

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

Aleksandr BOLOKHOEV,

Petitioner

v.

Pamela BONDI, in her official capacity as the Attorney General of the United States; Kristi NOEM, in her official capacity as the Secretary of the U.S. Department of Homeland Security; Todd LYONS, his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement; Mark SIEGEL, in his official capacity as Acting Director for the Oklahoma City Field Office of U.S. Immigration and Customs Enforcement; Scarlet GRANT, in her official capacity as Warden of Cimarron Correctional Facility; and the U.S. DEPARTMENT OF HOMELAND SECURITY,

Respondents

Case No.

**PETITION FOR WRIT OF HABEAS CORPUS**  
**PURSUANT TO 28 U.S.C. § 2241**  
**(Expedited Consideration Requested)**

Petitioner Alexander Bolokhoev (“Mr. Bolokhoev”)—a human rights activist and political asylum seeker persecuted by the Russian government—has been unlawfully detained at Cimarron Correctional Facility since September 23, 2025. This comes more than three years after his initial month-long detention in April 2022, when he voluntarily presented himself to immigration authorities at a port of entry to request asylum. Mr. Bolokhoev, a member of [REDACTED]

[REDACTED]

fled a lifetime of discrimination and state harassment in Russia. He sought refuge in the United States with the expectation of safety. And for a time, the Government provided it—granting him

humanitarian parole in May 2022, permitting him to pursue asylum, and authorizing him to work, which enabled him to start a small trucking business while living peacefully in New York City.

Then, without explanation, the Government reversed course. On September 23, 2025, while driving for work from Maryland to Los Angeles, immigration officers arrested Mr. Bolokhoev in Oklahoma after a traffic stop and transferred him to Cimarron Correctional Facility. He has now spent nearly three months there without a bond hearing, isolated from his family, community, and livelihood. During this detention, he has been assaulted and denied the basic procedural protections required by federal law and the U.S. Constitution.

Critically, Respondents are unlawfully detaining Mr. Bolokhoev in direct defiance of binding federal court orders. In *Coalition for Humane Immigrant Rights v. Noem*, -- F. Supp. 3d --, No. 25-CV-872 (JMC), 2025 WL 2192986 (D.D.C. Aug. 1, 2025), the U.S. District Court for the District of Columbia found that DHS regulation 8 C.F.R. § 1.2—which defines “arriving alien”—is *ultra vires* as applied to parolees like Mr. Bolokhoev, who, the District Court held, cannot be subject to mandatory detention and expedited removal under 8 U.S.C. § 1225(b). The U.S. Court of Appeals for the D.C. Circuit reinforced this ruling by denying the Government’s request to stay the District Court’s order, which prohibits the Government from subjecting any individual who was paroled into the United States to expedited removal under 8 U.S.C. § 1225(b). *See Coalition for Humane Immigrant Rights v. Noem*, No. 25-5289, 2025 WL 2649100 (D.C. Cir. Sept. 12, 2025). By continuing to detain Mr. Bolokhoev as an “arriving alien” under 8 C.F.R. § 1.2 and 8 U.S.C. § 1225(b), Respondents are openly flouting both rulings, ignoring clear judicial authority.

Given that Mr. Bolokhoev has been unlawfully detained for nearly three months in blatant violation of these court orders, in contravention of 8 U.S.C. § 1226(a), and in violation of the Fifth

Amendment's Due Process Clause, we respectfully request that the Court issue a writ of habeas corpus on an expedited basis directing his immediate release.

### **JURISDICTION AND VENUE**

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101, *et seq.*
2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2201-2 (declaratory judgment), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
4. Venue properly lies within the Western District of Oklahoma under 28 U.S.C. § 1391, because this is a civil action in which Respondents are agencies of the United States, Mr. Bolokhoev is detained in the District, and a substantial part of the events or omissions giving rise to this action occurred in the District.

### **PARTIES**

5. Mr. Bolokhoev is a 41-year-old asylum seeker from Russia who entered the United States through the Otay Mesa Port of Entry on April 17, 2022. He has been lawfully present in the United States since May 2022 when the Government granted him humanitarian parole. He is a resident of New York but has been detained at Cimarron Correctional Facility in Cushing, Oklahoma, since September 23, 2025. He is in the custody, and under the direct control, of Respondents and their agents.

6. Respondent Pamela Bondi is the Attorney General of the United States and the senior official of the U.S. Department of Justice (“DOJ”). She has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the BIA. Respondent Bondi is responsible for the fair administration of the laws of the United States. She is a legal custodian of Mr. Bolokhoev.
7. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, the component agency responsible for Mr. Bolokhoev’s detention. Respondent Noem is also a legal custodian of Mr. Bolokhoev.
8. Respondent Todd Lyons is the Acting Director of ICE. ICE is responsible for the detention of Mr. Bolokhoev. Respondent Lyons is a legal custodian of Mr. Bolokhoev.
9. Respondent Mark Siegel is the Acting Director of the Oklahoma City Field Office of ICE. Respondent Siegel is also a legal custodian of Mr. Bolokhoev.
10. Respondent Scarlet Grant is the Warden of Cimarron Correctional Facility. Respondent Grant has immediate physical custody of Mr. Bolokhoev pursuant to the facility’s contract with ICE to detain noncitizens and is a legal custodian of Mr. Bolokhoev.
11. Respondent U.S. Department of Homeland Security (“DHS”) is the federal agency responsible for enforcing Respondent’s continued detention.
12. All respondents are named in their official capacities. One or more of the respondents is Mr. Bolokhoev’s immediate custodian.

**STATEMENT OF FACTS**

13. On April 17, 2022, Aleksandr Bolokhoev (“Mr. Bolokhoev”) entered the United States through the Otay Mesa port of entry in San Diego, California, and requested asylum under federal and international law. Exhibit 1 (Entry Record).
14. Mr. Bolokhoev is from Russia where he endured lifelong discrimination as a member of the [REDACTED]  
[REDACTED] See Exhibit 2 (U.S. Department of State Letter).
15. Upon information and belief, upon Mr. Bolokhoev’s arrival, DHS detained Mr. Bolokhoev for approximately one or two days at Otay Mesa before transferring him to a detention center in Louisiana, where it held him for approximately one month.
16. Although DHS prepared a Notice to Appear (“NTA”) dated April 19, 2022, it did not file it with the Immigration Court. Instead, on or around May 18, 2022, DHS released Mr. Bolokhoev on humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5)(A), Exhibit 3 (I-94 Departure Record), and issued a G-56 “Call-in Letter” directing him to report to the ICE ERO office in New York City on June 26, 2022, Exhibit 4 (G-56 Call-In Letter).
17. After his release, Mr. Bolokhoev moved to New York City, where he established community ties and has resided ever since. On June 26, 2022, he appeared at ICE’s New York City office in compliance with his Call-In Letter, but because it was Sunday, the office was closed, and he was instructed to return the next day. Mr. Bolokhoev returned on June 27, 2022. An immigration officer asked him to check whether his name appeared on a list in the office. After confirming that it did not, the officer told him to go home. When Mr. Bolokhoev asked when he should return, the officer responded, “Maybe never.”
18. Because ICE elected not to place him in removal proceedings, Mr. Bolokhoev timely filed

his Form I-589 Application for Asylum and Withholding of Removal affirmatively with Respondent DHS's component agency, U.S. Citizenship and Immigration Services ("USCIS") on March 9, 2023. Exhibit 5 (I-797C Acknowledgment of Receipt of Application for Asylum). On March 27, 2023, Mr. Bolokhoev went to provide his biometrics at the USCIS Brooklyn office. Exhibit 6 (I-589 Biometrics Notice). Based on his pending asylum claim, he filed a Form I-765 Application for Employment Authorization on August 16, 2023, Exhibit 7 (I-765 Application for Employment Authorization), which USCIS approved. The approval granted him work authorization for five years, from November 6, 2023, through November 5, 2028, and enabled him to start a small trucking business. Exhibit 8 (Employment Authorization Document ("EAD")).

19. On September 23, 2025, while driving through Oklahoma to Los Angeles for work, Mr. Bolokhoev was stopped by an Oklahoma state trooper for an alleged lane change violation.<sup>1</sup> He presented his valid driver's license and Employment Authorization Document. *See* Exhibit 10 (Driver's License); Exhibit 8 (EAD).
20. On information and belief, the state trooper questioned Mr. Bolokhoev about his immigration status, contacted ICE, and ICE agents arrived shortly after to arrest him and transport him to Cimarron Correctional Facility, where he has remained detained ever since.
21. Upon taking him into custody, ICE issued Mr. Bolokhoev a Form I-200, Warrant for Arrest of Alien. Exhibit 11 (I-200 Warrant for Arrest). The warrant indicates that Mr. Bolokhoev was arrested pursuant to "sections 236 and 287 of the immigration and Nationality Act and

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<sup>1</sup> Mr. Bolokhoev has not been issued a ticket or other notice of charges for the lane change violation. Instead, the Oklahoma Highway Patrol Troop Warning Notice he received stated the "reason" for the stop was "Title 8 – Immigration." Exhibit 9 (Oklahoma Warning Notice).

part 287 of title 8, Code of Federal Regulations,” which correspond to 8 U.S.C. §§ 1226 and 1357 and 8 C.F.R. § 287.1-287.12. *Id.*

22. ICE then issued Mr. Bolokhoev a new Notice to Appear dated September 24, 2025, placing him in removal proceedings under section 240 of the INA and charging him under INA § 212(a)(7)(A)(i)(I) as “an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section.” Exhibit 12 (Notice to Appear). The Notice to Appear also alleged that Mr. Bolokhoev is an “arriving alien.” *Id.*
23. On information and belief, the day he was taken into custody at Cimarron Correctional Facility, Mr. Bolokhoev attempted to submit a Form I-286, Notice of Custody Determination, to request bond review by an immigration judge. An immigration officer instead tore up the form in front of him and told him, “No bond!”

### **LEGAL FRAMEWORK**

#### **Standard Removal Proceedings under 8 U.S.C. § 1229a vs. Expedited Removal under 8 U.S.C. § 1225(b)**

24. Under the INA, Congress created two distinct removal processes: standard removal proceedings under 8 U.S.C. § 1229a and expedited removal under 8 U.S.C. § 1225(b). *See Make the Rd. N.Y. v. Noem*, No. 25-cv-190 (JMC), 2025 WL 2494908, at \*2 (D.D.C. Aug. 29, 2025).
25. Standard removal proceedings are adversarial hearings before an immigration judge (“IJ”) that typically proceed over multiple hearings. *See Coalition for Humane Immigrant Rights v. Noem*, -- F. Supp. 3d --, No. 25-CV-872 (JMC), 2025 WL 2192986, at \*3 (D.D.C. Aug.

1, 2025) (hereinafter “*Coalition*”). Noncitizens have the right to counsel, to present and examine evidence, and to cross-examine witnesses. *See* 8 U.S.C. § 1229a(b)(4)(A)-(B). Detention during these proceedings is discretionary pursuant to 8 U.S.C. § 1226(a) which provides that the Attorney General “may release” a noncitizen detained for standard removal proceedings on “bond” or “conditional parole.” *Id.* § 1226(a)(1)-(2).

26. Expedited removal under 8 U.S.C. § 1225(b), by contrast, is a narrow, fast-track process with minimal procedural safeguards. An immigration officer—not an IJ—conducts a brief, unrecorded interview, and the noncitizen has no right to counsel. *See Coalition*, 2025 WL 2192986, at \*3. If the officer finds the individual inadmissible and the person does not express fear or intent to seek asylum, the officer issues a final removal order with no right to appeal. *Id.* Critically, expedited removal has a “mandatory detention framework” which “carves out a statutory category of noncitizens who may *not* be released on bond or conditional parole pending the conclusion of removal proceedings.” *Rodriguez-Acurio v. Almodovar*, -- F. Supp. 3d --, 2:25-cv-6065 (NJC), 2025 WL 3314420, at \*10 (E.D.N.Y. Nov. 28, 2025) (emphasis in original) (cleaned up).

#### **Expedited Removal’s Limited Scope and Distinct Provisions**

27. Expedited removal applies only to noncitizens who are inadmissible “on the basis that they either lack proper entry documents or falsified or misrepresented their application for admission.” *Coalition*, 2025 WL 2192986, at \*5; *see also* 8 U.S.C. §§ 1225(b)(1)(A)(i), 1182(a)(6)(C), (a)(7) (grounds for inadmissibility).

28. Among that set, only two distinct categories of noncitizens may be subject to expedited removal pursuant to 8 U.S.C. § 1225(b)(1). These categories are commonly referred to as the “Arriving Aliens Provision” and “Designation Provision”:

A) Arriving Aliens Provision - 8 U.S.C. § 1225(b)(1)(A)(i) applies expedited removal to noncitizens “arriving in the United States.” Although the INA does not define “arriving” in this context, DHS regulations authorize expedited removal for “arriving aliens,” 8 C.F.R. § 235.3(b)(1)(i), and define the term to include individuals “coming or attempting to come into the United States at a port of entry,” stating such noncitizens “remain[]” arriving aliens even after they are “paroled ... and even after any such parole is terminated or revoked,” 8 C.F.R. § 1.2. Notably, in *Coalition*, the U.S. District Court for the District of Columbia issued a significant ruling that this regulation is *ultra vires* as applied to parolees like Mr. Bolokhoev, whom DHS continues to treat as “arriving aliens” after they have been living in the U.S. for months or even years after release on parole. 2025 WL 219286, at \*30. Critically, the U.S. Court of Appeals for the D.C. Circuit reinforced this ruling by denying the Government’s request to stay the District Court’s order, which prohibits subjecting all parolees like Mr. Bolokhoev who entered at a port of entry, not just the plaintiffs’ members, to expedited removal. *See Coalition for Humane Immigrant Rights v. Noem*, No. 25-5289, 2025 WL 2649100 (D.C. Cir. Sept. 12, 2025).

B) Designation Provision - 8 U.S.C. § 1225(b)(1)(A)(iii) applies to noncitizens who have never been admitted or paroled and who cannot establish that they have “been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility.” Courts have repeatedly determined that this provision does not apply to paroled individuals, such as Mr. Bolokhoev who received humanitarian parole in May 2022. *See*

*Coalition*, 2025 WL 2192986, at \*22-25; *see also Rodriguez-Acurio*, 2025 WL 3314420, at \*14-19.

**Applicants for Admission Outside Expedited Removal — § 1225(b)(2)**

29. The other category of noncitizens subject to mandatory detention under 8 U.S.C. §1225(b), outside of those subject to expedited removal under § 1225(b)(1), includes those “seeking admission” and determined by an immigration officer to not be “clearly and beyond a doubt entitled to be admitted.” *See Rodriguez-Acurio*, 2025 WL 3314420, at \*11 (quoting 8 U.S.C. § 1225(b)(2)(a)). Falling within this provision are those inadmissible on grounds other than document deficiencies or fraud. *Id.*
30. Courts in this circuit have clarified that individuals apprehended years after entry inside the United States are not “seeking admission” and therefore fall under the discretionary detention framework of 8 U.S.C. § 1226, not § 1225. *See Escarcega v. Olson*, No. CIV-25-1129-J, 2025 WL 3243438, at \*2-3 (W.D. Okla. Nov. 20, 2025); *Sacvin v. Ybarra*, No. 2:25-CV-1031-KG, 2025 WL 3187432, at \*3 (D.N.M. Nov. 14, 2025); *Hernandez v. Baltazar*, No. 1:25-CV-3094-CNS, 2025 WL 2996643, at \*5 (D. Colo. Oct. 24, 2025).

**Discretionary detention under 8 U.S.C. § 1226(a)**

31. The Supreme Court has explained that 8 U.S.C § 1226(a) and (c)—not § 1225(b)—governs detention of noncitizens already present in the United States. Detention pursuant to § 1226(a) authorizes release on bond or conditional parole, except where § 1226(c) mandates detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 288-89 (2018).
32. Courts have uniformly held that noncitizens arrested on a warrant while residing in the United States are subject to discretionary detention under § 1226(a) and not mandatory detention under § 1225(b). *See, e.g., J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025

WL 2772765, at \*8 (E.D.N.Y. Sept. 29, 2025) (concluding it was Congress’s intent that “except as provided in § 1226(c), § 1226(a)’s discretionary framework applies to all citizens arrested on a warrant while residing in the United States”); *Sampiao v. Hyde*, No. 25-cv-11981, -- F.Supp.3d --, No. 1:25-cv-11981-JEK, 2025 WL 2607924, at \*7-8 (D. Mass. Sept. 9, 2025) (same); *dos Santos v. Noem*, No. 25-cv-12052, 2025 WL 2370988, at \*7 (D. Mass. Aug. 14, 2025) (same).

### **DHS’s Novel Interpretation and its Rejection by Courts**

33. Departing from decades of practice, ICE issued interim guidance on July 8, 2025, asserting that “applicants for admission” are subject to mandatory detention under 8 U.S.C. § 1225(b), regardless of how much time they have spent in the United States or where they are arrested. *See ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA (July 8, 2025), <https://shorturl.at/XF71Y>. Shortly thereafter, the Board of Immigration Appeals (“BIA”) ruled that immigration judges lack authority to consider bond requests for individuals who entered without inspection. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
34. Courts nationwide have rejected this interpretation and held that noncitizens who were paroled or released after arriving to the United States at a port of entry—or who entered without inspection but were later apprehended inside the United States—are not “arriving” under 8 U.S.C. § 1225(b)(1)(A)(i) and thus are subject neither to expedited removal nor mandatory detention. *See Coalition*, 2025 WL 2192986, at \*30 (“In the end, the only way to make sense of the statutory scheme Congress created is to see that parolees fall under neither [category of noncitizens subject to expedited removal]. Any other result conflicts with other aspects of the statute and regulations, Congress’s evident purpose, and the

ordinary meaning of the statute’s words.”); *Rodriguez-Acurio*, 2025 WL 3314420, at \*14 (collecting cases finding parolees are not subject to mandatory detention); *see also Barco Mercado v. Francis*, 25-cv-6582 (LAK), 2025 WL 3295903, at \*4-5 (S.D.N.Y. Nov. 26, 2025) (counting at least 160 different judges in around fifty different courts across the country have held that noncitizens who entered the United States without inspection are subject to the discretionary detention framework of § 1226); *Escarcega*, 2025 WL 3243438, at \*2-3 (“based on the plain language of § 1225(b)(2)(A), the phrase ‘seeking admission’ only applies to noncitizens who are presently and actively seeking lawful entry into the United States at the border”) (cleaned up).

35. Instead, noncitizens like Mr. Bolokhoev who are arrested on a warrant while residing in the United States are subject to detention under § 1226(a) and eligible for bond.

#### **Exhaustion**

36. Exhaustion is required only when Congress specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). There is no statutory requirement for Mr. Bolokhoev to exhaust administrative remedies. *See Gomes v. Hyde*, No. 25-11571, 2025 WL 1869299, at \*4 (D. Mass. July 7, 2025) (“exhaustion is not required by statute” under the detention framework of 8 U.S.C. § 1226). Here, “sound judicial discretion governs.” *McCarthy*, 503 U.S. at 144.
37. The Immigration Court lacks jurisdiction to adjudicate the constitutional claims raised by Mr. Bolokhoev, and any attempt to raise such claims would be futile. *See McCarthy*, 503 U.S. at 148 (exhaustion is not required where petitioner challenges the constitutionality of the agency procedure itself); *see also McQueen ex rel. McQueen v. Colo. Springs Sch. Dist.*

*No. 11*, 488 F.3d 868, 874 (10th Cir. 2007) (“exhaustion is not required where it would be futile or fail to provide adequate relief”).

38. Accordingly, the Court should find that administrative exhaustion would be futile.

### **CLAIMS FOR RELIEF**

39. Respondents are holding Mr. Bolokhoev in violation of Immigration and Nationality Act, its implementing regulations, and the Due Process Clause of the U.S. Constitution. The factual allegations above are incorporated into each of the causes of action listed below.

### **COUNT ONE**

#### **Violation of 8 U.S.C. § 1226(a) and 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1) Unlawful Detention and Denial of Bond Hearing**

40. Respondents are unlawfully detaining Mr. Bolokhoev under 8 U.S.C. § 1225(b). Mr. Bolokhoev cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(1) because he does not meet the criteria for expedited removal. *See Coalition*, 2025 WL 2192986, at \*5.

41. Courts across the country have rejected the government’s arguments that noncitizens like Mr. Bolokhoev who arrived in the United States at ports of entry and were paroled or otherwise admitted into the United States are “arriving in the United States” for the purposes of 8 U.S.C. § 1225(b)(1)(A)(i) and subject to mandatory detention. *See, e.g., id.* at \*28-30, *Rodriguez-Acurio*, 2025 WL 3314420, at \*14 (collecting cases). Notably, in *Coalition*, the U.S. District Court for the District of Columbia found that DHS regulation 8 C.F.R. § 1.2—which defines “arriving alien”—is *ultra vires* as applied to parolees like Mr. Bolokhoev and ordered a stay as to all noncitizens paroled into the United States, not just the plaintiffs’ members, under section 705 of the Administrative Procedure Act. 2025 WL 2192986, at \*37. The U.S. Court of Appeals for the D.C. Circuit reinforced this ruling

by denying the government's request to stay the District Court's order. *See Coalition for Humane Immigrant Rights v. Noem*, No. 25-5289, 2025 WL 2649100 (D.C. Cir. Sept. 12, 2025). By continuing to detain Mr. Bolokhoev as an "arriving alien" under 8 C.F.R. § 1.2 and 8 U.S.C. § 1225(b), Respondents are ignoring clear judicial authority.

42. Following the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts "must exercise independent judgment in determining the meaning of statutory provisions." *Id.* at 394. Applying a plain language analysis of the use of "arriving" in 8 U.S.C. § 1225, courts have uniformly found that an "arriving alien" can only mean someone in the process of reaching the U.S. and not someone like Mr. Bolokhoev "who previously reached the United States via a port of entry, underwent inspection at that port of entry, and then was paroled into the United States (beyond their original destination) for an indefinite period of time." *Coalition*, 2025 WL 2192986, at \*28; *accord E.V. v. Raycraft*, Case No. 4:25-cv-2069, 2025 WL 2938594, at \*10 (N.D. Ohio Oct. 16, 2025) (Haitian parolees who were arrested and detained after traffic stop were not "arriving aliens"); *Hasan v. Crawford*, 1:25-cv-1408 (LMB/IDD), 2025 WL 2682255, at \*9 (E.D. Va. Sept. 19, 2025) (same for someone released on their own recognizance at the U.S. border and arrested by ICE at a check-in one year later); *Patel v. Tindall*, Civil Action No. 3:25-cv-373-RGJ, 2025 WL 2823607, at \*5 (W.D. Ky. Oct. 3, 2025); *Jimenez v. FCI Berlin, Warden*, Civil No. 25-cv-326-LM-AJ, 2025 WL 2639390, at \*10 (D.N.H. Sept. 8, 2025); *Salgado Bustos v. Raycraft*, No. 25-13202, 2025 WL 3022294, at \*6-7 (E.D. Mich. Oct. 29, 2025); *Rodriguez-Acurio*, 2025 WL 3314420, at \*19-21; *see also Castellon v. Kaiser*, Case No. 1:25-cv-00968 JLT EPG, 2025 WL 2373425, at \*9 (E.D. Cal. Aug. 14, 2025) ("Though DHS could have placed [petitioner] in

expedited removal proceedings when she arrived in the country, it did not. Rather, she was placed into 240 proceedings and then conditionally paroled for more than three years.”); *Aviles-Mena v. Kaiser*, Case No. 25-cv-06783-RFL, 2025 WL 2578215, at \*5 (N.D. Cal. Sept. 5, 2025) (“[W]hen ICE affirmatively chooses to release an individual on parole, it has made the determination that it no longer intends to fast-track their removal and that it will proceed with the standard removal process under 8 U.S.C. § 1229a.”).

43. Moreover, Mr. Bolokhoev cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), including because, as a person already present in the United States, he is not presently “seeking admission” to the United States. *See Escarcega*, 2025 WL 3243438, at \*2-3 (“based on the plain language of § 1225(b)(2)(A), the phrase ‘seeking admission’ only applies to noncitizens who are presently and actively seeking lawful entry into the United States at the border”) (cleaned up); *accord Munoz v. Holt*, Case No. CIV-25-1190-G, 2025 WL 3476590, at \*5-6 (W.D. Okla. Nov. 10, 2025); *Diaz v. Holt*, Case No. CIV-25-1179-J, 2025 WL 3478509, at \*6-7 (W.D. Okla. Oct. 30, 2025). Instead, as a person arrested inside the United States and held in civil immigration detention, Mr. Bolokhoev is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. *See Escagera*, 2025 WL 3243438, at \*3; *see also Chogllo Chafila v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at \*5 (D. Me. Sept. 22, 2025) (collecting cases); *Ochoa Ochoa v. Noem*, No. 25-cv-10865, 2025 WL 2938779, at \*5 n.8 (N.D. Ill. Oct. 16, 2025) (collecting cases).

44. Tellingly, although Respondents charged Mr. Bolokhoev as an “arriving alien,” *see Exhibit 12*, detained under 8 U.S.C. § 1225(b) to deny his right to a bond hearing, their conduct demonstrates they understood him to be subject to the discretionary detention framework of § 1226(a) when they took him into custody. On September 23, 2025, ICE arrested Mr.

Bolokhoev pursuant to a Form I-200 Warrant of Arrest issued under 8 U.S.C. § 1226(a), which expressly cites INA § 236, or 8 U.S.C. § 1226, and its implementing regulations. *See Exhibit 11*. Because § 1225(b) contains no warrant requirement, ICE's decision to obtain a warrant confirms that Mr. Bolokhoev is detained under § 1226(a)'s discretionary framework. *See Sampiao*, 2025 WL 2607924, at \*1; *dos Santos*, 2025 WL 2370988, at \*7. Courts have applied this same analysis to reach the same conclusion in materially identical circumstances. *See Rodriguez-Acurio*, 2025 WL 3314420, at \*14.

45. Applying § 1225(b) to Mr. Bolokhoev therefore violates the Immigration and Nationality Act as he is subject to detention, if at all, under § 1226(a).

## **COUNT TWO**

### **Violation of the Administrative Procedure Act Unlawful Denial of Bond Hearing**

46. The mandatory detention provision at 8 U.S.C. § 1225(b) does not apply to Mr. Bolokhoev. Judges in the Western District of Oklahoma have uniformly held that 8 U.S.C. § 1226(a), rather than the mandatory detention scheme of 8 U.S.C. § 1225(b), is applicable to noncitizens who—like Mr. Bolokhoev—are already present in the United States and concluded that access to a bond hearing is required. *See, e.g., Escarcega*, 2025 WL 3243438, at \*2-3; *Munoz*, 2025 WL 3476590, at \*5-6; *Diaz*, 2025 WL 3478509, at \*6-7.
47. Nearly every district court nationwide that has addressed these issues has come to the same conclusion. *See Guerrero Orellana v. Moniz*, -- F. Supp. 3d --, Civil Action No. 25-cv-12664-PBS, 2025 WL 2809996, at \*5 (D. Mass. Oct. 3, 2025) (collecting cases).
48. Furthermore, courts have repeatedly held that DHS cannot treat all individuals who entered without admission as mandatorily detainable, because this would conflict with § 1226(a)'s discretionary scheme and Congress' Laken Riley Act amendment, which

requires ICE to detain only inadmissible noncitizens charged with certain crimes. *See Medina-Herrera v. Noem*, Case No. CIV-25-1203-J, 2025 WL 3476582, at \*7 (W.D. Okla. Nov. 21, 2025); *Coalition*, 2025 WL 2192986, at \*22; *Rodriguez-Acurio*, 2025 WL 3314420, at \*24–25.

49. The application of § 1225(b) to Mr. Bolokhoev is arbitrary, capricious, and contrary to law, and therefore constitutes a violation of the Administrative Procedure Act. *See* 5 U.S.C. § 706(2).

### **COUNT THREE**

#### **Violation of Fifth Amendment Right to Due Process Procedural Due Process**

50. After releasing Mr. Bolokhoev on humanitarian parole in May 2022 and permitting him to live and work freely through November 5, 2028, Respondents were constitutionally required to provide notice and a meaningful opportunity to be heard before re-detaining him.
51. On information and belief, Mr. Bolokhoev’s humanitarian parole and employment authorization remained valid when Respondents arbitrarily detained him on September 23, 2025. He was paroled under 8 U.S.C. § 1182(d)(5)(A) for urgent humanitarian reasons or significant public benefit, and the statute permits return to custody only after that purpose has been served.
52. Respondents re-detained Mr. Bolokhoev without explanation, have never identified how or why the purpose of his parole was fulfilled, and revoked his parole and freedom without warning—despite his lawful presence, steady employment, tax compliance, and deep community ties. Humanitarian parole constitutes lawful status, yet Respondents summarily stripped Mr. Bolokhoev of his employment, community, and liberty without any process.

*See United States v. Balde*, 943 F.3d 73, 84 (2d Cir. 2019).

53. By revoking Mr. Bolokhoev’s humanitarian parole, effectively stripping him of the ability to use the employment authorization that Respondent had granted, and re-detaining him without pre-deprivation notice or a hearing, Respondents violated the Fifth Amendment’s guarantee of procedural due process.

54. Mr. Bolokhoev’s continuing detention is therefore unlawful.

#### **COUNT FOUR**

##### **Violation of Fifth Amendment Right to Due Process Substantive Due Process**

55. “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).

56. The Fifth Amendment’s Due Process Clause specifically forbids the Government to deprive any person of liberty “without due process of law.” U.S. Const. amend. V.

57. “The Due Process Clause applies to all persons within the United States, including [noncitizens], whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (cleaned up).

58. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Id.* at 690.

59. The Supreme Court has thus “repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); *see also Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged

with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

60. Civil immigration detention is only permissible where it bears a “reasonable relation to the purpose for which the individual was committed.” *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).
61. Neither community protection nor flight risk concerns apply to Mr. Bolokhoev, so his detention is not related to any purpose. *See Zadvydas*, 533 U.S. at 690. Mr. Bolokhoev was released on humanitarian parole in May 2022. Under 8 U.S.C. § 1182(d)(5)(A), noncitizens may be granted humanitarian parole for urgent humanitarian reasons or significant public benefit. Once that purpose is fulfilled, the individual shall return to custody, and their case proceeds like that of any other applicant for admission to the United States.”
62. At the time of his arrest on September 23, 2025, Mr. Bolokhoev had been released for over three years and was working—driving for his trucking business—under the humanitarian parole and work authorization granted by DHS and USCIS. Without explanation, Respondents revoked his parole and work authorization and have yet to provide any reason or show that the purpose of his parole has been fulfilled.
63. Because Respondents are not taking any steps to effectuate its substantive obligation to ensure that immigration detention bears a “reasonable relation” to the purposes of immigration detention, *i.e.*, the prevention of flight and danger to the community during the pendency of removal proceedings, and is not impermissibly punitive, his detention is

unlawful. *See Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

64. Mr. Bolokhoev's detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

**PRAYER FOR RELIEF**

Wherefore, Mr. Bolokhoev respectfully request the Court to grant the following:

- 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. Declare that Mr. Bolokhoev's detention is unlawful;
- D. Order Respondents to release Mr. Bolokhoev immediately, or, in the alternative, provide him with a bond hearing before an Immigration Judge at a time and in a manner that places him in the same position he would be if not for the Respondents' unlawful conduct;
- E. Order that Respondents may not re-detain Petitioner without following the statutory and regulatory procedures;
- F. Grant any further relief this Court deems just and proper.

Respectfully submitted this 15th day of December, 2025.

Aleksandr Bolokhoev

By and through his Counsel,

/s/ Razeen Zaman

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

I represent Petitioner, Aleksandr Bolokhoev, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of our knowledge.

Respectfully submitted this 15th day of December, 2025.

/s/ Razeen Zaman

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