UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Praveen SINGU, *Petitioner-Plaintiff* *v.* PAMELA BONDI, United States Attorney General KRISTI L. NOEM, Secretary of the U.S. Department of Homeland Security TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement SYLVESTER ORTEGA, Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement REYNALDO CASTRO, Warden South Texas ICE Processing Center *Respondents-Defendants*	Case No. 5:25-CV-1819 DHS File Number: [redacted]

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR PRELIMINARY INJUNCTIVE RELIEF

The Petitioner, Praveen Singu, (hereinafter "Mr. Singu") respectfully petitions this Honorable Court for a Writ of Habeas Corpus to remedy Petitioner's unlawful detention in violation of his constitutional and statutory rights.

I. INTRODUCTION

1. Petitioner, Mr. Singu, is a 25-year-old national and citizen of India.
2. Mr. Singu last entered the United States on September 20, 2024, at the Brownsville, TX Port of Entry by presenting himself to U.S. Border Patrol Officer with an F-1 Student Visa. Ultimately, Mr. Singu was denied entry with that visa and deemed inadmissible. Exhibit A – DHS Form I-860 Determination of Inadmissibility. However, Mr. Pingu declared his fear of returning to India.
3. Petitioner was detained and was determined to have a credible fear of returning to India.
4. As a result, DHS served Mr. Singu with a Notice to Appear ("NTA") on October 9, 2024. *See* Exhibit B – Notice to Appear, DHS Form I-862.[1] To date, the Executive Office for Immigration Review's Automated Case Information System does not indicate that a Notice to Appear to pursue Petitioner's removal has been filed to initiate removal proceedings.
5. On October 10, 2024, a DHS Supervisory Detention and Deportation Officer determined "[p]ursuant to the authority contained in [8 U.S.C. § 1226] and part 236 of title 8, Code of Federal Regulations" that Mr. Singu was to be released

[1] Currently, Counsel only has access to page 1 and 3 of the NTA, but the missing page has been requested.

under other conditions. *See* Exhibit C – Notice of Custody Determination, DHS Form I-286. That custody determination was served on Petitioner the next day, on October 11, 2025. *Id.*

6. That same day, Mr. Singu was also issued an "Interim Notice Authorizing Parole" indicating that "U.S. Immigration and Customs Enforcement (ICE) has decided to parole you from its custody pursuant to its authority under section 212(d)(5)(A) of the Immigration and Nationality Act." Exhibit D – DHS Interim Notice Authorizing Parole. The parole was authorized "for one year beginning on the date on this notice." *Id.* He was released from custody to reside in Denton, TX. *Id.*

7. Because Petitioner's Notice to Appear was never filed with the Executive Office of Immigration Review, Petitioner filed his asylum application affirmatively with United States Citizenship and Immigration Services to comply with 8 U.S.C. § 1158(a)(2)(B). *See* Exhibit E – USCIS Notice of Action, Form I-797C. That application remains pending with USCIS.

8. Mr. Singu has been residing in the United States for over a year after he was released from DHS custody. Mr. Singu was most recently detained by Immigration and Customs Enforcement ("ICE") on October 29, 2025, at a scheduled ICE check-in appointment in Dallas, Texas. Exhibit F – ICE Form I-220R.

9. While in custody, Petitioner was transferred by ICE from Dallas, Texas to Pearsall, TX. He is presently detained in the South Texas ICE Processing Center ("STIPC") in Pearsall, TX.

10. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement ("ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." Memorandum, U.S. Immigration & Customs Enf't, Interim Guidance Regarding Detention Authority for Applications for Admission (July 8, 2025), available at AILA Doc. No. 25071607, https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission

11. The BIA's September 5, 2025, precedential decision in *Matter of Yajure-Hurtado*, held that the plain language of 8 U.S.C. § 1225(b)(2)(A) mandates that all aliens who are present in the United States without inspection or admission are subject to mandatory detention. 29 I&N Dec. 216 (BIA 2025). This decision is in contravention with the DHS's longstanding interpretation that noncitizens

already present in the country such as Respondent were detained pursuant to 8 U.S.C. § 1226(a) and not §1225(b)(2)(A).

12. Petitioner's detention became unlawful on October 29, 2025, when ICE detained Petitioner under the authority of 8 U.S.C. § 1225(b), rather than 8 U.S.C. § 1226(a). Petitioner, who was apprehended while already in the interior of the U.S. pending the outcome of proceedings, should not be considered an "applicant for admission" who is presently "seeking admission." Rather, his detention is pursuant to 8 U.S.C. § 1226(a), which was DHS's initial determination upon apprehension. Exhibit B – Notice of Custody Determination, DHS Form I-286.

13. Mr. Singu's continued detention is an unlawful violation of his Fifth Amendment right to due process, an incorrect interpretation of immigration law under the Immigration and Nationality Act (INA) and its implementing regulations and is *ultra vires*.

14. Petitioner respectfully requests this Court grant the instant petition for a writ of habeas corpus under 28 U.S.C. § 2241 and enjoin Respondent's continued detention of Petitioner to ensure his due process rights. In the alternative, Petitioner respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days. *See* 8 U.S.C. § 2243.

II. JURISDICTION AND VENUE

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

18. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgement Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

19. This Court is not stripped of its jurisdiction under 8 U.S.C. § 1252(g) as this case does not concern the Respondents' decision to commence removal proceedings, adjudicate cases, or execute removal orders. Nor does 8 U.S.C. § 1252(b)(9) apply as Petitioner is not challenging a removal order directly or indirectly. *See e.g.*, Vieira v. Anda-Ybarra, No. EP-25-CV-00432-DB, 2025 WL 2937880, 2025 U.S. Dist. LEXIS 203930 at *5-9 (W.D. Tex. Oct. 16, 2025). *See also Jennings v. Rodriguez*, 583 U.S. 281, 293 (2018). Nor does 8 U.S.C. § 1226(e) apply here as Petitioner is not challenging a discretionary judgment by the Attorney General.

20. Petitioner is detained in civil immigration custody at the South Texas ICE Processing Center in Pearsall, Texas. He has been detained since approximately October 29, 2025. Venue is proper in this district because Petitioner is detained within this district, no real property is involved in this action, and a substantial amount of the events giving rise to this claim occurred within this district. 28 U.S.C. § 1391(e).

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

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

relief. If the Court issues an order to show cause, Respondents must file a response "within three days" unless the Court permits additional time for good cause, which is not to exceed twenty days. 28 U.S.C. § 2243.

22. 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 writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time. *Rhueark v. Wade*, 540 F. 2d 1282, 1283 (5th Cir. 1976); *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978). Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

IV. PARTIES

23. Petitioner, Mr. Praveen Singu, is a 25-year-old citizen of India. He is currently detained at the South Texas ICE Processing Center, 566 Veterans Blvd., Pearsall, Texas in the custody, under the direct control, of Respondents and their agents. He has been detained in civil immigration detention since October 29, 2025.

24. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she is responsible for the administration of the immigration laws and policy of the immigration courts. She has the authority to adjudicate removal cases and oversees the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

25. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees ICE, the component agency re-sponsible for Petitioner's detention. Respondent Noem is empowered to carry out any administrative order against Petitioner and is a legal custodian of Petitioner.

26. Respondent Todd M. Lyons is sued in his official capacity as nationwide Acting Director of Immigration and Customs Enforcement (ICE). ICE is the agency within DHS that is specifically responsible for managing all aspects of the immigration enforcement process, including immigration detention. ICE is responsible for apprehension, incarceration, and removal of noncitizens from the United States and as such Acting Director Lyons is a legal custodian of Petitioner.

27. Respondent Sylvester Ortega is sued in his official capacity as the Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Director Ortega is responsible for the enforcement of the immigration laws within this district, and for ensuring that ICE officials follow the agency's policies and procedures. Respondent Ortega is a legal custodian of Petitioner and has authority to release him.

28. Respondent Reynaldo Castro is the Warden of South Texas Detention Center, and he has immediate physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens and is a legal custodian of Petitioner. He is sued in his official capacity, as well as by any successors or assigns.

V. STATEMENT OF FACTS AND PROCEDURAL BACKGROUND

29. Petitioner, Mr. Singu, is a 25-year-old national and citizen of India.

30. Mr. Singu last entered the United States on September 20, 2024, at the Brownsville, TX Port of Entry. He presented himself to U.S. Border Patrol Officer while in possession of an F-1 Student Visa. Ultimately, Mr. Singu was denied entry with that visa and deemed inadmissible. Exhibit A. However, Mr. Pingu claimed his fear of returning to India. *Id.*

31. Mr. Pingu was not ordered removed under 8 U.S.C. § 1225(b)(1) by an immigration officer. *Id.*

32. Petitioner was detained to await a credible fear interview by a USCIS Asylum Officer who made a positive determination that he had a credible fear of returning to India. As a result, DHS issued a Notice to Appear on October 9, 2024 to initiate removal proceedings against Petitioner. Exhibit B.

33. On October 10, 2024, a DHS Supervisory Detention and Deportation Officer determined "[p]ursuant to the authority contained in [8 U.S.C. § 1226] and part 236 of title 8, Code of Federal Regulations" that Mr. Singu was to be released under other conditions. *See* Exhibit C.

34. On October 11, 2024, Mr. Singu was issued an "Interim Notice Authorizing Parole" indicating that Respondents had decided to parole Petitioner from custody pursuant to 8 U.S.C. § 1182(d)(5). Exhibit D. The parole was valid for one year. *Id.*

35. Petitioner was released from custody to reside in Denton, TX and scheduled for an ICE check-in on October 29, 2024. Petitioner appeared at that appointment without incident and was given a new report date of October 29, 2025. Exhibit F.

36. To date, Petitioner's Notice to Appear has not been filed with EOIR to commence proceedings and vest jurisdiction. *See* 8 C.F.R. § 1003.14(a).

37. Mr. Pingu filed an asylum application with USCIS to comply with 8 U.S.C. § 1158(a)(2)(B). *See also* 8 C.F.R. § 1208.2(a)-(b)

38. Mr. Singu reported to the scheduled appointment on October 29, 2025 and was detained by Respondents. He was then transferred to STIPC in Pearsall, TX in the custody of Respondents.

39. ICE has held Petitioner without bond. Section 236 of the INA is codified at 8 U.S.C. § 1226 and noncitizens held under its authority have a right to have their custody determination reviewed by an Immigration Judge.

40. According to the NTA, Petitioner's initial removal hearing is scheduled for July 9, 2026, at the Immigration Court in Dallas, TX. Exhibit B.

41. Petitioner has resided in the Dallas, TX area for the past year. He has applied for asylum and obtained a work permit that allows him to lawfully work in the United States. *See* Exhibit E ; Exhibit G – Employment Authorization Document.

VI. LEGAL FRAMEWORK

A. Due Process Clause

42. "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).

43. Due Process requires that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. A noncitizen may only be detained based on these two justifications if they are otherwise statutorily eligible for bond. *Zadvydas*, 533 U.S. at 690.

44. "The fundamental requirement of due process is the opportunity be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). To determine what process Petitioner is due, this Court should consider (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

B. Immigration and Nationality Act

45. Title 8 of the United States Code, which codifies the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*, sets forth the Government's authority to detain aliens during their removal proceedings.

46. The INA authorizes detention for aliens under four distinct provisions:

a. **Discretionary Detention, 8 U.S.C. § 1226(a)** generally allows for the detention of aliens already present in the United States who are in regular, non-expedited removal proceedings; however, permits aliens who are not subject to mandatory detention to be released on bond or on their own recognizance. Its implementing regulations affords noncitizens procedural protections such as a bond redetermination hearing before an IJ and the right to appeal the custody determination. *See* 8 C.F.R. §§ 1236.1(d); 1003.19.

b. **Mandatory Detention of "Criminal" Aliens, 8 U.S.C. § 1226(c)** generally requires mandatory detention of aliens who are subject to removal because of certain criminal or terrorist-related activity after they have been released from criminal custody or incarceration.

c. **Mandatory Detention of "Applicants for Admission", 8 U.S.C. § 1225(b)** generally requires detention for certain noncitizens deemed "applicants for admission", such as aliens immediately arriving in the U.S. at a port of entry or other noncitizens who have recently arrived and are actively "seeking admission" after entering the United States unlawfully. An exception to detention applies allowing for parole under 8 U.S.C. § 1158(d)(5)(A).

d. Detention Following Completion of Removal Proceedings, 8 U.S.C. § 1231(a) generally requires the detention of certain noncitizens who are subject to a final order of removal during the 90-day period after the completion of removal proceedings and permits detention beyond that point for certain noncitizens. 8 U.S.C. § 1231(a)(2), (6).

47. This case concerns whether Petitioner is detained pursuant to 8 U.S.C. § 1225(b) or § 1226(a). Both provisions were enacted as part of the Illegal Immigration Reform and Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208, Div. C. §§ 203-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Earlier this year, section 1226 was recently amended by the Laken Riley Act, Pub. L. No 119-1, 139 Stat. 3 (2025).

48. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225(b) and that they were instead detained under § 1226(a) after an arrest warrant was issued by the Attorney General. *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*") (emphasis added).

49. Until recently, for nearly thirty years, the longstanding agency practice of ICE (an agency of DHS) and EOIR (an agency of DOJ) was to interpret § 1226(a) to apply to noncitizens who were already present in the United States and arrested in the interior of the United States irrespective of their manner of entry. If it was determined that the noncitizen was not a flight risk or danger to the community, a change in their custody status was granted and they were released from detention either by paying the requisite bond amount or on their own recognizance. 8 U.S.C. § 1226(a)(2). Certain noncitizens were deemed ineligible for release and mandatorily detained because of their criminal history pursuant to 8 U.S.C. § 1226(c).

50. On July 8, 2025, without warning, ICE (in coordination with DOJ) reversed course and adopted a policy that upended the well-established understanding of the statutory and regulatory framework and altered decades of practice. The new policy claims that all noncitizens that entered the U.S. without admission or inspection are "applicants for admission" and charged with removability under § 1182 are subject to mandatory detention pursuant to 8 U.S.C. § 1225(b). Under this new policy, only noncitizens who were admitted to the US and charged with deportability under 8 U.S.C. § 1227 are detained under § 1226(a) and therefore eligible for a custody determination (if not subject to mandatory detention under 8 U.S.C. § 1226(c)).

51. The new policy applies to all noncitizens regardless of historically relevant particularities to determine whether a noncitizen should be released or remain in custody, such as: the time, place or manner of entry, length of time in the U.S.;

whether they pose a flight risk or danger to the community; whether there are serious medical conditions that require ongoing care for the noncitizen or their family; their family ties in the United States whom require necessary care dependent on the noncitizen; and whether their continued detention is in the community's best interest. Significantly, the policy also applies to noncitizens previously arrested and were determined to be detained, released, or re-detained pursuant to § 1226(a).

52. On September 5, 2025, the BIA (an agency of DOJ) issued a published decision in *Matter of Yajure-Hurtado*, where it engaged in a statutory and regulatory interpretation of §1225 and § 1226, and held that IJs lacked jurisdiction to conduct bond requests for inadmissible noncitizens as they are subject to mandatory detention under the "plain language" of § 1225. *See* 29 I&N Dec. 216 (BIA 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281 (2018)). The BIA's holding tracks the arguments set forth by ICE in their recent policy change.

53. Numerous district courts, many in this Court's district, have held that Respondents' new policy violates the plain language of the INA and is unlawful. *See e.g.*, Hernandez-Fernandez v. Lyons, 5:25-CV-00773-JKP, 2025 U.S. Dist. Lexis 20675 (W.D. Tex. Oct. 21, 2025) (granting petition for writ of habeas corpus and collecting 12 cases); Vieira v. Anda-Ybarra, No. EP-25-CV-00432-DB, 2025 WL 2937880, 2025 U.S. Dist. LEXIS 203930 (W.D. Tex. Oct. 16, 2025) (granting petition for writ of habeas corpus); Buenrostro-Mendez v. Bondi, Case No. H-25-3726, 2025 WL 2886346, at *2 (S.D. Tex. Oct. 7, 2025); Ortiz-Ortiz v. Bondi, No. 5:25-CV-132,

slip op. at *4 n.1 (S.D. Tex. Oct. 15, 2025); Rodriguez v. Bostock, No. 3:25-cv-5240, 2025 WL 2782499, at *1 & n.3 (W.D. Wash. Sep. 30, 2025) (collecting cases and noting that "[e]very district court to address" the statutory question "has concluded that the government's position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice").

54. Similarly, numerous district courts have refused to find persuasive or give the BIA's statutory interpretation of § 1225 and §1226 deference in *Matter of Yajure-Hurtado* as statutory interpretation is in the province of the federal courts, not agencies. *See e.g.*, Buenrostro-Mendez v. Bondi, Case No. H-25-3726, 2025 WL 2886346, at *6 (S.D. Tex. Oct. 7, 2025) (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) and collecting cases). Ortiz-Ortiz v. Bondi, No. 5:25-CV-132, slip op. at *4 n.1 (S.D. Tex. Oct. 15, 2025) (citing Salcedo Aceros v. Kaiser, No. 25-CV-6924, 2025 WL 2637503, at *12 (N.D. Cal. Sept. 12, 2025)).

55. This new interpretation is now advanced by the government after decades of consistent use to the contrary. The government's position contravenes the plain language of the INA and its regulations and has been consistently rejected by courts. See, e.g., *Martinez*, 2025 WL 2084238; *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025).

56. This new interpretation is inconsistent with the plain language of the INA. First, the government disregards a key phrase in § 1225. "[I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines

that an alien ***seeking admission*** is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a[.]" 8 U.S.C. § 1225(b)(2)(A) (emphasis added). In other words, mandatory detention applies when "the individual is: (1) an 'applicant for admission'; (2) 'seeking admission'; and (3) 'not clearly and beyond a doubt entitled to be admitted.'" *Martinez*, 2025 WL 2084238, at *2. The "seeking admission" language, "necessarily implies some sort of present tense action." Martinez, 2025 WL 2084238, at *6; see also Matter of MD-C-V-, 28 I. & N. Dec. 18, 23 (B.I.A. 2020) ("The use of the present progressive tense 'arriving,' rather than the past tense 'arrived,' implies some temporal or geographic limit . . . ."); U.S. v. Wilson, 503 U.S. 329, 333 (1992) ("Congress' use of verb tense is significant in construing statutes.")

57. In other words, the plain language of § 1225 applies to immigrants currently seeking admission into the United States at the nation's border or another point of entry. It does not apply to noncitizens "already present in the United States"—only § 1226 applies in those cases. *See Jennings*, 583 U.S. at 303.

58. Second, the government's interpretation would render newly enacted portions of the INA superfluous. "When Congress amends legislation, courts must presume it intends its amendment to have real and substantial effect." *Van Buren v. United States*, 593 U.S. 374, 393 (2021). Congress passed the Laken Riley Act (the "Act") in January 2025. The Act amended several provisions of the INA, including §§ 1225 and 1226. Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Relevant here, the Act added a new category of noncitizens subject to mandatory detention under §

1226(c)—those already present in the United States who have also been arrested, charged with, or convicted of certain crimes. 8 U.S.C. § 1226(c)(1)(E); 8 U.S.C. § 1182(a)(6)(A). Of course, under the government's position, these individuals are already subject to mandatory detention under § 1225—rendering the amendment redundant. Likewise, mandatory-detention exceptions under § 1226(c) are meaningful only if there is a default of discretionary detention—and there is, under § 1226(a). *See Rodriguez*, 2025 WL 1193850, at *12

59. Additionally, "[w]hen Congress adopts a new law against the backdrop of a longstanding administrative construction, the court generally presumes that the new provision works in harmony with what came before." *Monsalvo v. Bondi*, 604 U.S. ___, 145 S. Ct. 1232, 1242 (2025). Congress adopted the Act against the backdrop of decades of agency practice applying § 1226(a) to immigrants like Petitioner, who are present in the United States but have not been admitted or paroled. Rodriguez, 2025 WL 1193850, at *15; Martinez, 2025 WL 2084238, at *4; 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.").

60. Petitioner's habeas corpus case is ripe for review. Although Petitioner has not requested a bond hearing pursuant to 8 U.S.C. § 1226(a) and its corresponding regulations, that request would be futile since *Matter of Yajure-Hurtado* held that an IJ lacks jurisdiction to conduct a bond hearing in this matter, and any appeal would sustain the same fate making the bond request a foregone conclusion.

Exhaustion is not a statutory requirement for a writ of habeas corpus. *See* Buenrostro-Mendez v. Bondi, Case No. H-25-3726, 2025 WL 2886346, at *4 (S.D. Tex. Oct. 7, 2025) (citing *Lopez Benitez v. Francis,* 25 Civ. 5937, 2025 WL2371588, at *13 (S.D.N.Y. August 13, 2025)),

61. Moreover, delaying awaiting any appeal of the IJ's decision with the BIA would severely prejudice Petitioner. According to the agency's own data, during fiscal year 2024, the BIA's average processing time for a bond appeal was 204 days, approximately seven months. *See Vazquez v. Bostock*, 3:25-CV-05240-TMC (D. W.D. Wash. May 2, 2025). Meaning for an average case, such as Petitioner's, where bond would be denied in December 2025 it would not be heard until July 2026.

VII. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION
Violation of the Due Process Clase of the Fifth Amendment of the United States Constitution.

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

63. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty. His continued detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

64. The Due Process Clause of the Fifth Amendment to the U.S. Constitution provides that "[n]o person shall...be deprived of life, liberty, or property without due

process of law." As a noncitizen who has been in the United States for over 3 years, has applied for asylum and been granted employment authorization, Mr. Pingu is entitled to Due Process Clause protections against deprivation of liberty and property. *See Zadvydas*, 533 U.S. at 693 ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."). Any deprivation of this fundamental liberty interest must be accompanied not only by adequate procedural protections, but also by a "sufficiently strong special justification" to outweigh the significant deprivation of liberty. *Id.* at 690.

65. Respondents determined that Petitioner was to be released from custody pursuant to their detention authority under 8 U.S.C. § 1226 on October 10, 2024, as evidenced by the Form I-286 served on Petitioner on October 11, 2024. Exhibit C. By electing to release Petitioner under this authority, the Respondents fail to reserve its right to treat Petitioner "in the same manner as that of any other applicant for admission to the United States." *See* Lema v. FCI Berlin, Case No. 1:25-CV-386-JL, 2025 U.S. Dist. Lexis 216786, 2025 DNH 127 (D.N.H. Nov. 4, 2025 (quoting 8 U.S.C. § 1182(d)(5)(A)). "An agency must def. end its actions based on the reasons it gave when it acted." *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 24 (2020).

66. After that determination, Respondents also elected to parole Petitioner via an "Interim Notice Authorizing Parole" pursuant to its authority under 8 U.S.C. § 1158(d)(5)(A). Exhibit C. In granting Petitioner parole, DHS determined that he did

not present a security or flight risk. 8 U.S.C. § 212.5(b). That parole was authorized for one year and terminated on October 11, 2025. 8 C.F.R. § 212.5(e)(1).

67. Although Petitioner's parole terminated automatically after its expiration, the regulations provide if the "removal order cannot be executed within a reasonable time, the alien *shall again be released on parole*" unless "the public interest requires that the alien continue in custody". 8 C.F.R. § 212.5(e)(2). Upon the termination of parole, "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission". 8 U.S.C. § 1158(d)(5)(A). Here, that custody was that of 8 U.S.C. § 1226 according to the Form I-286 determination made one day prior. Exhibit C.

68. Assuming, *arguendo*, that Petitioner's initial detention and subsequent release was not pursuant to 8 U.S.C. § 1226 but by way of § 1158(d)(5)(A), Petitioner's current detention is "unlawful from its inception because ICE detained [him] under the wrong statute [§ 1225(b)] and without any notice or opportunity to be heard, much less the procedures required under Section 1226(a)". Rodriguez-Acurio v. Almodovar, Case No. 25-CV-06065-NJC, 2025 WL 3314420, Slip Op. at *66. (E.D.N.Y. Nov. 28, 2025) (finding that DHS violated petitioner's procedural due process rights, ordering release to "remedy the core constitutional violation at issue here" since a bond hearing would be futile, and enjoining future detention pursuant to 1225(b)); *see also* Campell v. Almodovar, Case No. 1:25-CV-09509-JLR, 2025 WL 3538351 (S.D.N.Y. Dec. 10, 2025) (granting release to an arriving alien who was

paroled into the U.S., his initial NTA was never filed by DHS, and was re-detained at an ICE check-in despite filing for asylum and obtaining a work permit).

69. "[T]he liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a 'grievous loss' on the parolee," therefore it "must be seen as within the protection of the [Due Process Clause]." *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). "[T]he parole of[noncitizens] seeking admission is simply a device through which needless confinement is avoided while administrative proceedings are conducted." *Sesay v. I.N.S.*, 74 Fed. App'x 84, 87 (2d Cir. 2003) (emphasis added) (quoting Leng May Ma v. Barber, 357 U.S. 185, 190 (1958)). Here, for over one year, the removal proceedings against Petitioner during his parole were not being conducted as Respondents never even commenced the proceedings by filing the NTA with EOIR. *See id.* (citing *Ozturk v. Hyde*, 136 F.4th 382, 397-98 (2d Cir. 2025)). The instant detention is not a continuation of the initial border encounter after the termination of the parole and will likely require a new Notice to Appear to be issued based on Respondents' own policies. *See id.; see also e.g.,* EOIR Policy Memo: Updated Guidance for Receipt of Notices to Appear Filed by the Department of Homeland Security PM 24-01, (Aug 22, 2024), *available at* https://www.justice.gov/eoir/media/1364931/dl?inline (last accessed Dec. 19, 2025). This re-detention is at its core "needless confinement" given that Respondents have not yet commenced Petitioner's administrative removal proceedings, despite his

own undertaking to pursue lawful status and administrative proceedings by applying for asylum with USCIS.

70. This Respondent's new policy, along with the BIA's decision in *Yajure-Hurtado* violates the procedural due process rights of noncitizen detainees, both facially and as applied. It lacks any reference to or establishment of any procedure for challenging its invocation. The Court should find that there can be no possible application of this policy that would satisfy due process where it purports to authorize the most severe and recognized deprivation of liberty without a hint of a process to challenge such deprivation. In contrast, as the Supreme Court in *Demore* highlighted in upholding the mandatory detention of a noncitizen convicted of a crime under § 1226(c), "process" has been built into that mandatory detention scheme. For example, § 1226(c) applies to detainees whose convictions were generally "obtained following the full procedural protections [the] criminal justice system offers." *Demore v. Kim*, 538 U.S. 510, 513 (2003); id. at 525 n.9, (noting that "respondent became 'deportable' under § 1226(c) only following criminal convictions that were secured following full procedural protections"). And if mandatory detention becomes unnecessarily prolonged in that context, the due process' prohibition of arbitrary government detention could entitle a detainee "to an individualized determination as to his risk of flight and dangerousness if the continued detention became unreasonable or unjustified." Id. at 532 (Kennedy, J., concurring). Detention pursuant to the automatic stay after the government already

failed to establish a justification for it, with no process afforded to challenge the detention as arbitrary, is facially violative of procedural due process.

71. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. U.S. Const. Amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). "Government detention violates the Due Process Clause unless it is ordered in a criminal proceeding with adequate procedural safeguards, or in certain special and non-punitive circumstances 'where a special justification ... outweighs the individual's constitutionally protected interest in avoiding physical restraint.' " *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1076 (N.D. Cal. 2004) (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).

72. Here, the DHS, affirmed by the BIA, has determined, improperly, that all persons present in the U.S. who are present without admission are ineligible for bond. It is thus a foregone conclusion that the BIA would affirm the IJ's decision denying jurisdiction and find Petitioner ineligible for bond. Like the accused in criminal cases, habeas is proper. See *Moore v. Dempsey*, 261 U.S. 86 (1923); *Johnson v. Zerbst*, 304 U.S. 458 (1938); *Burns v. Wilson*, 346 U.S. 137, 154 (1953).

SECOND CAUSE OF ACTION
Violation of the Immigration and Nationality Act

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

74. Petitioner was detained and released pursuant to authority contained in section 236 of the INA; section 236 is codified at 8 U.S.C. § 1226. Despite this, an IJ, the BIA, and the DHS will now find that he is detained subject to 8 U.S.C. § 1225(b).

75. Petitioner can no longer be subject to § 1225(b)(1)(A)(i) based on the plain reading of the statute as he is not "arriving in the United States" more than a year later, even though he was initially detained as such. *See* Rodriguez-Acurio v. Almodovar, Case No. 25-CV-06065-NJC, 2025 WL 3314420, Slip Op. at *41-46 (E.D.N.Y. Nov. 28, 2025) (declining to follow the *Chevron* deference given by *Ibragimov v. Gonzales,* 476 F.3d 125, 135-37 (2d Cir 2007), decided prior to *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024)). The court instead conducted its own statutory analysis ultimately finding the term "'arriving alien' is one who is in the process of reaching the United States" and could not be applied to *Rodriguez-Acurio* detained four years later after residing in the U.S. *Id.* at *44-45 (citations omitted); *see also id.* at * 45 & n.14 ("[I[f apprehended at some point thereafter, they are not 'arriving', but rather 'aliens present in the United States who [have] not been admitted" (citing 8 U.S.C. § 1225(a)(1))). Furthermore, despite that a parolee is not deemed to have been admitted into the United States, they have still "arrived" in the United States. *Id.* at 45-46 (citing *Ibragimov*, 427 F.3d at 134).[2]

76. Petitioner is not subject to § 1225(b)(1)(A)(iii) as he is not eligible for expedited removal based on a plain reading of the statute. Under this subsection, expedited

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[2] Prior to *Loper-Bright,* the Fifth Circuit cited *Ibragimov v. Gonzales* by as good law in *Duarte v. Mayorkas.* 27 F.4th 1044, 1057-58 (5th Cir. 2022)

removal is proper for "any alien ... *who has not been admitted or paroled into the United States*" and cannot affirmative show he has been present for 2 years. *Id.* Whether or not the parole is current or has ended does not matter based on the meaning of "has not been ... paroled". *See* Rodriguez-Acurio v. Almodovar, Case No. 25-CV-06065-NJC, 2025 WL 3314420, Slip Op. at *29-41. (E.D.N.Y. Nov. 28, 2025) (engaging in a thorough statutory interpretation of § 1225(b)(1)(A)(iii) and finding that parole from the border into the interior U.S. moves an alien out of expedited removal).

77. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. Mandatory detention does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

78. Respondents have wrongfully adopted a policy and practice of arguing all noncitizens, such as Petitioner, are subject to mandatory detention under § 1225(b)(2).

79. The unlawful application of § 1225(b) to Petitioner violates the INA.

THIRD CAUSE OF ACTION
Injunctive Relief

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

81. This Court has the discretion to enter a temporary restraining order and a preliminary injunction. *See Haitian Refugee Center v. Nelson*, 872 F.2d 1555, 1561-1562 (11th Cir. 1989). "To be entitled to a preliminary injunction, the applicants must show (1) a substantial likelihood that they will prevail on the merits, (2) a substantial threat that they will suffer irreparable injury if the injunction is not granted, (3) their substantial injury outweighs the threatened harm to the party whom they seek to enjoin, and (4) granting the preliminary injunction will not disserve the public interest." *Tex. Med. Providers Performing Abortion Servs. v. Lakey*, 667 F.3d 570, 574 (5th Cir. 2012). All four elements must be demonstrated to obtain injunctive relief. *Id.*

VIII. RELIEF SOUGHT

Wherefore, Petitioner respectfully requests that this Honorable Court:

1) Assume jurisdiction over this matter;

2) Grant the writ of habeas corpus ordering Respondents to release Petitioner.

3) Declare that Respondents' new mandatory detention policy that all noncitizens that entered the U.S. without admission or inspection are "applicants for admission" and charged with removability under § 1182 are subject to mandatory detention pursuant to 8 U.S.C. § 1225(b) is unlawful and in violation of the INA;

4) Issue an order directing Respondents to show cause why the writ should not be granted within seventy-two hours;

5) Order Respondents to file with the Court a complete copy of the administrative file from the Dept. of Justice and the Dept. of Homeland Security;

6) Enjoin ICE from transferring Petitioner outside of the Western District of Texas while this matter is pending;

7) Grant any other relief that this Court deems just and proper.

Respectfully submitted this 19th day of December 2025 by:

/s/ Eric M. Bernal
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Praveen Singu, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 19th day of December 2025.

/s/ Eric M. Bernal
Eric M. Bernal, Esq.