UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ABDUL RAHMAN IBRAHIM, Petitioner, v. LUIS SOTO, WARDEN, Delaney Hall Detention Center JONATHAN FLORENTINO, Acting Newark Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement (ICE) TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement (ICE); KRISTI NOEM, in her Official Capacity, Secretary of the U.S. Department of Homeland Security; Respondents.	Case No. **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** **EXPEDITED REQUEST**

INTRODUCTION

1. This case concerns the unlawful arrest and detention of Petitioner, Abdul Ibrahim ("Mr. Ibrahim"), whom the government has detained pursuant to 8 U.S.C. § 1225(b), due to their recent reinterpretation of who can be considered an "arriving alien."
2. Mr. Ibrahim has complied with DHS's every request, demand, and requirement for his process. He filed a Form I-589, Application for Asylum.
3. The typical removal proceedings for noncitizens like Mr. Ibrahim , who has been continuously living in this country for over three years, are commonly referred to as Section

240 proceedings and governed by 8 U.S.C. § 1229(a)—where non-citizens are afforded procedural rights, including the right to seek bond.

4. Nonetheless, in November 2025, Mr. Ibrahim was arrested by ICE in the interior of the United States.

5. Mr. Ibrahim is now detained at Delaney Hall Detention Center under ICE-Newark's authority. He seeks a writ of habeas corpus because his detention is unlawful and because he is being denied the individualized custody determination Congress and the regulations provide for people in his posture—individuals in ongoing Section 240 proceedings with a merits hearing scheduled—rather than "arriving" individuals at the threshold of entry.

6. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for writ of habeas corpus, prevent his transfer outside of this district, and order his release from custody or, at a minimum, order that he receive an individualized custody redetermination where DHS holds the burden to prove he is a danger or flight risk.

JURISDICTION

7. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq.

8. 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., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

9. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless Petitioner is not entitled to relief. *See* 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*
11. Petitioner is "in custody" for the purpose of § 2241 because he was arrested and remains detained by Respondents.

VENUE

12. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because a substantial part of the events or omissions giving rise to the claim occurred in the District of New Jersey. Petitioner is under the jurisdiction of ICE's Newark Field Office, and he is currently detained in New Jersey. See Ex. A.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. Under the INA, exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal." *Garza-Garcia v. Moore,* 539 F. Supp.2d 899, 904 (S.D. Tex. 2007); *see* 8 U.S.C. § 1252(d)(1)("A court may review a final order of removal only if…the [noncitizen] has exhausted all administrative remedies."). In cases like this, where the exhaustion requirement is not mandated by statute, exhaustion can be forgiven by the Court.
14. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999). The BIA's recent decision holding that anyone who has entered the U.S. without inspection is now considered an "applicant for admission" who is "seeking admission" and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Zaragoza Mosqueda v.*

Noem, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA's decision in *Yajure Hurtado* renders exhaustion futile).

15. Additionally, the agency does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v Amer.-Arab Anti-Discrim. Comm*., 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims).

16. Further, the Third Circuit excuses exhaustion where "administrative remedies would be futile, if the actions of the agency clearly and unambiguously violate statutory or constitutional rights, or if the administrative procedure is clearly shown to be inadequate to prevent irreparable injury." *Lyons v. U.S. Marshals*, 840 F.2d 202, 205 (3d Cir. 1988) (citation omitted); *see also Woodall v. Fed. Bureau of Prisons*, No. 05-1542, 2005 WL 1705777, at *5-6 (D.N.J. July 20, 2005), aff'd, 432 F.3d 235 (3d Cir. 2005) (excusing administrative exhaustion in case brought pursuant to 28 U.S.C. § 2241).

PARTIES

17. Petitioner Abdul Ibrahim is a 33 -year-old native and citizen of Ghana. He has been in ICE custody since his detention on in November 2025, and is currently detained within ICE-Newark's area of responsibility in New Jersey, at Delaney Hall Detention Facility.

18. Respondent Luis Soto is named in his official capacity as the Warden of the Delaney Hall Detention Facility. He is the legal custodian of the Petitioner.

19. Respondent Jonathan Florentino is named in his official capacity as the Acting Director of the Newark, NJ, Field Office of Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE). Respondent Florentino is a legal custodian of the Petitioner and has the authority to release him.

20. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of New Jersey, is legally responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the Petitioner. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

21. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the District of New Jersey; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. At all times relevant hereto, Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

LEGAL BACKGROUND

22. Section 2241 of 28 United States Code provides in relevant part that "[w]rits of habeas corpus may be granted by . . . the district courts within their respective jurisdictions" when a petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(a), (c)(3); *see also I.N.S. v. St. Cyr*, 533 U.S. 289, 305, 121 S. Ct. 2271 (2001).

23. District courts grant writs of habeas corpus to those who demonstrate their custody violates the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).

24. Habeas corpus "entitles [a] prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to 'the erroneous application or interpretation' of relevant law."

Boumediene v. Bush, 553 U.S. 723, 779, 128 S. Ct. 2229 (2008) (*quoting*, *St. Cyr*, 533 U.S. at 302.

25. The Fifth Amendment's Due Process Clause protects the right of all persons to be free from "depriv[ation] of life, liberty, or property, without due process of law." U.S. Const. amend. V

26. "It is well established that the Fifth Amendment entitles aliens to due process of law[.]" *Trump v. J. G. G.*, 604 U.S. ---, 145 S. Ct. 1003, 1006 (2025) (*quoting Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993)).

27. "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*, 533 U.S. at 690.

28. The INA prescribes three basic mechanisms for detention for non-citizens: 8 U.S.C. § 1225, for arriving aliens and applicants for admission; § 1226, the default detention statute; and § 1231 for post–final order detention.

29. 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, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

30. Following the enactment of the IIRIRA, the U.S. Department of Justice's Executive Office of 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 (referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

31. Thus, the INA distinguishes between non-citizens seeking entry into the United States and those "already in the country." *See Jennings v. Rodriguez,* 583 U.S. 281, 289 (2018). In the decades that followed, most people who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge ("IJ"), unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

32. Section 1225(b)(1) provides for mandatory detention of non-citizens subject to its provisions—that is, a non-citizen "arriving in the United States" who seeks to apply for admission. Applicants who indicate a fear of persecution if returned to their country of origin "shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." § 1225(b)(1)(B)(iii)(IV). Applicants who do demonstrate a credible fear "shall be detained for further consideration of the application for asylum." § 1225(b)(1)(B)(ii). Detention is "mandate[d] . . . throughout the completion of applicable proceedings and not just until the moment those proceedings begin." *Jennings*, 583 U.S. at 302. Under the statute, applicants are not entitled to a bond hearing. *See id*. at 301.

33. There are limited exceptions to mandatory detention under § 1225. *Jennings*, 583 U.S. at 301. Applicants detained under § 1225 may be paroled into the country "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." *See* 8 U.S.C.§ 1182(d)(5)(A). That "authority is not unbounded," and "under the APA, DHS's exercise of discretion within that statutory framework must be reasonable and reasonably explained." *Biden v. Texas*, 597 U.S. 785, 806-07 (2022).

34. Parole under § 1182(d)(5)(A) does not affect an alien's statutory or constitutional rights, as it "shall not be regarded as an admission of the alien." § 1182(d)(5)(A). Such parole "employs a legal fiction whereby non-citizens are physically permitted to enter the country but are nonetheless 'treated,' for legal purposes, as if stopped at the border.'" *Martinez v. Hyde*, 2025 WL 2084238, at *3 (D. Mass. July 24, 2025) (quoting *Thuraissigiam*, 591 U.S. at 139).

35. In contrast, § 1226(a) governs the detention of non-citizens "already present in the United States." *Jennings*, 583 U.S. at 303. It includes non-citizens who have never been legally admitted. *See id*. at 287 (explaining that § 1226(a) governs "aliens who were inadmissible at the time of entry." (citing 8 U.S.C. § 1227(a)). Under that provision, the Attorney General has the discretion to arrest and detain a non-citizen "[o]n a warrant . . . pending a decision on whether the alien is to be removed." § 1226(a). The detainee may be released on bond or conditional parole, § 1226(a)(2), except if certain enumerated categories (not applicable here) apply, § 1226(c). Federal regulation further requires that § 1226(a) detainees "receive bond hearings at the outset of detention." Jennings, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).

36. On July 8, 2025, however, DHS stated a new position with regard to custody determinations as follows:

> An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). **Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole**. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated. **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**
>
> Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286. *See* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-forapplications-for-admission (emphasis original).

37. As a result, according to DHS, all noncitizens who have entered the United States, including those who were issued humanitarian and conditional parole, are subject to the grounds of inadmissibility, including long-time U.S. residents, and are now considered to be subject to mandatory detention under INA § 235(b) and ineligible for release on bond. Conversely, according to DHS, "[only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c)." *Id.*

38. Prior to July 8, 2025, the predominant form of detention authority for anyone arrested in the interior of the United States was 8 U.S.C. § 1226(a). Further, the Petitioner in this case was initially arrested and released pursuant to a humanitarian parole.

39. Under § 1226(a) the Attorney General may release a detainee on bond on the authority of ICE or by an Immigration Judge. There are standards for release: bond is available if the detainee "demonstrate[s] . . . that such release would not pose a danger to property or persons, and that [he] is likely to appear for any future proceeding." 8 C.F.R. § 36.1(c)(8). "[T]he immigration judge is authorized to exercise the authority . . . to detain the alien in custody, release the alien, and determine the amount of bond." Id. § 236.1(d)(1). If denied release at the initial bond hearing, a § 1226(a) detainee may request a custody redetermination hearing before an IJ. That request will "be considered only upon a showing that the alien's circumstances have changed materially." *Id*. § 1003.19(e).

40. Furthermore, § 1225(b)(2) specifically applies only to those "seeking admission," and the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are "coming or attempting to come into the United States." The use of the present progressive tense would exclude noncitizens like Petitioner who are apprehended in the interior years after they entered, as they are no longer "seeking admission" or "coming […] into the United States." *See Zumba v. Bondi, No. 25-14626, 2025 WL 2753496, at *4 (D.N.J. Sept. 26, 2025*(describing Respondents' change in statutory interpretation)*; See Martinez v. Hyde, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025)* (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior)*; see also Al Otro Lado v. McAleenan, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019*) (construing "is arriving" in INA § 235(b)(1)(A)(i) and observing that "[t]he use of the present progressive, like use of the present participle, denotes an ongoing process").

STATEMENT OF THE FACTS

41. Mr. Ibrahim is a 33-year-old native and citizen of Ghana. He entered the United States on or about July 7, 2022.

42. On September 6, 2022, DHS exercised its discretionary authority to grant him parole pursuant to INA § 212(d)(5). See Ex. B, Notice of Parole.

43. DHS subsequently issued Mr. Ibrahim a call-in letter for July 26, 2022, and he complied with all requirements of the Intensive Supervision Appearance Program (ISAP). See Ex. C.

44. Mr. Ibrahim filed an application for asylum and received a **r**eceipt notice dated January 30, 2023. See Ex. D.

45. In connection with his asylum application, USCIS issued Mr. Ibrahim a biometrics notice, and he appeared as required on February 25, 2025. See Ex. E.

46. Mr. Ibrahim has two stepchildren residing in the United States.

47. Petitioner was detained in November 2025, in the interior of the United States.

48. Mr. Ibrahim was thereafter detained, and DHS issued him a Notice to Appear dated November 23, 2025, charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C. § 1182(a)(6)(C)(i).

49. Mr. Ibrahim is now detained at Delaney Hall Detention Center without an individualized custody determination under 8 U.S.C. § 1226(a). Without relief from this Court, he faces continued detention and the deprivation of the process ordinarily available to individuals in pending removal proceedings under 8 U.S.C. § 1229a.

FIRST CLAIM FOR RELIEF

Violation Of 8 U.S.C. § 1226(a)
Unlawful Denial Of Release On Bond

50. Petitioner restates and realleges all paragraphs as if fully set forth here.

51. Petitioner entered the United States on or about July 7, 2022 and has been continuously physically present in the United States since his entry. DHS has treated Petitioner's case as a standard removal case under 8 U.S.C. § 1229a, not as an expedited removal matter under 8 U.S.C. § 1225, including by issuing Petitioner a Notice to Appear charging him as present without admission or parole under 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C. § 1182(a)(6)(C)(i).

52. Because DHS previously placed Petitioner in 240 proceedings, the default detention authority must proceed under 8 U.S.C. § 1226.

53. Petitioner's continuing detention is therefore unlawful.

SECOND COUNT FOR RELIEF
Continued Re-Detention Constitutes A Violation Of Due Process

54. Petitioner incorporates all factual allegations as though restated here.

55. ICE arrested and continues to detain Abdul Ibrahim without a lawful basis and in violation of his constitutional rights under the Fifth Amendment.

56. ICE arrested and continues to detain Petitioner without a lawful basis and in violation of his constitutional rights under the Fifth Amendment.

57. "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 [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690.

58. Mr. Ibrahim 's detention violates his Fifth Amendment rights for at least three related reasons.

59. First, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (*citing Zadvydas*, 533 U.S. at 690).

60. Whereas here, the government has ordered humanitarian parole to apply for asylum, in which the Petitioner did, detention is not reasonably related to its purpose.

61. Second, the Due Process Clause requires that any deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest"); *Demore*, 538 U.S. at 528 (applying less rigorous standard for "deportable aliens").

62. Mr. Ibrahim 's continued detention is not narrowly tailored. He has no criminal convictions, complied with immigration proceedings for years, maintained family and community ties, and was arrested in the interior of the United States while going about his daily life. Detention under these circumstances is excessive and unnecessary to serve the government's interests in ensuring appearance or protecting the community.

63. Third, "the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention." *Zadvydas*, 533 U.S. at 718 (2001) (Kennedy, J., dissenting).

64. Mr. Ibrahim 's detention is arbitrary because DHS previously chose to pursue his case through ordinary removal proceedings, allowed him to remain in the community for years while his case was pending, and then abruptly reversed course by arresting him without any individualized custody determination or showing of flight risk or danger.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this 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 seventy-two hours;

C. Declare that his detention is unlawful;

D. Issue a Writ of Habeas Corpus ordering Respondents to release him from custody or provide him with a bond hearing where the Government holds the burden pursuant to 8 U.S.C. § 1226(a) within seven days;

E. Issue an Order preventing Respondents from removing Petitioner outside of the district of New Jersey and outside the United States without notice and an opportunity to be heard;

F. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

G. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

H. Grant any further relief this Court deems just and proper.

Dated: December 22, 2025

Respectfully Submitted,

/s/ Veronica Cardenas

VERONICA CARDENAS
New Jersey State Bar No. 02205-2010
Cardenas Immigration Law
Veronica Cardenas, Esq.
2 Arnot St.,
Ste 6, Unit 122
Lodi, NJ 07644
Telephone: 201.470.4549
E: veronica.cardenas@cardenasimmigrationlaw.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I, Veronica Cardenas, hereby certify that on this 22nd day of December 2025, a copy of the foregoing was served on counsel for Respondents via CM/ECF email notification

s/Veronica Cardenas

Veronica Cardenas, Esq.