IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ZIYODBEK MUKHAMEDOV,
A [redacted]
Petitioner,

v.

RAFAEL VERGARA, in his official capacity as Warden of Adams County Correctional Center; BRIAN ACUNA, in his official capacity as Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations New Orleans Field Office; TODD LYONS, in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement; and KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,

Respondents.

Case No. 5:25-cv-167-DCB-BWR

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

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents in the Adams County Correction Center as follows:

INTRODUCTION

1. Petitioner is a citizen of Uzbekistan who entered the United States without inspection on or around July 6, 2023 to seek safety from [redacted] He was apprehended shortly after crossing the border and detained by the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), and filed an application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). On September 13, 2023 he was released on a bond set by an immigration judge. After release from custody, Petitioner lived in New York for nearly 2 years and complied with the conditions of his release. He has no criminal history in the United States or in any other country. He has a U.S. citizen fiancée who also lives in New York.

2. On May 20, 2025, Mr. Mukhamedov was arrested and re-detained by the DHS. This time, he has been deemed ineligible for bond and has not been given a bond hearing due to a reversal in policy by DHS and two recent decisions of the Board of Immigration Appeals ("BIA"). The change in policy and the BIA decisions have vastly expanded the application of mandatory detention without access to a bond hearing to include all noncitizens who entered the United States unlawfully at any time.

3. However, federal courts around the country have considered habeas petitions like this one in recent months and overwhelmingly concluded that the new

positions of DHS and the BIA are contrary to the proper interpretation of the relevant statutes, 8 U.S.C. §1225(b)(2) and 1226(a). Additionally, many federal courts have held that the government's detention of people like Mr. Mukhamedov without any pre- or post-deprivation process is unconstitutional.

4. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order Petitioner's release from custody. In the alternative, Petitioner requests that this Court conduct a bond hearing itself and order his release. Or at the very least, the Court should order an immigration judge to conduct a bond hearing. At any bond hearing, the government should be required to prove flight risk and/or dangerousness by clear and convincing evidence

PARTIES

5. Petitioner Ziyodbek Mukhamedov is a noncitizen currently detained by Respondents at the Adams County Correctional Center ("Adams") pending removal proceedings.

6. Respondent Rafael Vergara is the Warden of Adams County Correctional Center ("Adams"). He is an employee of CoreCivic, the private company that contracts with ICE to run Adams. In his capacity as Warden, he oversees the administration and management of Adams. Accordingly, Mr. Vergara is the immediate custodian of Petitioner. He is sued in his official capacity.

7. Respondent Brian Acuna is named in his official capacity as the New Orleans Acting Field Office Director for ICE. In this capacity, Respondent Acuna is responsible for administration and management of ICE Enforcement and Removal Operations in Mississippi and exercises control over Petitioner's custody at Adams. Respondent Acuna's office is located at 1250 Poydras, Suite 325, New Orleans, LA 70113.

8. Respondent Todd Lyons is named in his official capacity as the Acting Director of ICE. In this capacity, Respondent Lyons is responsible for the administration of federal immigration law and the execution of detention and removal determinations, and, as such, he is a legal custodian of Petitioner. Respondent Lyons's office is located at 500 12th Street, S.W., Washington, D.C. 20536.

9. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity. Respondent Noem's office is located at U.S. Department of Homeland Security, 2707 Martin Luther King Jr Ave SE, Washington, D.C. 20528.

JURISDICTION AND VENUE

10. This action arises under the Immigration and Nationality Act ("INA") and the Fifth Amendment to the U.S. Constitution.

11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. 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.

12. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against one of its agencies and that agency's officers are sued in their official capacities. *See* 5 U.S.C. § 702.

13. Venue is proper in this District because the Petitioner is detained in this district. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *See Santiago-Lugo v. Warden*, 785 F.3d 467, 473–74 (11th Cir. 2015) (28 U.S.C. § 2241 imposes no exhaustion requirement). Where, as here, Congress has not mandated exhaustion, "the need for exhaustion is left to the sound discretion of the Court." *Garza-Garcia v. Moore*, 539 F. Supp. 3d 899, 904 (S.D. Tex. 2007). The relevant

factors here counsel against requiring the Petitioner to return to the immigration agency to seek further relief.

15. In making that decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

16. Exhaustion is generally not required when the timeframe for administrative action would result in undue prejudice, when the agency cannot grant effective relief, or when the agency has predetermined the issue before it. *McCarthy v. Madigan*, 503 U.S. 140, 146-48 (1992).

17. As explained in this petition, the Board of Immigration Appeals has issued a published decision holding that people like Mr. Mukhamedov who entered the United States without inspection and therefore have not been admitted or paroled are ineligible for bond pursuant to 8 U.S.C. § 1225(b)(2)(A).[1] Immigration judges

[1] "Admission" is defined as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). Under the INA, the DHS can "parole into the United States...temporarily...on a case-by-case basis... any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien." 8 U.S.C. § 1182(d)(5). This petition also refers to those who "entered without inspection," which is the same as "without admission or parole." People who have not been admitted are subject to the grounds of inadmissibility in 8 U.S.C. § 1182. This case relates to the circumstances in which

and the BIA are bound by this decision. 8 C.F.R. § 1003.1(g)(1). An immigration judge has already held that the immigration court does not have jurisdiction to hear Mr. Mukhamedov's request for bond. Exhibit E, June 30, 2025 Bond Order. Exhaustion before the BIA would therefore be futile. *See Garza-Garcia*, 539 F. Supp. 2d at 904.

18. Further, the BIA does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att'y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Kostak v. Trump*, No. 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025) ("[T]his Court is the proper forum in which Petitioner can bring her constitutional claims."). Therefore, any administrative proceedings would be futile because petitioner raises a constitutional due process claim.

STATEMENT OF FACTS

19. Petitioner Ziyodbek Mukhamedov is a citizen and national of Uzbekistan, who entered the United States without having been admitted or paroled on or around July 6, 2023 to request asylum. Exhibit A, Notice to Appear.

20. Shortly after he entered, the DHS detained him and placed him in removal proceedings. *See* Exhibit A, Notice to Appear. While detained at the Moshannon Valley Processing Center in Philipsburg, Pennsylvania, Mr.

Mr. Mukhamedov, and others like him, who have not been admitted or paroled, and are therefore subject to grounds of inadmissibility, are eligible for bond under the relevant statutes and the Constitution.

Mukhamedov applied for asylum, withholding of removal, and protection under the Convention Against Torture. *See* Exhibit I, I-589, Asylum Application.

21. Mr. Mukhamedov requested a bond hearing before the immigration court. He was a noncitizen who was present in the United States without having been admitted or paroled and therefore, in the government's view at that time, he was detained under 8 U.S.C. § 1226(a) and was therefore eligible for bond pending removal proceedings. *See* Exhibit A, Notice to Appear; Exhibit B, 2023 Bond Order. The Immigration Judge granted him a bond on September 11, 2023, and Mr. Mukhamedov was released from immigration custody. *See* Exhibit B, 2023 Bond Order.

22. Mr. Mukhamedov lived in New York for nearly two years, and had no criminal issues beyond a traffic ticket. Nonetheless, he was re-detained by ICE on May 20, 2025. *See* Exhibit C, 2025 Notice of Custody Determination. Mr. Mukhamedov was first detained at the Elizabeth Contract Detention Facility (ECDF) in Elizabeth, New Jersey and then transferred to Adams on August 14, 2025. *See* Exhibit D, Notice of Transfer to Adams. While he was detained at ECDF, Mr. Mukhamedov requested a bond hearing on June 18, 2025 before an immigration court. In contrast to the granting of bond in 2023, the Immigration Judge found he no longer had jurisdiction to consider bond under a recent BIA decision, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). *See* Exhibit E, June 30, 2025 Bond Order.

23. In his detained removal proceedings, Mr. Mukhamedov continued pursuing asylum. He was scheduled for an Individual Hearing on his application before the Elizabeth Immigration Court in New Jersey on August 22, 2025. The week before the Individual Hearing, ICE transferred him to Adams. Mr. Mukhamedov had already timely filed all evidence with the Elizabeth Immigration Court and diligently prepared for the August 22 hearing, but that hearing was cancelled two hours before it was scheduled to begin, and his case was clerically transferred to the LaSalle Immigration Court in Louisiana. Mr. Mukhamedov was later scheduled for an Individual Hearing on November 5, 2025 before a new immigration judge at the LaSalle Immigration Court. Prior to that hearing date, on October 31, 2025, the Immigration Judge pretermitted his application based on "completeness." *See* Exhibit F, Immigration Judge's Decision from October 31, 2025. Mr. Mukhamedov timely filed a motion to reconsider. The motion was improperly denied because the Immigration Judge denied his request for a fee waiver. Mr. Mukhamedov has now timely filed an appeal of both decisions and those appeals are pending before the BIA. *See* Exhibit G, BIA Filing Receipt for Case Appeal and Briefing Schedule for Motion to Reconsider Appeal.

24. On July 29, 2025, Mr. Mukhamedov filed a request with ICE for release on his own recognizance, providing additional evidence favoring his release,

including a sponsor letter from his U.S. citizen fiancée. *See* Exhibit H, Cover Letter for Release Request and Email Submission. He never received a response from ICE.

LEGAL FRAMEWORK

I. Section 1226(a) Authorizes Bond for People Like Petitioner Who are Already in the United States and Have Not Previously Been Admitted

25. The Immigration and Nationality Act contains several provisions authorizing detention of noncitizens. Section 1226(a) entitles most noncitizens with pending removal proceedings to a hearing before an Immigration Judge to determine whether they should be released on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d). Section 1226(c) creates an exception to section 1226(a) and provides that noncitizens who are removable by virtue of certain criminal convictions must be detained without a bond hearing. Section 1225(b) provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" under (b)(2). Finally, section 1231 governs the detention of noncitizens with a final order of removal.

26. As explained later in this discussion, 1226(a)'s authorization of bond hearings applies to those already present in the United States without having been admitted or paroled, like the Petitioner, who complied with the conditions of his 2023 release, but was nevertheless re-detained in 2025. By contrast, the mandatory detention provision in 1225(b) applies to those arriving at U.S. ports of entry or who otherwise very recently entered the United States.

27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. "Upon passing IIRIRA, Congress declared that the new Section 1226(a) 'restates the current provisions in the predecessor statute,'" which allowed noncitizens who entered without inspection to be released on bond. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

28. Following the enactment of the IIRIRA, the Executive Office for Immigration Review ("EOIR") drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.").

29. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an

immigration judge, unless their criminal history rendered them ineligible. *Diaz Martinez v. Hyde*, 792 F. Supp. 3d 211, 217 (D. Mass. 2025).

30. In recent months, DHS and the BIA have abruptly changed course. On May 15, 2025, the BIA issued a decision, *Matter of Q. Li*, in the case of a noncitizen who, like Petitioner, entered without inspection and was apprehended near the border. The BIA held that she was subject to mandatory detention under § 1225(b)(2)(A) when she was later re-detained, despite having lived in the United States for several years. *Matter of Q. Li*, 29 I&N Dec. 66, 70 (BIA 2025).

31. On July 8, 2025, ICE Director Todd M. Lyons issued an internal memorandum stating that, "in coordination with the Department of Justice (DOJ)," DHS had "revisited" its legal position and believed that § 1225, not § 1226, governs the detention of noncitizens who are present in the United States without having been admitted. *Diaz Martinez*, 792 F. Supp. 3d at 218.

32. On September 5, 2025, the BIA followed suit and issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA held that noncitizens "who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." 29 I&N Dec. at 220.

33. Numerous recent federal court decisions have rejected the new position of DHS and the BIA and held that people who are present without having been admitted are generally eligible for bond pursuant to § 1226. *See, e.g.*, *Espinoza Andres v. Noem*, No. 25-5128, 2025 WL 3458893, at *5 (S.D. Tex. Dec. 2, 2025); *Tinoco Pineda v. Noem*, No. 25-1518, 2025 WL 3471418, at *6 (W.D. Tex. Dec. 2, 2025); *Coulibaly v. Thompson*, No. 25-1539, 2025 WL 3471573, at *6 (W.D. Tex. Nov. 25, 2025); *Ayala Amaya v. Bondi*, No. 25-cv-16428, 2025 WL 3033880, at *2 (D.N.J. Oct. 30, 2025) (collecting cases); *Lopez Santos v. Noem*, No. 3:25-cv-1193, 2025 WL 2642278, at *5 (W.D. La. Sept. 11, 2025); *Perez v. Berg*, No. 8:25-cv-494, 2025 WL 2531566, -- F. Supp. 3d -- at *2 (D. Neb. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, -- F. Supp. 3d -- at *8 (E.D. Mich. Aug. 20, 2025); *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1152 (D. Minn. 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 491 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 25-2157, 2025 WL 2337099, at *7 (D. Ariz. Aug. 11, 2025); *Diaz Martinez*, 792 F. Supp. 3d at 222; *Gomes v. Hyde*, No. 1:25-cv-11571, 2025 WL 1869299, -- F. Supp. 3d -- at *7 (D. Mass. July 7, 2025); *Rodriguez*, 779 F. Supp. 3d at 1257.

34. As these decisions explain, the BIA's position in *Matter of Yajure Hurtado* and *Matter of Q. Li* defies the INA. The plain text of the statute shows that Congress viewed § 1226(a) as the default bond provision for people arrested within

the United States, including those who entered without being admitted or paroled. Therefore, § 1226(a), not § 1225(b), applies to people like Petitioner.

35. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." *See Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (describing § 1226(a) as the "default rule" for people detained pending removal). These removal hearings are held pursuant § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

36. The text of § 1226 explicitly applies to people charged as being inadmissible, including those who entered without having been admitted or paroled. *See* 8 U.S.C. §§ 1226(c) (creating an exception to § 1226(a) for people who are subject to certain grounds of inadmissibility), 1182(a)(6) (making people who are present without having been admitted or paroled inadmissible). Just this year, Congress amended Section 1226 in the Laken Riley Act by adopting a new subparagraph (c)(1)(E) to exclude certain noncitizens who entered without inspection from § 1226(a)'s default bond provision. Subparagraph (E)'s reference to persons inadmissible under § 1182(a)(6)(A), i.e., persons inadmissible for entering without inspection, makes clear that, by default, people are afforded a bond hearing under subsection (a). *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *8 ("If Congress had intended for Section 1225 to govern all noncitizens present in the country, who had not been admitted, then it would not have recently adopted an

amendment to Section 1226 that prescribes a subset of noncitizens be exempt from the discretionary bond framework."). As one court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

37. Under the BIA's interpretation in *Yajure Hurtado*, all noncitizens subject to the inadmissibility grounds in 8 U.S.C. § 1182, meaning that they have not previously been admitted, are detained under 8 U.S.C. § 1225(b) without the opportunity for a bond hearing. *Matter of Yajure Hurtado*, 29 I&N Dec. at 220; *see* 8 U.S.C. § 1182(a)(6) (making people who are present without having been admitted inadmissible); 8 U.S.C. § 1101(a)(14) (defining an admission). This broad interpretation would render the grounds of mandatory detention in § 1226(c) superfluous, because all those people would already be subject to mandatory detention under § 1225(b). *Gomes*, 2025 WL 1869299, at *7; *Rodriguez*, 779 F. Supp. 3d at 1258 (explaining that mandatory detention for inadmissible noncitizens under new subsection (c)(1)(E) "who are implicated in an enumerated crime, including those 'present in the United States without being admitted or paroled,' would be meaningless since 'all noncitizens who have not been admitted' would already be governed by 1225's mandatory detention authority.")); *see Marx v. Gen.*

Revenue Corp., 568 U.S. 371, 386 (2103) ("[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme.")."If § 1225(b)(2) already mandated detention of any alien who has not been admitted, regardless of how long they have been here, then adding § 1226(c)(1)(E) to the statutory scheme was pointless." *Maldonado*, 795 F. Supp. 3d at 1152.

38. By contrast, § 1225(b) is limited to people arriving at U.S. ports of entry or who very recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez*, 792 F. Supp. 3d at 222 ("'[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.'" (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory detention 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 admissible." *Jennings*, 583 U.S. at 287.

39. The BIA's interpretation "would render the phrase 'seeking admission' in 8 U.S.C. § 1225(b)(2)(A) mere surplusage." *Lopez Benitez*, 795 F. Supp. 3d at 487. The BIA's new interpretation makes all applicants for admission subject to

mandatory detention, leaving the "seeking admission" clause unnecessary and violating the rule against surplusage. *Tinoco Pineda*, 2025 WL 3471418, at *5; *Lopez Benitez*, 795 F. Supp. 3d at 488; *Diaz Martinez*, 792 F.3d at 218.

40. Instead, the phrase "seeking admission" indicates that § 1225(b)(2)(A) applies to people who are taking "some sort of present-tense action," in other words, coming or attempting to come into the United States. *Diaz Martinez*, 792 F. Supp. 3d at 218; *see also Matter of M-C-D-V-*, 28 I&N Dec. 18, 23 (BIA 2020) (stating that "the use of the present progressive tense . . . denotes an ongoing process"). Therefore, § 1226(a), not § 1225(b)(2)(A), governs the detention of people who are already "within the United States after an entry," *Diaz Martinez*, 792 F. Supp. 3d at 218, and therefore are not actively seeking admission.

41. Applying § 1226(a), rather than § 1225(b), to people detained in the interior who had previously entered without inspection is consistent with the government's longstanding practice, which "can inform a court's determination of what the law is." *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024). This longstanding practice further counsels against the DHS and BIA's abrupt change in policy. *Maldonado*, 795 F. Supp. 3d at 1150.

42. Finally, as discussed below, the DHS and BIA's interpretation of § 1225(b)(2)(A) to mandate detention without a bond hearing for all noncitizens present in the United States without having been admitted presents serious

constitutional concerns. Therefore, to the degree that the statute remains ambiguous, the Court should presume that Congress "did not intend the alternative which raises serious constitutional doubts" and reject that construction. *Clark v. Martinez*, 543 U.S. 371, 381-82 (2005). Therefore, § 1226(a), which permits bond hearings, not § 1225(b)(2)(A), which does not, governs the detention of people like Petitioner.

II. Respondents' Re-Detention of Noncitizens like Petitioner Without the Opportunity for a Bond Hearing Violates Due Process

43. Re-detention of noncitizens who have previously been released on bond or parole, without any pre- or post-deprivation process, violates due process. *Contreras Maldonado v. Cabezas*, No. 25-13004, 2025 WL 2985256, at *6 (D.N.J. Oct. 23, 2025); *Hernandez-Fernandez v. Lyons*, No. 25-773, 2025 WL 2976923, at *10 (W.D. Tex. Oct. 21, 2025); *Lopez-Arevelo v. Ripa*, No. 25-337, 2025 WL 2691828, at *12 (W.D. Tex. Sept. 22, 2025); *Ramirez Tesara v. Wamsley*, 25-1723, 2025 WL 2637663, at *3-4 (W.D. Wash. Sept. 12, 2025); *Kostak*, 2025 WL 2472136, at *3.

44. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J.,

dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention."). This fundamental due process protection applies to all noncitizens within the United States, including both removable and inadmissible noncitizens. *See id.* at 693; *Plyler v. Doe*, 457 U.S. 202, 212 (1982); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

45. Absent adequate procedural protections, substantive due process requires a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690; *accord, e.g.*, *Torralba v. Knight*, No. 2:25-cv-1366, 2025 WL 2581792, at *12 (D. Nev. Sept. 5, 2025) (describing the standard for a substantive due process violation); *Fernandez v. Lyons*, No. 8:25-cv-506, 2025 WL 2531539, at *4 (D. Neb. Sept. 3, 2025) (same). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. Thus, to withstand constitutional scrutiny, the nature and duration of mandatory immigration detention must be reasonably related to these purposes.

46. In *Demore*, the Supreme Court upheld the constitutionality of § 1226(c) against a facial challenge, specifically citing evidence that had been before Congress about noncitizens with criminal convictions. 538 U.S. at 518-520. This justification does not apply, however, to noncitizens with no criminal record whatsoever who

have lived in the community for years. The mandatory detention policy set forth by DHS and the BIA is not reasonably related to the purposes of prevent danger to the community or flight risk and violates substantive due process.

47. Additionally, procedural due process protects noncitizens against deprivation of liberty without adequate procedural protections, including notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1367 (2025); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020); *Lopez-Arevelo*, 2025 WL 2691828, at *10. In determining the proper procedure to protect a detained noncitizen's procedural due process rights under the Fifth Amendment, courts apply the three-part balancing test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), weighing (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." *Black v. Decker*, 103 F.4th 133, 147-48 (2d Cir. 2024); *Gayle v. Warden Monmouth C'ty Corr. Facility*, 12 F. 4th 321, 331 (3d Cir. 2021); *Hernandez-Lara*, 10 F.4th at 28; *Velasco Lopez*, 978 F.3d at 851; *Vieira v. De Anda-Ybarra*, No. EP-25-cv-432-DB, 2025 WL 2937880, at *6 (W.D. Tex. Oct. 16, 2025); *Lopez-Arevelo*, 2025 WL 2691828, at *10 (all quoting *Mathews*, 424

U.S. at 335). Here, the DHS and BIA's interpretation of the statute to require detention of all people in the United States who have not been admitted deprives them of their liberty without any individualized process to determine whether such detention is necessary to prevent flight risk or danger to the community, and violates due process.

48. Regarding the first factor, the "importance and fundamental nature" of an individual's liberty interest is well-established. *United States v. Salerno*, 481 U.S. 739, 750 (1987); *see also Hernandez-Fernandez*, 2025 WL 2976923, at *8 ("[T]he interest in being free from physical detention is the most elemental of liberty interests.") (cleaned up).

49. Weighing this factor in *Velasco Lopez*, the Second Circuit found the private interest to be "on any calculus, substantial," observing that the petitioner, "could not maintain employment or see his family or friends or others outside normal visiting hours. The use of a cell phone was prohibited, and he had no access to the internet or email and limited access to the telephone." 978 F.3d at 851-52. Similarly, the First Circuit found a substantial private liberty interest for the petitioner in *Hernandez-Lara*, noting that the petitioner there was incarcerated "alongside criminal inmates" at a jail where "she was separated from her fiancé and unable to maintain her employment." 10 F.4th at 28.

50. Regarding the second factor, absent any individualized bond hearing, there is no mechanism to determine whether their detention is necessary and people will be detained despite not being a danger to the community or a flight risk. *See, e.g.*, *Lopez-Arevelo*, 2025 WL 2691828, at *11; *Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154, -- F. Supp. 3d --, at *8 (D. Minn. May 21, 2025) (noting that lack of consideration of "individualized or particularized facts . . . increases the potential for erroneous deprivation of individuals' private rights"); *Ashley v. Ridge*, 288 F. Supp. 2d 662, 670 (D.N.J. 2003) (finding a procedural due process violation because "the Government has not proved that Petitioner presents an identified and articulable threat to an individual or the community so as to justify his continued detention"). A bond hearing would have significant value because it is designed to assess the individualized facts of each case and determine whether less restrictive measures can fulfill the same goals.

51. As for the third and final factor, the burden on the government of returning to the longstanding practice of holding bond hearings for people like Petitioner does not outweigh the liberty interest at stake. To the contrary, the government has an interest in "minimizing the enormous impact of incarceration in cases where it serves no purpose." *Velasco Lopez*, 978 F.3d at 854; *see also Hernandez-Lara*, 10 F.4th at 33 (noting that "limiting the use of detention to only those noncitizens who are dangerous or a flight risk may save the government, and

therefore the public, from expending substantial resources on needless detention"). Additionally, "unnecessary detention imposes substantial societal costs. . . . The needless detention of those individuals thus separates families and removes from the community breadwinners, caregivers, parents, siblings and employees. Those ruptures in the fabric of communal life impact society in intangible ways that are difficult to calculate in dollars and cents." *Hernandez-Lara*, 10 F.4th at 33 (citation and internal quotation marks omitted). The cost to the government and society of detaining people unnecessarily for long periods of time is greater than the cost of providing individualized hearings, and weighs in favor of additional procedural protections. Thus, even if the statute requires detention without a bond hearing, due process requires a hearing at which the government bears the burden by clear and convincing evidence.

III. To Remedy the Statutory and Constitutional Violations at Issue Here, Courts Can Order Release or, Alternatively, Conduct Bond Hearings Themselves.

52. Recognizing that "[h]abeas has traditionally been a means to secure *release* from unlawful detention," "courts across the country have ordered the release of individuals stemming from ICE's illegal detention." *Patel v. Tindall*, No. 3:25-cv-373, 2025 WL 2823607, at *6 (W.D. Ky. Oct. 3, 2025); *see also, e.g.*, *Galdamez Martinez v. Noem*, No. 25-cv-1373, 2025 WL 3471575, at *7 (W.D. Tex. Nov. 26, 2025) (ordering release); *Coulibaly*, 2025 WL 3471573, at *7 (same);

Morocho v. Jamison, No. 25-5930, 2025 WL 3296300, at *3 (E.D. Pa. Nov. 26, 2025); *Cuy Comes v. DeLeon*, 25-9283, 2025 WL 3206491, at *6 (S.D.N.Y. Nov. 14, 2025); *Lepe v. Andrews*, No. 25-1163, 2025 WL 2716910, at *10 (E.D. Cal. Sept. 23, 2025) (same). Immediate release is particularly appropriate where the petitioner was previously released upon a finding that he was not a danger to the community or a flight risk, and then re-detained without due process of law. *Singh v. Lewis*, No. 25-133, 2025 WL 3298080, at *6 (W.D. Ky. Nov. 26, 2025); *see also Contreras Maldonado*, 2025 WL 2985256, at *6-7 (finding that a bond hearing could not remedy the failure to provide adequate process at the time of re-detention); *Ramirez Tesara*, 2025 WL 2637663, at *5 (granting release to restore the status quo ante litem).

53. Alternatively, if the Court orders a bond hearing, due process requires that the Government bear the burden of proof by clear and convincing evidence. *See Gayle*, 12 F.4th at 332 ("[W]hen such a severe deprivation is at issue, the Government must bear the burden of proof."). "A standard of proof serves to allocate the risk of error between the litigants and reflects the relative importance attached to the ultimate decision. . . . When the Government seeks to take more than just money from a party, we typically hold the Government to a standard of proof higher than preponderance of the evidence." *German Santos v. Warden Pike C'ty Corr. Facility*, 965 F.3d 203, 213 (3d Cir. 2020) (citing *Addington v. Texas*, 441 U.S. 418, 423

(1979)). Therefore, courts in this circuit and around the country have agreed that due process requires a bond hearing at which the government bears the burden by clear and convincing evidence. *Servin Espinoza v. Noem*, No. 25-618, 2025 WL 3543646, at *5 (W.D. Tex. Dec. 10, 2024); *Escobar-Arauz v. Noem*, No. 25-619, 2025 WL 354648, at *4 (W.D. Tex. Dec. 10, 2025); *Hernandez-Fernandez*, 2025 WL 2976923, at *11; *Vieira*, 2025 WL 2937880, at *7; *Lopez-Arevelo*, 2025 WL 2691828, at *13; *Salazar v. Dedos*, No. 1:25-cv-835, 2025 WL 2676729, at *9 (D.N.M. Sept. 17, 2025).

54. Finally, this Court has the power to hold the bond hearing itself as a "legal and logical concomitant" of its habeas jurisdiction. *Leslie v. Holder*, 865 F. Supp. 2d 627, 634-35 (M.D. Pa. 2012). Courts have exercised this authority, "particularly where delay risks perpetuating the constitutional injury" and immigration court dockets are "exploding." *Centeno-Martinez v. Jamison*, 25-3593, 2025 WL 2157711, at *3 (E.D. Pa. Nov. 12, 2025); *L.G.M. v. LaRocco*, 788 F. Supp. 3d 401, 407 (E.D.N.Y. 2025). Otherwise, immigration judges who are not used to applying the constitutionally-required burden of proof discussed above may not do so correctly, necessitating further proceedings before this Court. *See, e.g.*, *Saltos Chiguano v. Lowe*, No. 1:24-cv-2210, 2025 WL 3187161, at *4 (M.D. Pa. Nov. 14, 2025) (deciding to hold a hearing before the district court after two different IJs failed to apply the appropriate burden of proof); *Mathon v. Searls*, 623 F. Supp. 3d

203, 219 (W.D.N.Y. 2022) (granting a motion to enforce after an inadequate bond hearing conducted by an IJ); *Blandon v. Barr*, 434 F. Supp. 3d 30, 42 (W.D.N.Y. 2020) (same).

FIRST CLAIM FOR RELIEF
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

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

56. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Mr. Mukhamedov, who has been living in the United States since July 6, 2023 prior to being to being apprehended and detained by respondents on May 20, 2025. Mr. Mukhamedov was not "seeking admission when he was detained in New York in May 2025 and therefore does not fall within § 1252(b)(2)(A), as discussed above. *See Diaz Martinez*, 792 F. Supp. 3d at 218.

57. Mr. Mukhamedov is detained under § 1226(a) and is eligible for release on bond. Respondents' application of § 1225(b)(2) to Petitioner is unlawful. Since Mr. Mukhamedov was previously released on bond pursuant to § 1226(a) and then unlawfully re-detained pursuant to § 1225(b)(2), release is the appropriate remedy. *Gonzalez Mateo v. Noem*, No. 25-151, 2025 WL 3499062, at *7 (W.D. Ky. Dec. 5, 2025); *Singh*, 2025 WL 3298080, at *6; *Tinoco Pineda*, 2025 WL 3471418, at *6; *Aguilar*, 2025 WL 3471417, at *6.

SECOND CLAIM FOR RELIEF
Violation of the Fifth Amendment Due Process Clause
Substantive Due Process

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

59. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Substantive due process requires that immigration detention without a bond hearing be reasonably related to the goals of ensuring the appearance of noncitizens at future proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

60. The BIA's application of mandatory detention under § 1225(b)(2) to Mr. Mukhmedov is not reasonably related to those goals and thus violates substantive due process. Mr. Mukhamedov continues to pursue asylum, withholding of removal, and CAT protection and has no criminal history. The Court should remedy this substantive due process violation by ordering his release. *See De Leon Hernandez v. Bondi*, No. 25-cv-1384, 2025 WL 3217037, at *2-3 (W.D. La. Nov. 18, 2025) (ordering release to remedy a substantive and procedural due process violation).

THIRD CLAIM FOR RELIEF
Violation of the Fifth Amendment Due Process Clause
Re-detention Without Procedural Due Process

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

62. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Courts apply the *Mathews v. Eldridge* balancing test to determine what procedures the due process clause requires. *Lopez-Arevelo*, 2025 WL 2691828, at *10. As discussed above, Mr. Mukhamedov was previously released on bond, and thus "acquire[d] a protectable liberty interest in remaining out of custody on bond." *Hernandez-Fernandez*, 2025 WL 2976923, at *9. Therefore, his re-detention without any process violated procedural due process.

63. As a remedy, the Court should order Petitioner's immediate release, or hold or order a bond hearing at which the government bears the burden of proof. *See Singh*, 2025 WL 3298080, at *6; *Lopez-Arevelo*, 2025 WL 2691828, at *13.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;

2) Declare that Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. Section 1226(a), and the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

3) Issue a Writ of Habeas Corpus and order Petitioner's immediate release from custody;

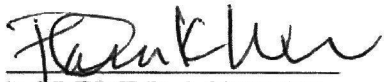
4) In the alternative, hold or order Respondents to hold a bond hearing within 10 days at which the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;

5) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Dated: December 18, 2025

Respectfully submitted,



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**Applications for admission pro hac vice forthcoming*

COUNSEL FOR PETITIONER

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys, and I have discussed the claims with Petitioner's legal team. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 18, 2025

Respectfully submitted,

Rebecca Hufstader
Pro Bono Counsel for Petitioner