.S.C. § 1226(c)(1)(E), *as amended* by Pub. L. 119-1, 139 Stat. 3 (2025).

36. Closely following the enactment of IIRIRA, the U.S. Department of Justice, EOIR drafted regulations explaining that, in general, people who enter the United States without inspection are not considered detained under Section 1225; rather detention under Section 1226(a) applies. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

37. In the decades that followed, individuals who entered without inspection and were subsequently placed in removal proceedings were granted bond hearings if detained by ICE, except in cases where their criminal history required mandatory detention under Section 1226(c). This practice aligned with decades of prior practice before enactment of IIRIRA, in which noncitizens who entered the United States,

even without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, individuals stopped at the border or port-of-entry were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that Section 1226(a) simply "restates" the detention authority previously found at Section 1252(a)).

38.Despite the long-established statutory construction of Sections 1225 and 1226, and Respondents' own historical practice of providing bond hearings to noncitizens like Petitioner, ICE reversed course in July 2025 and began asserting that all individuals present in the United States without inspection should be considered "seeking admission" and subject to mandatory detention under Section 1225(b)(2)(A) without a bond hearing.

39.On September 5, 2025, the BIA issued a binding decision adopting ICE's interpretation. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *Matter of Yajure Hurtado* strips Immigration Courts of jurisdiction to hold bond hearings for any noncitizen present in the United States without inspection, regardless of how long they have resided in the United States or where ICE encountered them within the country. *Id.* at 216, 229.

40.Respondents' and the BIA's overly broad interpretation of Section 1225(b)(2)(A) departs from the INA's text, federal precedent, existing regulations,

and longstanding agency practice. Respondents' new policy is contrary to law and arbitrary and capricious in violation of the Administrative Procedure Act ("APA"). Respondents' interpretation was also adopted without complying with formal rulemaking procedures under the APA. *See* 5 U.S.C. § 553; *see also FCC v. Fox TV Stations, Inc.*, 556 U.S. 502, 537 (2009) (agencies "cannot simply disregard contrary or inconvenient factual determinations that it made in the past.").

41. More than 200 district court decisions have properly rejected Respondents' interpretation and instead found that Section 1226—not Section 1225—authorizes detention of individuals who entered without inspection and were later apprehended in the interior of the United States. *See, e.g.*, *Hernandez v. Baltazar*, 2025 U.S. Dist. LEXIS 210449, at *22 n.3 (collecting cases).

42. This Court must "exercise independent judgment in determining the meaning of statutory provisions," and give no weight or deference to Respondents' expansive interpretation of Section 1225(b)(2) because it conflicts with statute, regulation, and precedent. *Loper Bright v. Raimondo*, 603 U.S. 369, 394 (2024). However, longstanding determinations by "agenc[ies] charged with enforcing [the detention statutes]" are "powerful evidence that interpreting the Act in [this] way is natural and reasonable." *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting). Thus, consistent prior agency practice and interpretations on this issue

can inform the Court's determination on the proper construction of the law. *See Loper Bright*, 603 U.S. at 386.

Statutory Interpretation of Sections 1225 and 1226

43. The INA's context and structure make clear that Section 1226 applies to individuals who entered without inspection and have not been admitted to the United States.

44. Section 1225 begins by defining an "applicant for admission" as a noncitizen "who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). With limited exceptions not applicable here, Section 1225(b)(2) applies to all other applicants for admission outside of Section 1225(b)(1) who are seeking admission. *Id.* § 1225(b)(2)(A).

45. Section 1225(b)(2)(A) states that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained" during standard removal proceedings. *Id.* (emphasis added). Clearly, Congress defined in Section 1225(a)(1) the broad term "applicant for admission" but added the narrowing qualifier "seeking admission" in Section 1225(b)(2)(A), thereby limiting its application to those who are "seeking admission." Respondents'

interpretation ignores the plain language of Section 1225(b)(2)(A) and violates basic principles of statutory construction.

46.By contrast, Section 1226(a) detention applies when a noncitizen is arrested and "detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Pending a decision on removal, the individual may be detained or released on bond or conditional parole. *Id.* § 1226(a)(1)-(2).

47. Although in a different context, the Supreme Court has explained that Section 1225(b) "applies primarily to aliens seeking entry," and is generally imposed "at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible." *Jennings*, 583 U.S. 281 at 287, 297. Whereas Section 1226 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." *Id.* at 289 (emphases added). Accordingly, discretionary detention under Section 1226(a) is often referred to as the "default rule" for noncitizens already present in the United States. *Id.* at 288.

48.This interpretation aligns with the statutory framework governing immigration detention and ensures no provision is rendered meaningless. *Corley v. United States*, 556 U.S. 303, 314 (2009) (reiterating rule that statutes should be construed as a whole so that effect is given to all its provisions). If inadmissible

individuals present in the United States are already subject to mandatory detention under Section 1225(b)(2)(A), as Respondents contend, then Section 1226(c) and amendments to the Laken Riley Act would be superfluous. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257–58 (W.D. Wash. 2025) (explaining that Section 1226(c)(1)(E) which mandates detention for inadmissible noncitizens who are implicated in an enumerated crime, including those present without admission, would be meaningless since Section 1225 mandatory detention would already govern detention of all noncitizens present without admission). There would be no need for Section 1226(c) or Congress's recent amendments to that provision.

49. The text of the Laken Riley Act explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Logically, the Laken Riley Act's reference to individuals who entered without inspection makes clear that, by default, those individuals *are* afforded a bond hearing under Section 1226(a).

50. Accordingly, the mandatory detention provision of Section 1225(b)(2) does not apply to Petitioner, who entered the United States nearly 20 years ago.

FACTUAL ALLEGATIONS

51. Petitioner Hector M. Vargas Sevilla is a 39-year-old Mexican national, born in [redacted] 1986, who entered the United States without inspection in August

2006. Upon information and belief, Petitioner entered the United States without being admitted or inspected and has resided here continuously for nearly twenty years since his entry in 2006.

52.Petitioner has been married to Thelma Jackeline Roman, a United States citizen, since February 29, 2016. The couple has two U.S. citizen children—[redacted], born [redacted] 2017, and [redacted], born [redacted] 2023—both of whom depend heavily on their father for emotional, financial, and daily support. Mrs. Roman filed Form I-130, Petition for Alien Relative on behalf of Petitioner on September 12, 2016, which U.S. Citizenship and Immigration Services approved on March 30, 2017.

53.Petitioner is the primary provider and stabilizing force in his household. His wife and minor children have present medical conditions, requiring Petitioner's continuous care and support. Petitioner's absence has caused profound disruption to the family's emotional and financial stability. Petitioner has no criminal history, aside from a minor traffic infraction involving a ticket for speeding and driving with an expired license.

54.Petitioner is prima facie eligible for Cancellation of Removal under INA § 240A(b), based on his lengthy continuous physical presence, good moral character,

and the exceptional and extremely unusual hardship his removal would impose on his U.S. citizen spouse and children.

55.Petitioner was taken into ICE custody following a minor traffic stop on November 7, 2025. He is currently detained at the Denver Contract Detention Facility and was previously detained at Alligator Alcatraz. His continued detention has caused significant physical and psychological harm, particularly given his separation from his medically and emotionally vulnerable family.

56.A Master Calendar Hearing was scheduled for November 21, 2025, before Immigration Judge Lourdes Rodríguez de Jongh via WebEx. Despite receiving proper notice, ICE failed to produce Petitioner, either physically or by video, which prevented the hearing from going forward. Undersigned counsel immediately contacted ICE, and officers confirmed Petitioner was present in their custody but were unable to explain why he was not presented for his immigration hearing. This failure not only obstructed critical judicial proceedings but inflicted severe emotional distress on Petitioner, who—already vulnerable in detention—experienced a marked deterioration in his mental health after being denied the opportunity to appear and participate in his own case. A new hearing is scheduled for December 19, 2025, at 8:30 AM, but absent court intervention, ICE's failure to produce Petitioner is likely to recur.

57. Because Petitioner entered without inspection, Respondents have legally barred him from seeking a bond hearing before the Immigration Court. As the BIA held in *Matter of Yajure-Hurtado*, individuals who entered without being admitted or paroled are classified as applicants for admission who are "seeking admission," and IJs lack jurisdiction to redetermine their custody. Consequently, habeas corpus under 28 U.S.C. § 2241 is Petitioner's sole mechanism to challenge his ongoing detention under the incorrect statutory authority and ICE's failure to produce him for scheduled removal proceedings.

58. As a result, Petitioner is unlawfully detained under 8 U.S.C. § 1225(b)(2)(A), and he remains separated from his wife and children. Without an order from this Court, Petitioner faces many more months of unlawful detention.

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT
(8 U.S.C. § 1226(a) and Implementing Regulations)

59. Petitioner alleges and incorporates by reference the paragraphs above.

60. Petitioner's detention is governed squarely by Section 1226(a).

61. Under Section 1226(a) and applicable regulations, Petitioner is entitled to a bond hearing before an Immigration Judge. *See* 8 C.F.R. §§ 1236.1(d), 1003.19(a)-(f).

62. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to a ground of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by the government. Such noncitizens are detained under Section 1226(a), unless they are subject to mandatory detention under Sections 1225(b)(1), 1226(c), or 1231.

63. Respondents' erroneous interpretation and imposition of mandatory detention under Section 1225(b)(2)(A) prevents Petitioner from being afforded a bond hearing as required by law.

64. Petitioner's continued detention under Section 1225(b)(2)(A) without any access to bond is unlawful.

COUNT TWO
FIFTH AMENDMENT DUE PROCESS VIOLATION
(Procedural Due Process)

65. Petitioner alleges and incorporates by reference the paragraphs above.

66. 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.

67. The Supreme Court has long-established that noncitizens are afforded due process rights. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Demore*, 538 U.S. at 523.

68. To determine whether civil detention violates an individual's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts weigh three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

69. Petitioner has a significant liberty interest in being free from detention. This interest is the "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). He has lived in the United States for 19 years, has no criminal record apart from a minor traffic infraction, and is the primary breadwinner for his U.S. citizen wife and minor children. Yet, Petitioner remains mandatorily detained without a bond hearing since November based on Respondents' erroneous interpretation of the law.

70. Respondents' assertion of the wrong detention authority presents a significant risk of erroneous deprivation of Petitioner's liberty interest. Respondents' position lacks support in the plain text of the INA and contravenes longstanding interpretation and prevailing case law.

71. There is no significant governmental interest in keeping Petitioner detained. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. To the extent that the government has an interest in ensuring Petitioner is not a danger or a flight risk, the "fiscal and administrative burdens" of providing Petitioner with a bond hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35.

72. Petitioner's continued detention without procedural due process amounts to a serious deprivation of his constitutional rights and violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents 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 an immediate bond hearing;
5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from detention or provide him with a bond hearing under 8 U.S.C. § 1226(a) or the Due Process Clause within seven days;
6. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act and on any other basis justified under law; and
7. Grant any further relief this Court deems just and proper.

Date: December 9, 2025

Respectfully Submitted,

/s/ *Viktor A. De Maio*

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

I am submitting this verification on behalf of Petitioner Hector Manuel Vargas Sevilla, as his attorney. I have discussed with Mr. Vargas Sevilla the events described in this Petition and have examined all documents referenced herein. 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 Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

Date: December 9, 2025

/s/ *Viktor A. De Maio*

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