UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

STEVEN IVAN TAGLE SANCHEZ, Petitioner, v. Luis Soto, In His Official Capacity as Warden of Delaney Hall Detention Facility; 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 BRIEFING REQUESTED**

INTRODUCTION

1. This case concerns the illegal arrest and the illegal subsequent detention of Petitioner, Steven Ivan Tagle Sanchez ("Mr. Tagle Sanchez"), a 32 year-old asylum seeker who fled Peru and entered the United States on or about September 22, 2022. DHS subsequently paroled Mr. Tagle Sanchez into the United States pursuant to INA § 212(d)(5), and since that time he has complied with every requirement imposed by the government. Mr. Tagle Sanchez followed the prescribed process for individuals seeking asylum in removal proceedings, timely filed his asylum application, and was granted employment authorization.

2. Mr. Tagle Sanchez's arrest and detention are wholly unjustified and untethered to any individualized assessment of his circumstances. After his entry, DHS exercised its discretion to parole him into the United States and later again exercised discretion to release him on his own recognizance after assessing danger and flight risk. Mr. Tagle Sanchez has a pending asylum case in immigration court, with a merits hearing scheduled, and he has remained compliant with all conditions of release. Nonetheless, in December 2025, he was re-arrested at a routine ICE check-in and placed back into detention without any showing of changed circumstances or lawful justification.
3. Mr. Tagle Sanchez respectfully asks this Court to hold that his arrest was unlawful, to declare that his continued detention is unlawful, and to order his immediate release from custody. Petitioner further requests that this Court order Respondents not to transfer him outside of this District for the duration of these proceedings, so as to preserve the Court's jurisdiction and Petitioner's access to counsel.
4. Each day that Mr. Tagle Sanchez remains in detention subjects him to ongoing and irreparable harm**.** Immediate relief is necessary to prevent further violations of his substantive and procedural due process rights and to ensure that he is not unlawfully deprived of his liberty while this case is pending.

JURISDICTION & VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 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*.
6. Venue is proper because the Petitioner is detained at Delaney Hall Detention Facility, 451

Doremus Avenue, Newark, NJ 07105 where she remains detained. *See* Exh. A. ICE Detainee Locator; *See also generally Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004) (generally, "[w]henever a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States," he must file the petition in the district of confinement and name his immediate custodian as the respondent).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

7. 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).

8. It would be futile for Petitioner to seek a custody redetermination hearing before an Immigration Judge ("IJ") because of the Board of Immigration Appeals ("BIA") 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).

9. Additionally, the agency does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of her due process rights, and it would therefore be futile for her 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).

PARTIES

10. Petitioner Steven Ivan Tagle Sanchez is a 32-year-old native and citizen of Peru. Prior to his arrest and detention, Petitioner resided with his sister at 7 Leffert Street, Carteret, New

Jersey. Petitioner has been in ICE custody since December 2025 and is currently detained at the Delaney Hall Detention Facility, 451 Doremus Avenue, Newark, New Jersey 07105.

11. Respondent Luis Soto is sued in his official capacity as Warden of the Delaney Hall Facility, located at 451 Doremus Ave., Newark, NJ 07105. In his official capacity, Luis Soto is the Petitioner's immediate custodian.

12. 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.

13. 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.

14. 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

A. Due Process Principles

15. 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).

16. 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).

17. 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).

18. 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.

19. "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)).

20. "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.

B. Legal Framework of Removal Proceedings

21. Section 240 removal proceedings provide non-citizens with an opportunity to be heard in full immigration court hearings before an Immigration Judge. 8 U.S.C. § 1229a sets out

the procedures and rights afforded to non-citizens in Section 240 removal proceedings. These include: "the privilege of being represented . . . by counsel of the alien's choosing who is authorized to practice in such proceedings" 8 U.S.C. § 1229a(4)(A) and "a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government." 8 U.S.C. § 1229a(4)(B).

22. Decisions made by "Immigration Judges may be appealed to the Board of Immigration Appeals." 8 C.F.R. § 1003.38(a). Final orders of removal may be appealed to the Federal Court of Appeals for the judicial circuit in which the respective Section 240 proceedings terminate. See 8 U.S.C. § 1252.

23. The statutorily guaranteed procedures and rights in Section 240 proceedings are significantly more expansive than those available to non-citizens designated for expedited removal under 8 U.S.C. § 1225.

24. Traditionally, non-arriving noncitizens living in the United States were only subject to removal proceedings under 8 U.S.C. § 1229a, not the fast-track expedited removal process under § 1225.

25. Unlike Section 240 proceedings, expedited removal is a process that begins—and often concludes—outside of immigration court. Non-citizens subjected to expedited removal are ordered removed by an immigration officer "without further hearing or review." 8 U.S.C. § 1225(b)(1)(A)(i).

26. The lone exception to this rule is that if a non-citizen indicates an intention to apply for asylum or a fear of persecution, the officer "shall refer the alien for an interview by an asylum officer" to conduct a credible fear interview. 8 U.S.C § 1225(b)(1)(A)(i)-(ii).

27. If the asylum officer determines that a noncitizen does not have a credible fear of

persecution, the officer shall order the noncitizen removed from the United States "without further hearing or review." 8 U.S.C. § 1225(b)(1)(B)(iii)(I). Upon a non-citizen's request, an immigration judge shall expeditiously review a determination "that the alien does not have a credible fear of persecution." 8 U.S.C. § 1225(b)(1)(B)(iii)(III).

28. If the asylum officer determines that a noncitizen does have a credible fear of persecution, the officer shall rescind the expedited removal order and refer the case for full consideration of asylum and related protection in § 240 removal proceedings. 8 U.S.C. § 1225(b)(1)(B)(ii); *see also* 8 C.F.R. §§ 208.30(f), 235.3(b)(4)(ii).

C. Detention Authority

29. The INA prescribes three basic mechanisms for detention of noncitizens: 8 U.S.C. § 1225, which governs arriving aliens and applicants for admission; 8 U.S.C. § 1226, the default detention statute; and 8 U.S.C. § 1231, which governs post–final order detention.

30. Section 1226 governs the detention of noncitizens "already in the country pending the outcome of removal proceedings." Jennings v. Rodriguez, 583 U.S. 281, 289 (2018) (emphasis added); see also id. at 288, (explaining that, "once inside the United States . . . an alien present in the country may still be removed" under "Section 1226" (emphasis added)). Section 1226 distinguishes between "two different categories" of detention under the statute. Id. at 288.

31. The first category is "a discretionary detention framework" established by Section 1226(a). Lopez Benitez v. Francis, No. 25-cv-5937, 2025 WL 2371588, at *3 (S.D.N.Y. Aug. 13, 2025). Section 1226(a) provides that, for a noncitizen who is "arrested and detained" "[o]n a warrant issued by the Attorney General," the Attorney General: (1) "may continue to detain" the arrested noncitizen; (2) "may release" the noncitizen on "bond"; or (3) "may release" the noncitizen on "conditional parole." 8 U.S.C. §

1226(a)(1)–(2).

32. The second category is a mandatory detention framework established by Section 1226(c), which "carves out a statutory category of [noncitizens] who may not be released" on bond or conditional parole pending the conclusion of removal proceedings. Jennings, 583 U.S. at 289 (emphasis in original). Specifically, Section 1226(c) provides that the "Attorney General shall take into custody any alien" who falls into one of five enumerated categories involving criminal offenses and terrorist activities. 8 U.S.C. § 1226(c)(1).

33. If a noncitizen passes a credible fear interview, DHS must permit the individual to apply for asylum through § 240 removal proceedings. See 8 U.S.C. § 1225(b)(1)(B); 8 C.F.R. § 208.30(f).

34. 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).

35. 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 (formerly referred to as aliens who entered

without inspection) will be eligible for bond and bond redetermination").

36. 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).

37. 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)).

38. 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.

39. Section 1225(b)(1) applies to noncitizens arriving in the United States or at a port of entry, who may be placed into expedited removal proceedings if DHS determines that

they are inadmissible under INA §§ 212(a)(6)(C) or 212(a)(7), have not been admitted or paroled, and cannot show continuous physical presence in the United States for two years. See 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

40. DHS's authority to parole individuals detained under 8 U.S.C. § 1225(b)(1) is preserved by the general parole statute at 8 U.S.C. § 1182(d)(5)(A). Even though § 1225(b)(1)(B)(ii) states that individuals who have been found to have a credible fear of persecution "shall be detained for further consideration of the application for asylum," Congress did not repeal or displace DHS's long-standing discretionary authority to "parole into the United States temporarily under such conditions as [it] may prescribe on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). The implementing regulations likewise recognize that noncitizens "who are arriving aliens or certain other aliens described in section 235(b)(1) of the Act" may be considered for parole on a case-by-case basis under these standards. See 8 C.F.R. § 212.5(b), (c). Thus, even for individuals subject to § 1225(b)(1), DHS retains—and routinely exercises—parole authority where urgent humanitarian concerns or significant public benefit justify release, and nothing in Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019), eliminates or restricts that statutory parole power.

D. Re-arrest

41. To protect against arbitrary re-detention and to ensure the right to liberty, due process requires "adequate procedural protections" that test whether the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified).

42. Due process thus guarantees notice and an individualized hearing before a neutral

decisionmaker to assess danger or flight risk before the revocation of an individual's release. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) ("The fundamental requisite of due process of law is the opportunity to be heard . . . . at a meaningful time in a meaningful manner." (citation modified)); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring "preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed . . . a violation of parole conditions" and that such determination be made "by someone not directly involved in the case" (citation modified)).

43. Consistent with this principle, individuals released on parole or other forms of conditional release have a liberty interest in their "continued liberty." *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

44. As a result, any "[r]elease" of a noncitizen "reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

45. Statutory and regulatory provisions governing re-arrest also depend on the manner of release. Under the text of the INA and federal regulations, certain DHS officials "at any time may revoke a bond or [conditional] parole authorized under [§ 1226(a)], rearrest the [noncitizen] under the original warrant, and detain the [noncitizen]." 8 U.S.C. § 1226(b); see 8 C.F.R. § 236.1(c)(9). For decades, however, DHS has had a consistent policy and practice of re-detaining noncitizens in removal proceedings only when the individual circumstances related to their flight risk or danger to the community had materially changed.

46. This Circuit has stated that conditional parole "provides a mechanism whereby an [noncitizen] may be released pending the determination of removal, as long as she is not a 'danger to persons or property' and 'is likely to appear for any further proceeding.'" *Delgado-Sobalvarro v. Attorney*

Gen. of U.S., 625 F.3d 782, 787 (3d Cir. 2010); *See also Matter of Castillo-Padilla,* 25 I&N Dec. 257, 261 (BIA 2010).

47. In the immigration context, this limitation means that a person who immigration authorities released from initial custody cannot be re-arrested "solely on the ground that he is subject to removal proceedings," without some new, intervening cause. *Saravia*, 280 F. Supp. at 1196. Indeed, the Fourth Amendment, which applies to seizures by immigration authorities, prohibits such re-arrests, which courts have long held could result in "harassment by continual rearrests." *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971) (Stevens, J.) (prohibiting rearrest without change in circumstances in criminal context); *see also U.S. v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975) (applying Fourth Amendment principles from criminal context to "limit" scope of immigration agents' seizure authority); *Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788, 817 (9th Cir. 2020) (Fourth Amendment limits apply equally to seizures in criminal and civil immigration context). The same applies here.

48. This prohibition also derives from fundamental constitutional principles enshrined in the Due Process Clause of the Fifth Amendment. "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). And those due process protections extend to "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693).

49. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective," *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). Due process requires that all forms of civil

detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

50. The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings (or, in the case of a removal order, at removal); and preventing danger to the community. *Zadvydas*, 533 U.S. at 690-92; *see Demore v. Kim*, 538 U.S. 510, 519-20, 527–28, 531 (2003). It has also held that, in general, these purposes may not be assessed on a blanket or categorical basis. Instead, immigration custody decisions generally must be based on an "individualized determination" of flight risk and danger to the community. *See INS v. Nat'l Ctr. for Immigrants' Rts., Inc.*, 502 U.S. 183, 194 (1991); *see also Zadvydas*, 533 U.S. at 690; *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 188 (D.D.C. 2015).

51. Moreover, individuals who are released from government custody have a protected liberty interest in remaining out of custody. The government's decision to release an individual from custody creates "an implicit promise" that their liberty "will be revoked only if [they] fail[ ] to live up to the . . . conditions [of release]." *Morrissey*, 408 U.S. at 482.

52. Accordingly, in the criminal context, the Supreme Court has repeatedly recognized that re-detention after some form of conditional release requires a pre-deprivation hearing. *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

53. These principles apply with at least equal force to people released from civil immigration detention. After all, noncitizens living in the United States have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And, "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

54. Thus, if 8 U.S.C. § 1226(b) were construed as allowing ICE to re-arrest and re-detain noncitizens for no reason at all, it would raise serious constitutional questions under both the Fourth Amendment and the Due Process Clause.

STATEMENT OF THE FACTS

55. Petitioner, Steven Ivan Tagle Sanchez, is a 32-year-old native and citizen of Peru. *See* Ex. B, Notice to Appear dated August 29, 2023.

56. Petitioner sought entry into the United States on or about September 22, 2022. He was apprehended at entry near San Luis, Arizona.

57. About two months later, on Mr. Tagle Sanchez was released with a "parole" under section 212(d)(5) of the Immigration and Nationality Act. Petitioner's parole was valid from November 21, 2022, and expired on September 23, 2023.

58. Once released from initial custody, Petitioner traveled to New Jersey where he still resides. Since his release, he has filed his asylum application, filed for his work authorization, and integrated into his community.

59. Petitioner complied with his ICE check-ins, and on August 29, 2023, ICE issued a warrant for his arrest, using Form I-200.

60. That same day, on August 29, 2023, ICE assessed Petitioner for danger to the community and risk of flight pursuant to 8 U.S.C. § 1226(a) and issued an Order of Release on Recognizance using Form I-220A.

61. Petitioner was also issued a Notice to Appear, dated August 29, 2023, charging him as a a noncitizen who had not been admitted or paroled, and alleging removability under 8 U.S.C. § 1182(a)(6)(A)(i).

62. In connection with his asylum application filed on September 6, 2024, Petitioner attended his court hearings and was subsequently scheduled for an individual merits hearing before the

Immigration Court on February 22, 2027.

63. In December 2025**,** Petitioner was instructed to report for a routine ICE check-in.

64. When Petitioner appeared as directed for that ICE check-in, he was re-arrested by ICE**,** despite having complied with all prior conditions of release.

65. Petitioner did not violate the terms of his prior parole or release on recognizance.

66. Following his re-arrest, Petitioner was transferred into ICE custody, where he currently remains detained.

67. Through this Petition, Petitioner asks this Court to find that Respondents have deprived him of his due process rights by re-detaining him after parole and release on recognizance, and have violated the Immigration and Nationality Act by subjecting him to detention without the possibility of a bond hearing under 8 U.S.C. § 1226(a)**.**

68. Petitioner therefore seeks **i**mmediate release from custody**,** and requests that this Court issue an Order to Show Cause within three days directing Respondents to explain why Petitioner is being unlawfully detained.

CLAIM FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Due Process Clause of the Fifth Amendment of the United States Constitution (Substantive Due Process); 5 U.S.C. §§ 702, 706

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

70. Petitioner had been continuously living in the United States for about three years when he was unlawfully re-arrested and detained in December 2025. Accordingly, Petitioner is being detained in violation of his Fifth Amendment right to due process.

71. 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.

72. "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.

73. 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).

74. Whereas here, the government has released the Petitioner on parole to apply for asylum, in which the Petitioner did, Respondent's cannot simple re-arrest and re-detain Petitioner for no reason at all.

75. The Government's authority to arrest a noncitizen and revoke their release is proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom. To protect that interest, due process requires notice and a hearing, prior to any re-arrest, at which hearing the individual is afforded the opportunity to advance their arguments as to why they're release should not be revoked.

76. 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").

77. Petitioner's ongoing imprisonment does not satisfy that rigorous standard, as there was no material change since the Petitioner was released from custody, and had a pending asylum case.

78. 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).

79. Detaining Mr. Tagle Sanchez is arbitrary and unlawful because e was previously paroled into the United States, subsequently released on recognizance after a custody assessment, authorized to pursue asylum relief, and has no criminal arrests or convictions that would justify his re-detention without an individualized bond hearing..

SECOND CLAIM FOR RELIEF

Violation of 8 U.S.C. §§ 1226(a), 1225(b),
Mandatory Detention For Those Seeking Admission

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

81. On or about September 22, 2022, Petitioner entered the United States and was subsequently paroled into the United States on November 21, 2022, pursuant to Section 212(d)(5) of the Immigration and Nationality Act. DHS thereby exercised its discretionary authority to release Petitioner from detention and permit him to remain in the United States while pursuing immigration relief.

82. Because DHS previously exercised its discretion to parole Petitioner into the United States under INA § 212(d)(5) and later again exercised discretion to release him on his own recognizance, the government lacks authority to re-detain Petitioner under the mandatory detention provisions of 8 U.S.C. § 1225(b)(1). At the time of Petitioner's re-arrest in December 2025, Petitioner had been living in the United States for more than three years, had a pending asylum application, and had complied with all conditions of release. Accordingly, Petitioner was not subject to detention under § 1225(b), and any custody determination must proceed, if at all, under 8 U.S.C. § 1226(a).

83. Petitioner's continuing re-detention is therefore unlawful.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Order Respondents to Show Cause why this Petition should not be granted within seventy-two hours;
3. Declare that Petitioner's re-detention is unlawful;
4. Issue an Order preventing Respondent from removing Petitioner from the United States without notice and an opportunity to be heard;
5. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
6. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
7. Order Respondents to return Petitioner's employment authorization document, driver's license, and Social Security card, and to take all steps within their custody and control to restore Petitioner's ability to lawfully work and function in the community once this Petition is resolved; and
8. Grant any further relief this Court deems just and proper.

Dated: December 27, 2025

Respectfully Submitted,

/s/ Veronica Cardenas

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