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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Eladio RODRIGUEZ MUNIZ Petitioner, v. Kristi NOEM, Secretary, U.S. Department of Homeland Security; Mary DE ANDA-YBARRA, Field Office Director of the El Paso Field Office, Enforcement and Removal Operations, Immigration and Customs Enforcement; Pamela BONDI, U.S. Attorney General, Department of Justice; Todd LYONS, Acting Director, Immigration and Customs Enforcement; WARDEN of Camp East Montana Detention Facility in El Paso, Texas Respondents.	Case No. 3:25-cv-00671 **PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS**

INTRODUCTION

1. Petitioner Eladio Rodriguez Muniz is in the physical custody of Respondents at the Camp East Montana Detention Center at Ft. Bliss in El Paso, Texas. U.S. Immigration and Customs Enforcement (ICE) agents violently arrested and detained Petitioner immediately after exiting the courtroom for his mandatory immigration court hearing in Miami, Florida.

2. Petitioner faces unlawful detention because he was erroneously placed in expedited removal and denied all required process in the Immigration Court. Over a month ago, an asylum officer found that Petitioner demonstrated a credible fear of persecution, but the Department of Homeland Security (DHS) has still not filed a Notice to Appear (NTA) with the Immigration Court. Further, DHS and the Executive Office for Immigration Review (EOIR) now erroneously conclude that Petitioner is subject to mandatory detention because he entered without inspection.

3. Petitioner cannot be detained under 8 U.S.C. § 1225(b)(1) because he was physically present in the United States continuously for more than two years prior to any determination of inadmissibility under 8 U.S.C. § 1182(a)(6)(C) or § 1182(a)(7). Additionally, Petitioner cannot be detained under 8 U.S.C. § 1225(b)(2) because, at the time of his detention on August 14, 2025, Petitioner was not "seeking admission" – lawful entry – into the United States. Instead, Petitioner had already been living in the United States for almost four years and was leaving his required immigration court hearing in Miami, Florida. Thus, Petitioner may only be detained under 8 U.S.C. § 1226, and is entitled to a bond hearing.

4. Respondents seek to eject Petitioner from his own asylum case and indefinitely detain Petitioner to facilitate his deportation. But Respondents cannot evade the law so easily. The statutes which they purport to use to detain Petitioner do not authorize their actions. Further,

Respondents are detaining Petitioner in violation of the Fifth Amendment of the U.S. Constitution.

5. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released, or in the alternative, that he be provided a prompt bond hearing under 8 U.S.C. § 1226.

JURISDICTION AND VENUE

6. This Court has jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution (Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 2201 (Declaratory Judgment Act).

7. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis,* 533 U.S. 678, 687 (2001); *Tran v. Mukasey*, 515 F.3d 478, 482 (5th Cir. 2008).

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Petitioner is detained within the Western District of Texas, his immediate physical custodian is located within this District, and a substantial part of the events giving rise to this petition occurred and continue to occur within this District.

REQUIREMENTS OF 28 U.S.C. § 2243

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

10. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

11. Petitioner Eladio Rodriguez Muniz is a citizen of Cuba who has resided in the United States since approximately November 14, 2021. He has been in immigration detention since August 14, 2025. He is currently detained at Camp East Montana Detention Center in El Paso, TX.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

13. Respondent Mary De Anda-Ybarra is the ICE Field Office Director for West Texas and New Mexico, which includes El Paso, Texas. As such, she is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity.

14. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, which oversees the immigration court system, including the immigration judges who conduct bond hearings, and is responsible for the

administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is sued in her official capacity.

15. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

16. Respondent Warden of El Paso Camp East Montana is the Warden where Petitioner is currently detained. He is an immediate custodian of Petitioner. He is sued in his official capacity.

FACTUAL BACKGROUND

17. Petitioner is a 52-year-old national of Cuba. He entered the United States without inspection on or around November 14, 2021, to seek asylum. Ex. 1, Cuban Passport. ICE encountered Petitioner shortly after his entry and took him into custody. He was declared removable for the single charge of entering the United States without inspection. On or around November 17, 2021, based on individualized facts of Petitioner's case, Respondents released Petitioner on his own recognizance in accordance with 8 U.S.C. § 1226 pending a final decision in his removal proceedings. Ex. 2, Order of Release on Recognizance.

18. Petitioner complied with all the conditions of his release and the legal timelines for his asylum case. Given that his NTA had still not been filed with Immigration Court, Petitioner applied for asylum and for withholding of removal with U.S. Citizenship and Immigration Services (USCIS) on January 21, 2022. Ex. 3, USCIS Asylum Receipt Notice. Petitioner then applied for and received employment authorization based on his pending asylum application. Ex. 4, USCIS Employment Authorization Approval Notices.

19. Since receiving work authorization, Petitioner has been consistently employed in the United States. He worked as a driver for the company AD Floral for almost three years. Petitioner has many U.S. citizen and legal permanent resident family members and friends in the United States and has built a strong support network in Miami, Florida. Petitioner has no criminal history and spent the last four years living a law-abiding and productive life in the United States.

20. On August 31, 2022, DHS issued Petitioner an NTA with the same single charge of removability, 8 U.S.C. § 1182(a)(6)(A)(i), ordering him to appear at Miami Immigration Court on May 1, 2023. Ex. 5, NTA. Petitioner appeared for his required master calendar hearing, and the Court re-set his hearing for August 14, 2025.

21. On August 14, 2025, Petitioner appeared in person for his legally required immigration court hearing. However, instead of allowing Petitioner to proceed with his asylum case, Respondents moved to dismiss Petitioner's case entirely and the Court dismissed his proceedings without providing Petitioner with prior notice or an opportunity to oppose DHS's motion. Ex. 6, EOIR Automated Case Information. On information and belief, Respondents did not advise Petitioner that they sought to terminate his case in order to place him in expedited removal proceedings. After exiting the courtroom and while in the courtroom lobby, ICE agents arrested Petitioner without offering him any explanation or an opportunity to be heard.

22. Petitioner was first detained at Alligator Alcatraz, now named Florida Soft Side South, in Ochopee, Florida. He was then transferred across state lines to El Paso Hardened Facility in El Paso, Texas. Petitioner was transferred a third time to El Paso Camp East Montana in El Paso, Texas, where he is currently detained. Ex. 7, ICE Detainee Locator.

23. On November 4, 2025, ICE officers visited Petitioner for the first time since his detention on August 14, 2025. That same day, DHS issued him a Form I-860, Notice and Order of Expedited Removal. Ex. 8, Form I-860, Notice and Order of Expedited Removal. Petitioner refused to sign any documents and expressed a fear of returning to Cuba.

24. On November 6, 2025, Petitioner had his credible fear interview by phone at El Paso Camp East Montana. The following day, on November 7, 2025, the asylum officer made a positive credible fear determination, placing him once again into 8 U.S.C. § 1229a removal proceedings. Ex. 9, Form I-870, Record of Determination. However, to date, DHS has neither served Petitioner with a new NTA nor filed the NTA with Immigration Court.

25. Petitioner is represented by undersigned counsel in his removal proceedings. Petitioner is eligible for asylum because he has suffered past persecution and has a well-founded fear of future persecution in Cuba on account of his political opinion. Petitioner will re-file his asylum application with Immigration Court once DHS files his NTA and his case is docketed.

26. Absent relief from this Court, Petitioner faces the prospect of months, or even years, in custody, separated from his family and community without ever receiving an individualized hearing justifying his detention in violation of the INA and the Constitution.

EXHAUSTION OF REMEDIES

27. No statutory requirement of administrative exhaustion applies to Petitioner's case. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81 (2006).

28. In particular, Petitioner was unlawfully placed in expedited removal, so DHS has taken the erroneous position that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(1) and that he does not have the ability to request a bond redetermination.

29. Additionally, 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(b)(2), and EOIR has affirmed that view in *Matter of Yajure Hurtado*. 29 I&N Dec. 216 (BIA 2025). Under the Board of Immigration Appeals' (BIA) interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Accordingly, there are no 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); *see also Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025).

30. Further, neither an immigration judge nor the BIA can rule on a petitioner's constitutional claims. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (BIA 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.").

LEGAL FRAMEWORK

I. Detention Authority and Respondent's Efforts to Expand Mandatory Detention

31. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of

noncitizens "already in the country." *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) sets out that the Attorney General may issue a warrant for the arrest and detention of a noncitizen "pending a decision on whether the [noncitizen] is to be removed from the United States." Individuals in Section 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. *See* § 1226(a)(2); 8 C.F.R. §§ 1003.19(a), 1236.1(c)(8), (d)(1).

32. Section 1226(c) "carves out a statutory category" of noncitizens from Section 1226(a) for whom detention is mandatory, comprised of individuals who have committed certain "enumerated ... criminal offenses [or] terrorist activities." *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)). Among the individuals carved out and subject to mandatory detention are certain categories of "inadmissible" noncitizens. § 1226(c)(1)(A), (D), (E). Reference to such inadmissible noncitizens makes clear that, by default, people who are applicants for admission but encountered in the interior are afforded a bond hearing under subsection 1226(a).

33. Second, the INA provides for mandatory detention of certain categories of noncitizens "seeking entry into the United States" under 8 U.S.C. § 1225(b). *Jennings*, 583 U.S. at 297; *see* § 1225(b) ("Inspection of applicants for admission"). In *Jennings*, the Supreme Court recently confirmed that this mandatory scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is inadmissible." *Jennings*, 583 U.S. at 287. Noncitizens subject to mandatory detention under Section 1225 may not be released except "for urgent humanitarian reasons or significant public benefit" under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). *See id.* at 300.

34. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility *and*

placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)(i). Because there are so few procedural protections, expedited removal applies narrowly to those noncitizens who have not "been physically present in the United States continuously for the 2-year period immediately prior to the date" they were determined inadmissible under 8 U.S.C. § 1182(a)(6)(C) or § 1182(a)(7). No other person may be subjected to expedited removal. 8 C.F.R. § 235.3(b)(1), (b)(3). Meanwhile, Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry.

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

36. For decades, Respondents consistently considered noncitizens present in the United States without having been admitted or paroled as detained under 8 U.S.C. § 1226(a), thus entitling them to bond hearings. *See, e.g.,* 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).

37. However, this year, Respondents have taken various steps to expand their use of expedited removal and mandatory detention. On January 20, 2025, President Trump ordered DHS to apply expedited removal to its full statutory extent, which DHS did four days later. *See* Exec. Order No. 14,159, *Protecting the American People Against Invasion*, 90 Fed. Reg. 8443 (Jan. 20, 2025); Dep't of Homeland Sec., *Designating Aliens for Expedited Removal,* 90 Fed. Reg. 8139 (Jan. 24, 2025). Therefore, with limited exceptions, DHS now applies expedited removal to individuals in the United States who have been in the country for less than two years and who are inadmissible under 8 U.S.C. § 1182(a)(6)(C) or (a)(7).

38. Later, on July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that claimed that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225 and therefore are subject to mandatory detention under § 1225(b)(2)(A). *See* ICE, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025). Then, on September 5, 2025, the BIA adopted this position in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that all noncitizens who entered the United States without inspection – no matter how long they have been present in the country –are ineligible for immigration judge bond hearings.

II. Petitioner's Detention is an Unlawful Application of Section 1225(b)(1)

39. Section 1225(b)(1)(A)(iii) can only apply to someone "who has not affirmatively shown" that they "ha[ve] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under" Section 1225(b)(1)(A). Section 1225(b)(1) only applies when "an immigration officer determines that" someone is "inadmissible under" 8 U.S.C. Section 1182(a)(6)(C) or 1182(a)(7).

40. First, Petitioner has been physically present in the United States for more than two years before his current detention. Specifically, Petitioner entered the country on or around November 14, 2021, and has not left since.

41. Second, Petitioner was not found to be inadmissible under 8 U.S.C. § 1182(a)(6)(C) or § 1182(a)(7) when he first entered or any time before his first two years of physical presence in the United States. Petitioner was only found to be removable because he entered without inspection, 8 U.S.C. § 1182(a)(6)(A)(i). This is further corroborated by the NTA issued to Petitioner which includes a single charge of inadmissibility under Section1182(a)(6)(A)(i). Thus, Respondents cannot contend that Section 1225(b)(1)(A) applied

to Petitioner when they did not even rely on a ground of inadmissibility that renders that subsection applicable.

42. Additionally, Petitioner's initial apprehension in 2021 was not under Section 1225(b)(1). Petitioner's "Order of Release on Recognizance," dated November 17, 2021, states that he has been "placed in removal proceedings" and, in accordance with Section 1226, is being released on his own recognizance. "Respondents cannot retroactively transform what was clearly action taken under Section 1226 into detention under Section 1225(b)(1)." *See Acea-Martinez v. Noem*, Case No. 5:25-CV-01390-XR (W.D. Tex. Nov. 18, 2025).

III. Respondents' Policy on Section 1225(b)(2) Is Incorrect

43. Respondents' policy, that all undocumented noncitizens who entered without inspection are subject to mandatory detention under Section 1225(b)(2), is erroneous.

a. Statutory Text and Framework

44. The text of Section 1225, along with its placement in the overall detention scheme of the INA, make clear that the terms "applicant for admission" and "seeking admission" in Section 1225(b)(2) do not include individuals who have entered without inspection and are apprehended when already inside the United States.

45. Section 1225 is titled: "Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing." (emphasis added). As courts have recognized, "[t]he added word of 'arriving' indicates that the statute governs 'arriving' noncitizens, not those present already." *Beltran Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025) (citing *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025)). This limitation is particularly clear when compared to Section 1226's general title: "Apprehension and detention of aliens."

46. Also, the term "seeking" in "seeking admission" "implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection." *Lopez-Campos*, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025); *see also Beltran Barrera,* 2025 WL 2690565, at *4. Noncitizens who are present in the country for years are not "seeking admission." *Lopez-Campos*, at *6; *Beltran Barrera*, at *4.

47. The INA's entire framework is premised on Section 1225 governing detention of "arriving [noncitizens]" while Section 1226 "applies to [noncitizens] already present in the United States." *Jennings*, 583 U.S. at 288, 301; *see also Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025). A fundamental principle of statutory construction is that courts must interpret statutes to give meaning to all provisions and avoid reading out or rendering superfluous any single provision. *Corley v. United States*, 556 U.S. 303, 314 (2009) The government's current reading of Section 1225(b)(2) violates this principle.

48. Section 1226(c)'s carve-outs for certain categories of inadmissible noncitizens further indicates that, contrary to Respondents' interpretation, there are noncitizens who have not been admitted that are not governed by Section 1225's mandatory detention scheme.

b. Congressional Intent and Longstanding Agency Practice

49. The current detention system has been in place since the passage 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, 3009–582 to 3009–583, 3009–585.

50. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained

under Section 1225 and that they were instead detained under Section 1226(a) and eligible for bond and bond redetermination. *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

51. Subsequently, most people who entered without inspection and were apprehended inside the United States were detained under Section 1226(a) and received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994).

c. Recent Federal Court Decisions Confirming Petitioner's Position

52. Numerous federal courts, including in this Circuit, have reached conclusions consistent with Petitioner's position. For example, the U.S. District Court in the Western District of Louisiana, based on precedents, found that the new expansive interpretation of mandatory detention is likely unlawful and that Section 1226(a), not Section 1225(b), applies to noncitizens who entered without inspection and have "exceeded the two-year period…[of] physical presence." *See Lopez Santos v. Noem*, No. 3:25-cv-01193, 2025 WL 2642278, *6 (W.D. La. Sept. 11, 2025). Other courts have reached the same conclusion, rejecting Respondents' erroneous interpretation of the INA, relying on several rationales, from statutory language and framework to legislative history and longstanding agency practice. *See Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1 & n.3 (W.D. Wash. Sept. 30, 2025); *see also Buenrostro-Mendez v. Bondi,* No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025).

53. On November 25, 2025, the U.S. District Court for the Central District of California issued a nationwide class certification order in *Maldonado Bautista v. Santacruz*, holding that noncitizens who entered without inspection are detained under Section 1226(a) and

thus, are legally entitled to consideration for release on bond. *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

IV. Petitioner Cannot be Detained under Section 1225(b)(2)

54. As discussed above, mandatory detention under Section 1225(b)(2) applies only to recently arrived noncitizens seeking admission at a border or port of entry, not individuals who entered without inspection and were later detained inside the country. At the time of Petitioner's detention on August 14, 2025, he was not "seeking admission" because he was not seeking entry into the United States. In fact, Petitioner had lived in the United States for four years and was leaving his mandated court immigration hearing when he was arrested and detained by ICE agents. As such, Petitioner is not subject to mandatory detention under Section 1225(b)(2).

55. Notably, Petitioner's detention is not authorized under Section 1226(a), either. As discussed above, Section 1226(a)'s discretionary detention framework requires a bond hearing to make an individualized custody determination based on Petitioner's risk of flight or dangerousness. Here, Respondents have failed to provide such a hearing. Further, there is no information indicating that Petitioner is a flight risk or danger to the community. Even more, Respondents have not served Petitioner with an NTA nor filed the NTA with Immigration Court.

56. Lacking any statutory basis for his detention, Respondent must release Petitioner or, in the alternative, promptly hold a bond hearing.

V. Petitioner's Detention Violates his Due Process Protections

57. Noncitizens are entitled to due process protections under the Fifth Amendment, regardless of their immigration status. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Zadvydas*, 533 U.S. at 693. To determine whether civil

detention violates a noncitizen's Fifth Amendment procedural due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts weigh the following 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.

58. Detention, even civil immigration confinement, infringes on a fundamental protected liberty interest. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Petitioner is currently detained in conditions that are indistinguishable from criminal incarceration. His detention deprives him of privacy, freedom of movement, and the ability to work and see his loved ones.

59. Second, Respondents' current procedures create a substantial risk of erroneous deprivation of Petitioner's liberty interest in remaining free from detention. When Respondents detained Petitioner in 2021, they found that he was not a threat to national security and released him pending his immigration hearing. Since then, Petitioner's criminal history has remained clean, and he has proved he is not a flight risk by attending his immigration court hearings.

60. Still, on August 14, 2025, Respondents arrested Petitioner at the courthouse without any new or additional information suggesting he is a threat to public safety or a flight risk. Even more, Respondents exceeded its statutory authority when they designated Petitioner for expedited removal after being physically present in the United States for more than two years prior to any "determination of inadmissibility" under Section 1225(b)(1). Once placed in expedited removal, a low-level DHS officer can order the removal of an individual who has been

living in the United States with virtually no administrative process—just completion of cursory paperwork. The procedure used by Respondents did not give Petitioner an opportunity to challenge the legal basis for his detention or its necessity. *See Make the Road New York v. Noem*, --- F. Supp. 3d ---, ---, 2025 WL 2494908, at *17 (D.D.C. 2025) ("In short, the expedited removal process hardly affords 12 individuals any opportunity, let alone a 'meaningful' one, to demonstrate that they have been present in the United States for two years.").

61. In the alternative, if Respondents are subjecting Petitioner to mandatory detention under Section 1225(b)(2), this also creates a substantial risk of erroneous deprivation of Petitioner's interest in being free from arbitrary confinement. Petitioner was not arriving at a border or port of entry nor "seeking admission" when he was detained at Immigration Court on August 14, 2025, and he has not been given an opportunity to contest this legal basis for detention.

62. Additionally, there are reasonable alternatives available for Respondent to pursue. As discussed above, Section 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under Section 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of erroneous deprivation of Petitioner's freedom is high.

63. Third, the government's interest in maintaining the current procedure is minimal. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of Section 1226(a), which requires a

bond hearing where an immigration judge will consider Petitioner's individualized facts to determine whether he is a danger to the community or a flight risk. Importantly, in Petitioner's case, Respondents already released him in November 2021 based on the individualized facts of his case and nothing has changed that would provoke re-detention.

64. Finally, civil immigration detention violates substantive due process if it is not reasonably related to its statutory purpose. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972*); Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018). The only legitimate purpose for civil immigration detention is to prevent flight risk and ensure the safety of the community. *Zadvydas*, 533 U.S. at 690–91. Here, Petitioner's detention is not reasonably related to its purpose. As mentioned above, there is no reason to believe that Petitioner would not attend his immigration proceedings because he attended all his previous hearings and complied with all the conditions of his prior release. Further, Petitioner has no criminal history and there has been no material change regarding public safety since Petitioner's prior release from Respondent's custody in November 2021. Thus, Petitioner's detention is unconstitutional because it does not serve a lawful purpose.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

65. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation of fact set forth in the preceding paragraphs.

66. The mandatory detention provision at 8 U.S.C. § 1225(b)(1) does not apply to noncitizens who have been physically present in the United States continuously for the two-year period immediately prior to the date of determination of inadmissibility under Section 1182(a)(6)(C) or 1182(a)(7). Here, Petitioner was living continuously in the United States for

almost four years before his detention on August 14, 2025. Prior to that date, Respondents had never made a "determination of inadmissibility" under Section 1225(b)(1) because he was singularly charged with entering without inspection and was released on his own recognizance in accordance with Section 1226.

67. The INA authorizes judicial review of section 1225(b)(1) orders of removal. *See* 8 U.S.C. § 1252(e)(2). Review is limited to three issues, one of which is "whether the petitioner was ordered removed under such section." As a matter of constitutional avoidance, this provision must be interpreted to allow for review of whether the petitioner was properly ordered removed under such section. Removal of someone present for more than two years is improper under 8 U.S.C. § 1252(b)(1)(A)(iii)(II). Interpreting § 1252(e)(2) to preclude judicial review of Petitioner's claims or to deny relief where the statutory requirements are not met would raise serious constitutional concerns. To avoid these constitutional issues, the statute must be construed to permit review where a person is unlawfully detained under color of § 1225(b)(1).

68. The mandatory detention provision at Section 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to Petitioner who had been residing in the United States for four years and was not "seeking admission" when he was detained by Respondents in August 2025.

69. Petitioner can only be detained under § 1226(a). Respondents' actions also violate § 1226(a) because Respondents have refused to consider Petitioner for bond without ever demonstrating that he is a flight risk or danger to others. The application of either § 1225(b)(1) or § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

Violation of the Due Process Clause of the Fifth Amendment and the Suspension Clause of the U.S. Constitution

70. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

71. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment…lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

72. Respondents violated Petitioner's procedural due process rights by revoking their prior release on recognizance decision, designating him for expedited removal, and detaining him without reasonable notice and without a meaningful opportunity to be heard as to whether a change in custody status was warranted.

73. The expedited removal statute largely "precludes judicial review," and therefore challenges to "confinement and removal" under that statute fall within the "core" of the writ of habeas corpus. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1006-07 (2025).

74. Thus, to the extent 8 U.S.C. § 1252(e)(2) purports to preclude habeas review of whether Petitioner is ineligible for detention and removal via expedited removal due to the length of his presence in the United States, that limitation violates the Suspension Clause and is void and without effect. Indeed, if there were no judicial review whatsoever of immigration agencies' determinations that persons have been present for less than two years, then Respondents would be free to find that any arrested noncitizen without status is subject to expedited removal, in direct violation of the procedures and safeguards required by the INA and the Constitution.

75. Petitioner's detention also violates his substantive due process rights because it is not reasonably related to a legitimate government purpose. Petitioner was already determined not to pose a danger or flight risk when he was released from custody in November 2021 by Respondents and there is no basis to conclude otherwise now.

76. Even assuming Petitioner is eligible for detention for removal proceedings under Section 1226, he has not been served with an NTA to initiate any such proceedings, and he has not been provided with any opportunity to receive a bond hearing to which he is entitled.

77. Additionally, Respondents are now subjecting Petitioner to inhumane conditions of confinement and repeated instances of coercion and threats at Camp East Montana, a massive tent camp at the Fort Bliss military base in El Paso, Texas. On December 8, 2025, human rights groups sent a letter to ICE raising concerns regarding reports of significant abuse against detained immigrants held at Camp East Montana. *See* American Civil Liberties Union, "*Coercive Third Country Deportations and Abusive Conditions of Confinement in Immigration Detention at Fort Bliss, TX (Camp East Montana),*" https://www.aclu.org/documents/ice-letter-re-fort-bliss.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

c. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner without restraints on his liberty or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

d. Enjoin Respondents from moving Petitioner outside the jurisdiction of this Court pending adjudication of this petition;

e. Declare that Petitioner's continued detention violates the INA and its implementing regulations and the Due Process Clause of the Fifth Amendment of the U.S. Constitution, and;

f. Grant any other and further relief that this Court deems just and proper.

Dated: December 15, 2025

Respectfully submitted,

/s/ Juliana M. Lopez
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Attorneys for Petitioner

*Motion for *pro hac vice* admission forthcoming

VERIFICATION

I represent Petitioner, Eladio Rodriguez Muniz, and submit this verification on his behalf. Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 15, 2025

/s/ Juliana M. Lopez
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Eladio RODRIGUEZ MUNIZ Petitioner, v. Kristi NOEM, Secretary, U.S. Department of Homeland Security; Mary DE ANDA-YBARRA, Field Office Director of the El Paso Field Office, Enforcement and Removal Operations, Immigration and Customs Enforcement; Pamela BONDI, U.S. Attorney General, Department of Justice; Todd LYONS, Acting Director, Immigration and Customs Enforcement; WARDEN of Camp East Montana Detention Facility in El Paso, Texas Respondents.	Case No. 3:25-cv-00671

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2025, I have mailed by United States Postal Service the Petition for Writ of Habeas Corpus by certified mail to the following:

Stephanie Rico
Civil Process Clerk Office of the United States Attorney for the Western District of Texas
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216-5597

"Warden" at Camp East Montana
6920 Digital Road
El Paso, TX 79936

Mary de Anda Ybarra, Acting Director El Paso Field Office Enforcement and Removal Operations United States Immigration and Customs Enforcement
11541 Montana Avenue, Suite E
El Paso, TX 79936

Todd M. Lyons

500 12th St SW
Washington, DC 20536

Secretary of Homeland Security Kristi Noem
2707 Martin Luther King Jr., Ave., SE
Washington, DC 20528-0485

U.S. Attorney General Pamela Bondi
950 Pennsylvania Ave NW
Washington, DC 20530

The above respondents were also named in the CM/ECF habeas corpus filing with the U.S. District Court for the Western District of Texas.

Respectfully submitted,

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