

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Lenin Melendez Morales

(b) County of Residence of First Listed Plaintiff Travis (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Georgia S Laurent 13785 research Blvd, Ste 125 SanLaurent Law Group Austin, TX 78750 512-693-9343

DEFENDANTS

Reynaldo Castro, Sylvester Ortega, Pamela J. Bondi, Todd M. Lyons, Kristi Noem

County of Residence of First Listed Defendant Frio County (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF, DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and codes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

8 U.S.C. § 1225(b)/ 8 U.S.C. § 1226(a)

Brief description of cause:

Incorrect Classification as mandatory detention/Pet held without the right to a bond hearing

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P., DEMAND \$, CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER 5:25-cv-1740

DATE 12/14/2025

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TEXAS
3 SAN ANTONIO DIVISION
4

5)
6 Lenin MELENDEZ-MORALES,)
7)
8 Petitioner-Plaintiff,)
9)
10 v.)
11)
12 PAM BONDI,)
13 United States Attorney General;)
14)
15 KRISTI LYNN NOEM,)
16 Secretary of the United States)
17 Department of Homeland Security;)
18)
19)
20 TODD M. LYONS,)
21 Director of United States)
22 Immigration and Customs Enforcement;)
23)
24 SYLVESTER ORTEGA)
25 Field Office Director)
26 for Detention and Removal, U.S.)
27 Immigration and Customs Enforcement,)
28)
29 Warden of the Karnes County)
30 Immigration Processing Center)
31)
32 Daren K. Margolin, Director of the)
33 Executive Office for Immigration Review)
34)
35 Respondents-Defendants.)
36)
37

Civ. No. 5:25-cv-1740

DHS File Number: 

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF;
PETITION FOR HABEAS CORPUS

38 The Petitioner, Lenin MELENDEZ-MORALES, respectfully petitions this Honorable Court for a
39 Writ of Habeas Corpus to remedy his unlawful detention and attempted removal from the United
40 States by Respondents, and for related declaratory and injunctive relief.

41 I. INTRODUCTION

- 42 1. This lawsuit seeks the immediate release of Plaintiff-Petitioner Lenin
43 MELENDEZ-MORALES (“Petitioner”), age 33, from unlawful detention in violation of
44 his constitutional and statutory rights.
- 45 2. Petitioner entered the United States without inspection in 2023. He was detained by
46 Immigration and Customs Enforcement (“ICE”) in that same year. While in ICE custody
47 in 2023, the deportation officer determined that Petitioner has a genuine and credible fear
48 of returning to Honduras.
- 49 3. After this positive determination, ICE released Petitioner on his own recognizance and
50 placed him on an Order of Supervision (“OSUP”) on September 12, 2023.
- 51 4. On September 12, 2023, ICE also notified Petitioner that he had an immigration court
52 hearing scheduled for June 17, 2026, in his removal proceedings, and Petitioner has been
53 awaiting that hearing and preparing to pursue his protection claims.
- 54 5. Since his release on OSUP, Petitioner has fully complied with all conditions of
55 supervision, including appearing for each scheduled ICE check-in, providing updated
56 contact information as requested, and respecting all instructions given to him by ICE, and
57 he has never violated any condition of his OSUP.
- 58 6. Petitioner has no criminal convictions and has never been accused of any conduct that
59 would suggest danger to the community or a risk of flight.
- 60 7. On October 8, 2025, Petitioner appeared for his regularly scheduled ICE check-in in San
61 Antonio, Texas, consistent with the pattern of compliance he had maintained since
62 September 2023.
- 63 8. At that routine check-in on October 8, 2025, ICE abruptly re-detained Petitioner and
64 transferred him to the Karnes County Immigration Processing Center (“Karnes Detention
65 Center”) in Texas, where he remains in civil immigration detention.

66

67 9. Petitioner's detention became unlawful when ICE re-detained him at his routine check-in
68 despite his release and placement under section 236 authority, his perfect compliance
69 with supervision, and his lack of any criminal history.

70 10. Petitioner has been informed by counsel that the immigration court with jurisdiction over
71 his case is currently ruling that Immigration Judges ("IJs") lack bond jurisdiction over
72 individuals who entered without inspection ("EWIs"), based on the government's new
73 interpretation of 8 U.S.C. § 1225(b).

74 11. As a result of these categorical rulings by the immigration court that it has no jurisdiction
75 to hear bond requests for EWIs, Petitioner has not filed a motion for bond before the IJ,
76 because any such motion would be futile in light of the court's stated refusal to exercise
77 jurisdiction over bond for similarly situated respondents.

78 12. Petitioner is represented by counsel in his removal proceedings and has filed an
79 application for asylum, withholding of removal, and protection under the Convention
80 Against Torture (Form I-589), based on the same fear that an asylum officer previously
81 found to be credible and genuine.

82 13. Petitioner's U.S. citizen sister filed a Form I-130, Petition for Alien Relative, on his
83 behalf on November 9, 2023, establishing his eligibility to pursue family-based
84 immigration relief in addition to his protection claims.

85 14. Petitioner's detention prevents him from meaningfully preparing his asylum and related
86 claims, communicating with his family and witnesses, and gathering evidence necessary
87 to support his applications.

88 15. Petitioner has supported his young daughter in Honduras and his father, who suffered an
89 accident and depends on him for financial assistance and care, and his current detention

90 imposes a substantial burden, placing his family at serious risk without his ability to
91 provide for them.

92 16. Petitioner respectfully requests that this Court grant his petition for a writ of habeas
93 corpus under 28 U.S.C. § 2241 and order his immediate release from custody, or, in the
94 alternative, order Respondents to show cause within three days why the writ should not
95 issue, pursuant to 28 U.S.C. § 2243.

96 17. Petitioner's continued detention is unlawful, violates due process, and is based on an
97 incorrect and *ultra vires* application of the immigration detention statutes, including the
98 improper classification of him as subject to mandatory detention under 8 U.S.C. §
99 1225(b)(2) rather than discretionary detention under 8 U.S.C. § 1226(a).

100 II. JURISDICTION AND VENUE

101 18. Petitioner is detained in civil immigration custody at the Karnes Detention Center in Karnes
102 County, Texas, within the Western District of Texas, and he has been detained there since
103 October 8, 2025, following his routine ICE check-in in San Antonio.

104 19. Petitioner has no criminal convictions.

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

107 21. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C.
108 § 1331 (federal question), and, where applicable, Article I, § 9, cl. 2 of the United States
109 Constitution (the Suspension Clause).

110 22. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28

111 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

112 23. Venue is proper in the Western District of Texas under 28 U.S.C. § 1391 because Petitioner is
113 detained in this District, at least one Defendant resides in this District, and a substantial part of
114 the events giving rise to the claims in this action occurred in this District, and venue is also
115 proper under 28 U.S.C. § 2243 because the immediate custodians of Petitioner reside in this
116 District.

117 **III. REQUIREMENTS OF 28 U.S.C. § 2243, WRIT OF HABEAS CORPUS ISSUANCE,**
118 **RETURN, HEARING, AND DECISION**

119 24. The Court must either grant the instant petition for a writ of habeas corpus or issue an order
120 to show cause to Respondents, unless Petitioner is not entitled to relief.

121 25. If the Court issues an order to show cause, Respondents must file a response within three
122 days, unless the Court permits additional time for good cause, which shall not exceed twenty
123 days, pursuant to 28 U.S.C. § 2243.

124 26. Habeas corpus is “perhaps the most important writ known to the constitutional law, affording
125 as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v.*
126 *Noia*, 372 U.S. 391, 400 (1963).

127 27. The writ of habeas corpus, challenging the illegality of detention, is reduced to a sham if the
128 trial courts do not act within a reasonable time. See *Rhueark v. Wade*, 540 F.2d 1282, 1283 (5th
129 Cir. 1976); *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978).

130 28. Due to the nature of this proceeding, including Petitioner’s unlawful civil detention at the
131 Karnes Detention Center since October 8, 2025, Petitioner requests that the Court expedite

132 proceedings as necessary and practicable to ensure justice and to protect his ability to prepare his
133 I-589 application and provide support for his family.

134 **IV. PARTIES**

135 29. Petitioner, Lenin MELENDEZ-MORALES, is 33 years old, was born in Honduras, and has
136 been present in the United States for over three years, during which time he has supported his
137 family, including his daughter and his elderly father.

138 30. Petitioner is the subject of removal proceedings based on allegations that he is present in the
139 United States without being admitted or paroled, or having arrived in the United States at any
140 time or place other than as designated by the Attorney General, under INA § 212(a)(6)(A)(i),
141 codified at 8 U.S.C. § 1182(a)(6)(A)(i).

142 31. Petitioner is currently in civil immigration detention at the Karnes Detention Center in
143 Karnes County, Texas.

144 32. Respondent Pamela Bondi is named in her official capacity as the United States Attorney
145 General and is responsible for the administration and policy of the immigration courts, which has
146 resulted in the denial of this noncitizen's attempt to seek a custody redetermination from the U.S.
147 Department of Justice under 8 C.F.R. § 1003.19.

148 33. Respondent Kristi Noem is named in her official capacity as the Secretary of the United
149 States Department of Homeland Security ("DHS"), which administers and enforces the federal
150 immigration laws.

151 34. Secretary Noem is ultimately responsible for the actions of ICE, including the administration
152 of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a).

153 35. Secretary Noem is legally responsible for the Office of the Principal Legal Advisor of ICE
154 and for any effort to detain and remove Petitioner, and is thus a legal custodian of Petitioner.

155 36. Respondent Todd M. Lyons is named in his official capacity as the Director of U.S.
156 Immigration and Customs Enforcement, the agency within DHS responsible for managing all
157 aspects of the immigration enforcement process, including immigration detention.

158 37. ICE is responsible for the apprehension, incarceration, and removal of noncitizens from the
159 United States, and Director Lyons is a legal custodian of Petitioner.

160 38. Respondent Sylvester Ortega is named in his official capacity as the Field Office Director for
161 the San Antonio Field Office of ICE and is responsible for the enforcement of the immigration
162 laws within this district and for ensuring that ICE officials follow the agency's policies and
163 procedures.

164 39. Director Ortega is a legal custodian of Petitioner.

165 40. The Warden of the Karnes County Immigration Processing Center is sued as the direct
166 custodian of Petitioner, and his or her name is not publicly listed on any materials that were
167 available at the time of filing.

168 41. The Warden is sued in his or her official capacity, as he or she has immediate physical
169 custody of Petitioner pursuant to an agreement with ICE to detain noncitizens and is a legal
170 custodian of Petitioner.

171 42. Respondent Daren K. Margolin is the Director of the Executive Office for Immigration
172 Review ("EOIR"), has the legal authority to order an Immigration Judge to provide Petitioner a
173 bond hearing, and is sued in his official capacity.

174 **V. FACTUAL ALLEGATIONS**

175 43. Petitioner entered the United States without inspection in 2023. In 2023, Petitioner was
176 detained and ICE took him into custody and referred him for an interview. A deportation officer
177 determined that Petitioner has a credible and genuine fear of persecution or torture if returned to
178 Honduras.

179 44. After this positive determination, ICE released Petitioner on his own recognizance on
180 September 12, 2023, and placed him under an Order of Supervision (“OSUP”).

181 45. On September 12, 2023, ICE informed Petitioner that he had a future immigration court
182 hearing scheduled for June 17, 2026, in his removal proceedings.

183 46. Since his release on OSUP, Petitioner has complied with all ICE reporting requirements,
184 including appearing at every scheduled check-in and following all instructions issued by ICE
185 officers.

186 47. Petitioner has never violated any condition of his OSUP and has been gathering documents
187 and preparing financially for his upcoming court date that was going to happen in 2026.

188 48. Petitioner has no criminal convictions and has never been arrested for any offense in the
189 United States or anywhere in the world.

190 49. Petitioner lives with and assists his siblings in the United States and supports his daughter
191 and elderly father by sending money for their basic needs and medical care.

192 50. Petitioner was detained again at his annual ICE check-in on October 8, 2025, in San Antonio,
193 Texas.

194 51. At that check-in, Petitioner appeared as instructed and anticipated that he would continue
195 under OSUP while awaiting his June 17, 2026 hearing. Instead, ICE re-detained Petitioner
196 without any allegation that he had violated the terms of his supervision, committed a crime,
197 missed a hearing, or otherwise failed to comply with the law or ICE's instructions.

198 52. ICE has held Petitioner without bond since October 8, 2025, and transferred him to the
199 Karnes Detention Center.

200 53. Petitioner was originally arrested and detained under Section 236 of the INA, codified at 8
201 U.S.C. § 1226, as reflected in the DHS paperwork initiating his custody and removal
202 proceedings.

203 54. Noncitizens detained under § 1226(a) are entitled to a custody determination by ICE and to
204 seek a bond redetermination hearing before an Immigration Judge.

205 55. After Petitioner's re-detention in October 2025, ICE argued that Petitioner is subject to
206 mandatory detention under 8 U.S.C. § 1225(b)(2) rather than discretionary detention under 8
207 U.S.C. § 1226(a), thereby preventing the IJ from considering a bond redetermination.

208 56. This misclassification reflects a broader shift in ICE policy interpreting noncitizens who
209 entered without inspection as "arriving aliens" subject to mandatory detention, regardless of how
210 long they have resided in the United States, their family ties, or their lack of criminal history.

211 57. The immigration court with jurisdiction over Petitioner's case has informed counsel, in other
212 cases that it lacks bond jurisdiction over respondents who entered without inspection, based on
213 the government's new interpretation of § 1225(b).

214 58. As a result, the court would refuse to entertain bond motions for similarly situated

215 individuals, making any request for a custody redetermination futile.

216 59. Petitioner has therefore not filed a motion for bond before the Immigration Judge because the
217 court has taken the position that it has no authority to adjudicate such a motion for EWIs, even
218 where, as here, the person was living in the interior and later re-detained after a period of
219 supervised release.

220 60. Petitioner intends to seek asylum, withholding of removal, and protection under the
221 Convention Against Torture by pursuing his Form I-589 application, based on the same fear that
222 an asylum officer previously found credible. He has already filed the initial evidence to support
223 his claim.

224 61. Petitioner's detention significantly impairs his ability to prepare for his case, communicate
225 with counsel effectively, gather evidence, and identify and contact witnesses to testify about the
226 harm he suffered and the danger he faces if returned.

227 62. Petitioner's detention has also separated him from his family and community. Petitioner
228 suffers emotional distress and mental trauma due to this separation and experiences anxiety over
229 his daughter and father's well-being without his financial and emotional support.

230 63. Petitioner's family in Honduras and his siblings in the United States rely on him for support
231 and caretaking. Petitioner's current detention prevents him from assisting his siblings with
232 childcare and from sending money home for his daughter's food, housing, and education, and for
233 his father's medical care.

234 64. Petitioner remains in detention over an hour away from his attorneys and his community, and
235 this distance and the nature of detention severely limit his ability to meet with counsel, review

236 documents, and participate in the preparation of his case.

237 65. Petitioner has complied with all ICE reporting requirements since his release in 2023, has no
238 criminal convictions, and has demonstrated good moral character throughout his time in the
239 United States.

240 66. Despite his perfect compliance, positive inference of fear determination, and deep family
241 ties, Respondents have chosen to detain him as if he were an “arriving alien” subject to
242 mandatory detention under § 1225(b), rather than an individual already in the United States
243 subject to discretionary detention under § 1226(a).

244 67. The conditions of detention at Karnes are jail-like and restrictive, and Petitioner is subject to
245 significant limitations on movement, privacy, and communication, and must rely on expensive
246 and limited phone calls and video visits to maintain any contact with his family.

247 68. Petitioner’s detention is not justified by any allegation that he is a danger to the community
248 or a flight risk, as he has never failed to appear for a check-in, never missed a court date, and has
249 a strong incentive to appear for his future hearing and to continue pursuing his protection claims
250 and family-based relief.

251 **VI. LEGAL FRAMEWORK: DUE PROCESS CLAUSE**

252 69. It is well established that the Fifth Amendment entitles noncitizens to due process of law in
253 deportation proceedings. See *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*,
254 507 U.S. 292, 306 (1993)).

255 70. Freedom from imprisonment—from government custody, detention, or other forms of
256 physical restraint—lies at the heart of the liberty that the Due Process Clause protects. See

257 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

258 71. Due process requires that there be adequate procedural protections to ensure that the
259 government's asserted justification for a noncitizen's physical confinement outweighs the
260 individual's constitutionally protected interest in avoiding physical restraint.

261 72. In the immigration context, the Supreme Court recognizes only two purposes for civil
262 detention: preventing flight and mitigating the risk of danger to the community. See *Zadvydas*,
263 533 U.S. at 690; *Demore*, 538 U.S. at 528.

264 73. A noncitizen may only be detained based on these justifications if he is otherwise statutorily
265 eligible for detention and has been afforded appropriate process, including a meaningful
266 opportunity to seek release on bond where the statute provides for discretionary detention.

267 74. The fundamental requirement of due process is the opportunity to be heard at a meaningful
268 time and in a meaningful manner. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

269 75. To determine what process Petitioner is due, this Court should consider (1) the private
270 interest affected by the government action; (2) the risk that current procedures will cause an
271 erroneous deprivation of that private interest and the extent to which that risk could be reduced
272 by additional safeguards; and (3) the government's interest in maintaining the current
273 procedures, including the governmental function involved and any fiscal and administrative
274 burdens that additional procedures would entail.

275 VII. IMMIGRATION AND NATIONALITY ACT

276 76. Title 8 of the United States Code, Section 1221 et seq., governs the United States
277 government's authority to detain noncitizens during their removal proceedings.

278 77. The INA authorizes detention for noncitizens under four distinct provisions.

279 78. First, discretionary detention is set forth in 8 U.S.C. § 1226(a), which generally allows for the
280 detention of noncitizens who are in regular, non-expedited removal proceedings, but also permits
281 those who are not subject to mandatory detention to be released on bond or on their own
282 recognizance.

283 79. Second, mandatory detention of certain “criminal” or “terrorist” noncitizens is governed by 8
284 U.S.C. § 1226(c), which generally requires the mandatory detention of noncitizens who are
285 removable because of certain criminal or terrorist-related activity after they have been released
286 from criminal incarceration.

287 80. Third, mandatory detention of certain “applicants for admission” is governed by 8 U.S.C. §
288 1225(b), which generally requires detention for certain noncitizen applicants for admission, such
289 as those arriving in the United States at a port of entry or noncitizens who have not been
290 admitted or paroled into the United States and are apprehended soon after crossing the border.

291 81. Fourth, detention following completion of removal proceedings is governed by 8 U.S.C. §
292 1231(a), which generally requires the detention of certain noncitizens who are subject to a final
293 removal order during the 90-day period after completion of removal proceedings and permits the
294 detention of certain noncitizens beyond that period.

295 82. The instant case concerns the detention provisions at §§ 1226(a) and 1225(b), which were
296 both enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act
297 (“IIRIRA”) of 1996.

298 83. Section 1226(a) was most recently amended by the Laken Riley Act, Pub. L. No. 119-1, 139

299 Stat. 3 (2025).

300 84. Following enactment of IIRIRA, the Executive Office for Immigration Review promulgated
301 regulations explaining that, in general, people who entered the country without inspection were
302 not considered detained under § 1225(b) once removed from the border context and instead were
303 detained under § 1226(a) after an arrest warrant was issued by the Attorney General.

304 85. The regulations explicitly recognized that, despite being applicants for admission,
305 noncitizens present in the United States without having been admitted or paroled (formerly
306 referred to as those who entered without inspection) would be eligible for bond and bond
307 redetermination.

308 86. For nearly thirty years, the practice of the government, including ICE and EOIR, was that
309 most individual noncitizens apprehended in the interior of the United States after having resided
310 here for more than a brief period, rather than those literally arriving at a port of entry or
311 apprehended immediately at the border, received a bond hearing under § 1226(a).

312 87. If such individuals were found not to be a danger to the community or a flight risk, they were
313 released from detention either on their own recognizance or after paying the bond amount set by
314 the IJ in full, pursuant to § 1226(a)(2)(A).

315 88. Recently, ICE has, without warning and without any publicly stated rationale, reversed
316 course and adopted a policy of attempting to treat all individual noncitizens who entered without
317 inspection and are encountered in the interior at any time after entry as “arriving” and ineligible
318 for bond under § 1226(a), regardless of their length of residence, equities, or procedural posture.

319 89. As a result, ICE is ignoring critical individual factors that have historically been highly

320 relevant to determinations of whether a noncitizen should remain in custody or be released, such
321 as the time, manner, and reasons for their entry; their criminal history or lack thereof; their ties to
322 the community; family responsibilities; medical conditions; and the best interests of their U.S.
323 citizen family members.

324 90. In addition, it has become commonplace for noncitizens to be detained when they appear for
325 regularly scheduled ICE check-ins, even when they are merely complying with supervision
326 requirements and awaiting their day in court.

327 91. ICE now asserts that the mandatory detention provision of § 1225(b)(2)(A) applies to all
328 people who entered without inspection and are alleged to be inadmissible under § 1182, even if
329 they have been residing in the country, were released on OSUP, and have been living in the
330 interior for years.

331 92. Section 1226(a) applies by default to all noncitizens “pending a decision on whether the
332 [noncitizen] is to be removed from the United States,” and removal hearings for noncitizens
333 detained under § 1226(a) are held under § 1229a, which decides inadmissibility or deportability.

334 93. Petitioner’s case is ripe for review because the administrative process, as applied to him,
335 provides no meaningful or timely opportunity to correct Respondents’ statutory and
336 constitutional errors regarding his detention.

337 **VIII. BOARD OF IMMIGRATION APPEALS**

338 94. The Board of Immigration Appeals (“BIA”) appellate process does not offer a meaningful or
339 timely opportunity to correct Respondents’ errors regarding Petitioner’s detention classification
340 and denial of a bond hearing.

341 95. According to the agency's own data, during fiscal year 2024, the BIA's average processing
342 time for a bond appeal was approximately 204 days, or about seven months. As a result, in an
343 average case where bond was granted or denied in December, the appeal would not be resolved
344 until July of the following year.

345 96. This 204-day figure is an average; some cases take longer, and there is no definite timeline
346 for resolution or release. Months of detention while awaiting appellate review deprive detained
347 noncitizens of time with their children, spouses, and family members, and deprive those families
348 and communities of the detained person's care, support, and contributions.

349 97. Detained noncitizens are often held in jail or jail-like settings and subjected to restrictive
350 conditions, including inadequate medical care and other degrading treatment. While not all
351 noncitizens succeed in their appeals, those who do have suffered months of unnecessary
352 detention by the time their rights are vindicated.

353 98. Failing to provide timely review of erroneous interpretations of the INA, including incorrect
354 classifications under § 1225(b) rather than § 1226(a), violates the Due Process Clause.

355 **IX. CLAIMS FOR RELIEF**

356 **FIRST CAUSE OF ACTION**

357 Violation of the Due Process Clause of the Fifth Amendment

358 99. Petitioner repeats and incorporates by reference all allegations above as though set forth fully
359 herein.

360 100. The Due Process Clause asks whether the government's deprivation of a person's life,
361 liberty, or property is justified by a sufficient purpose and accompanied by adequate procedures.

362 101. There is no question that the government has deprived Petitioner of his liberty by physically
363 confining him in the Karnes Detention Center since October 8, 2025.

364 102. Petitioner's continued detention violates his right to substantive and procedural due process
365 guaranteed by the Fifth Amendment to the U.S. Constitution.

366 103. The Due Process Clause provides that no person shall be deprived of life, liberty, or
367 property without due process of law, and as a noncitizen physically present in the United States,
368 with over three years of residence, a positive credible fear determination, and ongoing removal
369 proceedings, Petitioner is entitled to due process protections against arbitrary detention.

370 104. Any deprivation of this fundamental liberty interest must be accompanied not only by
371 adequate procedural protections, but also by a sufficiently strong special justification to outweigh
372 the significant deprivation of liberty.

373 105. Respondents have deprived Petitioner of his liberty interest by detaining him since October
374 8, 2025, without affording him a meaningful bond hearing and by misclassifying him as subject
375 to mandatory detention under § 1225(b).

376 106. Petitioner's detention is improper because he has been denied any meaningful opportunity
377 to seek bond before an IJ, as the immigration court has declared it lacks jurisdiction to hear such
378 requests for EWIs.

379 107. Respondents' actions in detaining Petitioner without legal justification, without a
380 meaningful opportunity to seek release, and in disregard of binding statutory and constitutional
381 principles violate the Fifth Amendment.

382 108. Respondents have not demonstrated that Petitioner's continued detention is necessary to

383 prevent flight or danger to the community, given his lack of criminal record, his compliance with
384 ICE requirements since 2023 and his pending hearing date of June 17, 2026.

385 109. There is no credible argument that Petitioner cannot be safely released back to his
386 community and family under appropriate conditions of supervision. That is exactly what has
387 been happening for many years.

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

390 **SECOND CAUSE OF ACTION**

391 Violation of the Immigration and Nationality Act

392 111. Petitioner repeats and incorporates by reference all allegations above as though set forth
393 fully herein.

394 112. Petitioner was initially detained pursuant to authority contained in section 236 of the INA;
395 section 236 is codified at 8 U.S.C. § 1226. Despite this, the Immigration Judge and DHS would
396 assert that he is detained subject to 8 U.S.C. § 1225(b)(2).

397 113. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
398 noncitizens residing in the United States who are subject to grounds of inadmissibility.

399 114. Mandatory detention under § 1225(b)(2) does not apply to noncitizens who previously
400 entered the country, have been residing in the interior, and are later apprehended and placed in
401 removal proceedings, and such noncitizens are detained under § 1226(a) and are eligible for
402 release on bond unless they fall under § 1225(b)(1), § 1226(c), or § 1231.

403

404 115. Respondents have wrongfully adopted a policy and practice of arguing that all noncitizens
405 who entered without inspection, such as Petitioner, are subject to mandatory detention under §
406 1225(b)(2). In addition, the Respondents themselves have placed the Petitioner on Order of
407 Supervision for a limited period, just until he goes through trial. Nothing has changed since that
408 determination.

409 116. Respondents' unlawful application of § 1225(b)(2) to Petitioner violates the INA and its
410 implementing regulations, as well as longstanding agency interpretation and practice.

411 **THIRD CAUSE OF ACTION**

412 Fifth Amendment – Due Process

413 Denial of Opportunity to Contest Mis-Inclusion in Mandatory Category of Detention

414 117. Petitioner re-alleges and incorporates by reference the paragraphs above.

415 118. Petitioner has a vested liberty interest in his freedom from civil detention while he pursues
416 his statutory and constitutional rights, including asylum, withholding of removal, protection
417 under the Convention Against Torture, and family-based relief.

418 119. By statute and regulation, as interpreted by the Board of Immigration Appeals, ICE has the
419 authority to re-arrest a noncitizen and revoke their bond only where there has been a material
420 change in circumstances since the individual's release.

421 120. That authority is constrained by the Due Process Clause, which recognizes that individuals
422 released from incarceration have a liberty interest in remaining free.

423 121. At a minimum, in order to lawfully re-arrest Petitioner after releasing him on OSUP, the
424 government must first establish, by clear and convincing evidence, before a neutral decision

425 maker, that he is a danger to the community or a flight risk such that his re-incarceration is
426 necessary.

427 122. ICE's re-arrest of Petitioner on October 8, 2025, without any allegation of changed
428 circumstances, danger, or flight risk, and without affording him a meaningful opportunity to
429 contest his custody, violated the INA, its regulations, and the Due Process Clause.

430 123. Respondents' attempts to detain Petitioner without a meaningful opportunity to be heard
431 regarding his misclassification as subject to mandatory detention violate his procedural due
432 process rights under the Fifth Amendment.

433 **FOURTH CAUSE OF ACTION**

434 Administrative Procedure Act

435 124. Petitioner re-alleges and incorporates by reference the paragraphs above.

436 125. Respondents' continued efforts to deny Petitioner access to a bond hearing violate the INA,
437 the Administrative Procedure Act ("APA"), and the U.S. Constitution.

438 126. Federal regulations and case law provide procedures by which a respondent in removal
439 proceedings may seek a bond redetermination by an IJ when detained under § 1226(a).

440 127. By designating Petitioner as subject to mandatory detention under § 1225(b)(2) and refusing
441 to recognize bond jurisdiction over him, Respondents have effectively altered substantive rules
442 concerning detention without engaging in notice-and-comment rulemaking, in violation of the
443 APA.

444 128. By denying Petitioner the opportunity to return to his family and to meaningfully pursue his
445 I-589 application in a non-detained setting, Respondents deprive him of the freedom to lawfully

446 exercise his statutory and constitutional rights in this civil immigration matter.

447 129. The government's "no-review" approach to custody determinations for EWIs is a violation
448 of Petitioner's procedural and substantive due process rights and lacks statutory authority.

449 130. There is no established timeframe or procedure by which DHS independently reviews its
450 custody decisions for individuals like Petitioner, while removal proceedings continue and
451 Petitioner remains detained.

452 131. Respondents' actions improperly alter the substantive rules concerning mandatory detention
453 without the required notice-and-comment process and contravene the APA.

454 132. Respondents' application of § 1225(b) to Petitioner is *ultra vires*, as it exceeds the authority
455 granted under 8 U.S.C. § 1226(a).

456 133. Under the APA, this Court may hold unlawful and set aside agency action that is contrary to
457 constitutional right, power, privilege, or immunity.

458 134. The regulations and practices that provide no review of DHS custody decisions for
459 individuals designated as arriving aliens, when they are in fact detained under § 1226(a), violate
460 substantive and procedural due process as guaranteed by the Fifth Amendment.

461 135. For these reasons, Petitioner respectfully requests that this Court order an Immigration
462 Judge to conduct a hearing to determine whether Petitioner has been properly designated as an
463 arriving alien subject to mandatory detention during the pendency of his removal proceedings,
464 and to provide him a bond hearing consistent with § 1226(a).

465

466 **FIFTH CAUSE OF ACTION**

467 Stay of Removal

468 136. Petitioner re-alleges and incorporates by reference the paragraphs above.

469 137. The denial of a bond hearing, followed by Petitioner's removal from the United States,
470 would cause him irreparable harm because he has been misclassified by the Government as
471 subject to mandatory detention under 8 U.S.C. § 1225(b).

472 138. Petitioner has pending and anticipated claims for relief, including asylum, withholding of
473 removal, protection under the Convention Against Torture, and family-based relief, which he
474 cannot meaningfully pursue if summarily removed.

475 139. This Court should grant a stay of Petitioner's removal to protect his statutory rights under
476 the INA and the APA, and to ensure that he can fully litigate the lawfulness of his detention and
477 classification.

478 140. By denying Petitioner a bond redetermination and maintaining his misclassification, the
479 Government deprives him of the opportunity to contest his detention, to assert his statutory and
480 constitutional rights, and to demonstrate that he is not subject to mandatory detention and is
481 eligible for release on bond.

482 141. Granting a stay is necessary to prevent irreparable injury while Petitioner's rights are fully
483 adjudicated.

484 **SIXTH CAUSE OF ACTION**

485 Suspension Clause Claim

486 142. Petitioner re-alleges and incorporates by reference the paragraphs above.

487

488 143. If 8 U.S.C. § 1252 were interpreted to strip this Court of jurisdiction over this matter, that
489 interpretation would be unconstitutional as applied, because it would deny Petitioner any
490 meaningful opportunity for judicial review of the unlawfulness of his detention and potential
491 removal.

492 144. To invoke the Suspension Clause, a petitioner must satisfy a three-factor test: (1) the
493 citizenship and status of the detainee and the adequacy of the process through which that status
494 determination was made; (2) the nature of the sites where apprehension and then detention took
495 place; and (3) the practical obstacles inherent in resolving the prisoner's entitlement to the writ.

496 145. Petitioner satisfies these requirements.

497 146. First, although Petitioner is not a U.S. citizen or lawful permanent resident, he has resided
498 in the United States for over three years, has a positive credible fear determination, and qualifies
499 under the INA to seek asylum, withholding of removal, protection under the Convention Against
500 Torture, and family-based relief. If the Petitioner's claim was not a credible one, he would not
501 have been released on Order of Supervision and placed in removal proceedings.

502 147. Petitioner has no criminal convictions, has maintained good moral character during his time
503 in the United States, and has family in Honduras and the United States who would suffer
504 significant hardship if he were removed.

505 148. Second, Petitioner was apprehended by DHS during a routine check-in in San Antonio,
506 Texas, after having been released on OSUP, and remains detained at the Karnes Detention
507 Center, a secure facility within the United States.

508

509 149. Third, there are no serious practical obstacles to resolving this matter, and this Court is fully
510 equipped to determine whether Petitioner is entitled to habeas relief and whether his detention
511 and misclassification violate the Constitution and the INA.

512 150. There is no adequate alternative to a habeas petition in this case, because the refusal of the
513 immigration courts to grant Petitioner the right to challenge his misclassification as an arriving
514 alien, and the denial of any bond redetermination, prevent him from returning to his family and
515 pursuing relief in a non-detained setting.

516 151. The BIA cannot adequately or expeditiously review these issues, given the length of time
517 required to resolve bond-related appeals and the categorical stance the immigration courts have
518 taken regarding bond jurisdiction for EWIs.

519 152. For these reasons, any interpretation of 8 U.S.C. § 1252 that would bar this Court from
520 exercising habeas jurisdiction over Petitioner's claims would violate the Suspension Clause as
521 applied to him.

522 **SEVENTH CAUSE OF ACTION**

523 Injunctive Relief

524 153. Petitioner re-alleges and incorporates herein by reference each and every allegation
525 contained in the above paragraphs of this Petition.

526 154. This Court has the discretion to enter temporary restraining orders and preliminary
527 injunctions to prevent ongoing constitutional and statutory violations.

528

529 155. To be entitled to a preliminary injunction, an applicant must show: (1) a substantial
530 likelihood of success on the merits; (2) a substantial threat of irreparable injury if the injunction
531 is not granted; (3) that the threatened injury outweighs the threatened harm to the party whom the
532 applicant seeks to enjoin; and (4) that granting the preliminary injunction will not disserve the
533 public interest.

534 156. Petitioner satisfies each of these criteria and is likely to succeed on the merits of his claims
535 that he is detained under § 1226(a), is entitled to a bond hearing, and has been denied due
536 process and statutory protections.

537 157. Petitioner faces irreparable injury if injunctive relief is not granted, including continued
538 unlawful detention, separation from his family, inability to meaningfully pursue his protection
539 and family-based claims, and the risk of removal before his claims are fully adjudicated.

540 158. The harm to Petitioner from continued unlawful detention and potential removal far
541 outweighs any harm to Respondents from being required to provide him a bond hearing, correct
542 his classification, or maintain the *status quo* during the pendency of this case.

543 159. Granting injunctive relief in this case would serve the public interest by ensuring that the
544 government complies with the Constitution and the INA, respects longstanding statutory
545 schemes governing detention, and does not unlawfully expand the scope of mandatory detention
546 under § 1225(b).

547 **X. RELIEF SOUGHT**

548 WHEREFORE, Petitioner respectfully requests that this Court:

549 1. Assume jurisdiction over this matter;

550

551 2. Declare that ICE's October 8, 2025 apprehension and detention of Petitioner Lenin
552 MELENDEZ-MORALES was an unlawful exercise of authority, as ICE did not provide
553 any justification that he presents a danger to the community or is a flight risk, and
554 misclassified him under § 1225(b);

555 3. Issue an order directing Respondents to show cause why the writ of habeas corpus should
556 not be granted;

557 4. Order Respondents to file with the Court a complete copy of the administrative file from
558 the Department of Justice and the Department of Homeland Security relating to
559 Petitioner's detention and removal proceedings;

560 5. Enjoin ICE from transferring Petitioner outside of the Western District of Texas while
561 this matter is pending;

562 6. Grant the writ of habeas corpus and order Respondents to release Petitioner on his own
563 recognizance, parole, or reasonable conditions of supervision, or, in the alternative, order
564 Respondents to conduct a bond hearing under which they correctly apply the statutes,
565 recognize that Petitioner is detained under § 1226(a), cease misclassifying him as subject
566 to mandatory detention under § 1225(b), and apply an appropriate burden and standard of
567 proof;

568 7. Alternatively, order an Immigration Judge to promptly hold a custody redetermination
569 hearing consistent with 8 U.S.C. § 1226(a) and applicable constitutional requirements;

570 8. Award Petitioner reasonable costs and attorneys' fees under the Equal Access to Justice
571 Act, as amended, 28 U.S.C. § 2412, to the extent such fees are available and appropriate;
572 and

573

574 9. Grant any other relief that this Court deems just and proper.

575 Respectfully submitted on this 14th day of December, 2025

576 /s/ Georgia Santos Laurent
577 Counsel for Petitioner
578 SanLaurent Law Group, PLLC
579 13785 Research Blvd, Suite 125
580 Austin, TX 78750
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

595 I represent Petitioner, Lenin MELENDEZ-MORALES, and submit this verification on his
596 behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of
597 Habeas Corpus are true and correct to the best of my knowledge.

598 Dated this 14th day of December, 2025.

599 /s/ Georgia Santos Laurent

600 Georgia Santos Laurent

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602