Karen L. Hoffmann, Esq.
PA ID No. 323622
ELLENBERG LAW GROUP
1500 JFK Blvd., Suite 1825
Philadelphia, PA 19102
(215) 790-1682
karen@sellenberglaw.com *Attorneys for Petitioner*

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Ronil Jose GONZALEZ CENTENO, [redacted] Petitioner, v. Craig LOWE, in his official capacity as Warden, Pike County Correctional Facility; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; and Pamela BONDI, U.S. Attorney General, Respondents.	Case No. **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Ronil Jose Gonzalez Centeno is in the physical custody of Respondents at the Pike County Correctional Facility. He faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. On or about September 17, 2022, Petitioner entered the United States without inspection and was detained by Respondents.

3. On September 23, 2022, Petitioner was paroled into the United States for the "purpose" of "212(d)(5)" of the Immigration and Nationality Act, codified at 8 U.S.C. § 1182(d)(5), providing for the Secretary of Homeland Security, in his or her discretion, to parole into the United States on a case-by-case basis any noncitizen applying for admission for urgent humanitarian reasons or significant public benefit.

4. Petitioner's 212(d)(5) parole expired on November 22, 2022. *See* Petitioner's Form I-94, attached hereto as Exhibit "A".

5. Petitioner has a pending I-589, Application for Asylum and for Withholding of Removal, filed on June 7, 2023. *See* Petitioner's I-589, attached hereto as Exhibit "B".

6. Petitioner is scheduled for a master calendar hearing with EOIR on January 5, 2026, at 1:30 PM.

7. On November 20, 2025, Petitioner was detained by Respondents at a routine check-in with U.S. Immigration and Customs Enforcement (ICE), part of DHS. He is currently in the custody of Respondents at the Pike County Correctional Facility.

8. Petitioner is charged with, *inter alia*, having entered the United States

without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

9. Based on this allegation in Petitioner's removal proceedings, DHS will deny Petitioner's release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—*i.e.*, those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

10. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

11. Pursuant to *Matter of Yajure Hurtado,* an immigration judge will be unable to consider Petitioner's bond request.

12. Petitioner's detention on this basis, and the *de facto* denial of a bond hearing, violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously

entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

13. When a noncitizen's parole is terminated automatically by the "expiration of the time for which parole was authorized," if the "exclusion, deportation, or removal order cannot be executed within a reasonable time, the alien shall again be released on parole unless . . . public interest requires that the alien be continued in custody." 8 C.F.R. § 212.5(e)(1)-(2).

14. However, there is no mechanism for a noncitizen parolee to challenge the official's decision to return him to detention by ensuring either that his removal will be executed within a reasonable time or that the official had a reasonable basis for deciding that the public interest requires his continued detention. *Rodriguez Cabrera v. Mattos*, No. 2:25-cv-01551-RFB-EJY, 2025 U.S. Dist. LEXIS 216258 (D. Nev. Nov. 3, 2025)

15. Accordingly, Petitioner seeks a writ of habeas corpus ordering Petitioner's release from physical custody. In the alternative, Petitioner requests that this Court conduct or order an Immigration Judge to conduct a bond hearing § 1226(a) at which (1) the government bears the burden of proving flight risk and/or dangerousness by clear and convincing evidence and (2) the reviewing court

considers alternatives to detention that could mitigate risk of flight. *See German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213-214 (3d Cir. 2020).

JURISDICTION

16. Petitioner is believed to be in the physical custody of Respondents. At the time of filing, Petitioner is believed to be detained at the Pike County Correctional Facility.

17. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

18. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

19. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Pennsylvania, the judicial district in which Petitioner currently is detained.

20. Petitioner may be detained in an undisclosed location by an unknown custodian, in which case it would be "impossible to apply the immediate custodian and district of confinement rules." *Rumsfeld v. Padilla*, 542 U.S. 426, 450 n.18, S.

Ct. 2711, 159 L. Ed. 2d 513 (2004); *Ozturk v. Hyde*, 136 F.4th 382, 392 (2d Cir. 2025); *Demjanjuk v. Meese*, 784 F.2d 1114, 1115-16, 251 U.S. App. D.C. 310 (D.C. Cir. 1986). In such circumstances, "the naming of a more remote custodian—[such as] the Secretary of Homeland Security—satisfies the statutory requirements." *Ozturk*, 136 F.4th at 392 (citing *Demjanjuk*, 784 F.2d at 1116); *Khalil v. Joyce*, No. 25-01963, 2025 U.S. Dist. LEXIS 63573, 2025 WL 972959, at *29-30 (D.N.J. Apr. 1, 2025).

21. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Pennsylvania.

REQUIREMENTS OF 28 U.S.C. § 2243

22. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

23. 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 application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

24. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. I.N.S.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. *See Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *2 (M.D. Pa. Aug. 2020) ("[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.").

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

26. Moreover, the exhaustion "doctrine is not without exception." *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). "Courts have found that the

exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question." *Id.* at 666-67.

27. The Board of Immigration Appeals has issued a published decision holding that people like Petitioner who entered the United States without inspection and therefore have not been admitted are ineligible for bond pursuant to 8 U.S.C. § 1225(b)(2)(A). Immigration judges and the BIA are bound by this decision. 8 C.F.R. § 1003.1(g)(1). Exhaustion before the BIA would therefore be futile.

28. Further, the BIA does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att'y Gen. of the U.S.*, 144 F.4 th 485, 500 (3d Cir. 2025); see also Ashley, 288 F. Supp. 2d at 667 (citation omitted). Therefore, any administrative proceedings would be futile because Petitioner raises a constitutional due process claim. *Qatanani*, 144 F.4 th at 500.

PARTIES

29. Petitioner Ronil Jose Gonzalez Centeno is a citizen of Venezuela who has been in immigration detention since November 20, 2025. Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

30. Respondent Warden Craig Lowe is the Warden of the Pike County Correctional Facility. As such, Warden Lowe is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He additionally has immediate physical custody of Petitioner. He is named in his official capacity.

31. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

32. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

33. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

LEGAL FRAMEWORK

Forms of detention for noncitizens in removal proceedings

34. The Immigration and Nationality Act provides two principal sources of prefinal removal order detention authority. First, § 1225(b) mandates detention

of certain "applicants for admission" - persons seeking entry who have not been formally admitted. Such individuals are subject to mandatory detention during inspection and removal processing. Second, § 1226(a) authorizes—but does not require—detention of noncitizens already "present in the United States," subject to discretionary bond proceedings.

35. The distinction between § 1225(b) and § 1226(a) is critical. Under § 1225(b), detention is mandatory and typically brief. Under § 1226(a), detention is discretionary and constitutionally constrained by due process. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention (see 8 C.F.R. §§ 1003.19(a), 1236.1(d)), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention (see 8 U.S.C. § 1226(c)).

36. Detention under § 1226(a) attaches where DHS encounters a noncitizen within the interior after admission or after a substantial period of continuous presence, whereas § 1225(b) applies only where the individual is encountered "seeking admission" at the border or its functional equivalents. *Jennings v. Rodriguez*, 583 U.S. 281, 297-298, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018); *Zumba v. Bondi*, No. 25-CV-14626 (KSH), 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496 (D.N.J. Sept. 26, 2025) (distinguishing detention of

"arriving aliens" under § 1225(b) from detention of persons apprehended in the interior whose presence in the United States was a settled and ongoing fact).

37. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104—208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

38. Following the 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 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).

39. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)

(1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

ICE and the DOJ's new policy

40. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

41. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

42. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

43. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities.

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

44. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

45. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D.

Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

46. Every District Court in the Third Circuit to consider this issue has

found that detainees similarly situated to the Petitioner are not subject to the mandatory detention provision of 8 U.S.C. § 1225(b)(2)(A) and that the Respondents' interpretation of the INA is wrong. *See Patel*, LEXIS 252347 (M.D. Pa. Dec. 8, 2025) at *11n7, *collecting cases*.

47. Courts have broadly rejected DHS's and EOIR's new interpretation because it defies the INA. As this court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225, applies to people like Petitioner.

Parole under INA 212(d)(5)

48. The doctrine of immigration parole is an exception to the otherwise mandatory nature of detention for noncitizens within the scope of Section 1225(b)(1). *Qasemi v. Francis*, No. 25-cv-10029 (LJL), 2025 U.S. Dist. LEXIS 261199 (S.D.N.Y. Dec. 17, 2025) Under that doctrine, even a noncitizen applicant for admission who falls into the category of those that "shall" be detained may be permitted to cross into the United States and live in the country with relative freedom pending further immigration proceedings. *Id.*; *see also* 8 U.S.C. § 1182(d)(5)(A).

49. The accompanying regulations clarify that parole may be granted only where the noncitizen "presents neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b).

50. Parole is automatically terminated without written notice either upon the departure from the United States of the alien or, if not departed, at the expiration of the time for which parole was authorized. 8 CFR 212.5(e)(1).

51. Upon the termination of parole, the noncitizen "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 to the United States." 8 U.S.C. § 1182(d)(5)(A), emphasis added.

52. The Immigration and Nationality Act does not define "forthwith." However, according to Black's Law Dictionary, the ordinary meaning of "forthwith" is: "1. Immediately; without delay. 2. Directly; promptly; within a reasonable time under the circumstances; with all convenient dispatch." Black's Law Dictionary (10th ed. 2014). Merriam-Webster defines "forthwith" as "without any delay" or "immediately." The Oxford English Dictionary defines "forthwith" as "Immediately, at once, without delay or interval."

'The Custody from which [the Petitioner] Was Paroled'

53. At the time of his original parole, the Petitioner was subject to mandatory detention under Section 1225(b)(1). However, the termination of the Petitioner's parole did not revert him to that same *status*–only that same *custody*. "[T]hat result is not mandated by the text of Section 1182(d)(5)(A). The provision does *not* state that a noncitizen is returned to the "status" they held upon their

parole, that they revert to status as an "arriving alien," or that they must be detained. *Qasemi v. Francis*, No. 25-cv-10029 (LJL), 2025 U.S. Dist. LEXIS 261199 at *30 (S.D.N.Y. Dec. 17, 2025)

54. "Rather, the provision says that two things happen to a noncitizen following expiration of parole: (1) he 'shall forthwith return or be returned to the custody from which he was paroled'; and (2) 'thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.'" *Coal. for Humane Immigrant Rights v. Noem*, 2025 U.S. Dist. LEXIS 148615, 2025 WL 2192986, at *24 (D.D.C. Aug. 1, 2025) (quoting 8 U.S.C. § 1182(d)(5)(A))

55. "Custody" does not necessarily mean physical custody. It concerns any status under which a person or thing is under "the care and control of [another] for inspection, preservation or security." Black's Law Dictionary 390 (7th ed. 1999) When "custody" is used to connote detention, it is preceded by the modifier "physical," or "in." *See, e.g., Jones v. Cunningham*, 371 U.S. 236, 239-40, 83 S. Ct. 373, 9 L. Ed. 2d 285 (1963) (an incarcerated person placed on parole is in the "custody" of the parole board, even if he is not subject to its "actual, physical custody.")

56. "Custody," used alone, refers to "restraints on a man's liberty, restraints not shared by the public generally." *Id.*; see also *Khabazha v. ICE*, 2025

WL 3281514, at *3 (S.D.N.Y. Nov. 25, 2025) (For the purposes of "custody" in the habeas statute, 28 U.S.C. § 2241, the custody requirement "may be satisfied by restraints other than 'actual, physical custody' incarceration.'" (quoting *Vega v. Schneiderman*, 861 F.3d 72, 74 (2d Cir. 2017))).

57. A noncitizen in asylum proceedings returned to the custody from which he was paroled loses the freedoms associated with parole status, such as access to federal public benefits (8 U.S.C. §§ 1611(1), 1641(b)(4)) or the ability to apply for adjustment of status (8 U.S.C. §§ 1611(1), 1641(b)(4)). It is this "custody" that Section 1182(d)(5)(A) contemplates a noncitizen must be returned to following termination of their parole. *Qasemi v. Francis*, No. 25-cv-10029 (LJL), 2025 U.S. Dist. LEXIS 261199 at *32 (S.D.N.Y. Dec. 17, 2025). The statute does not mandate a return to physical custody. *Id.*

58. Neither does it mandate a return to detention under the same authority as the Petitioner's initial detention at the time of his entry into the United States. Petitioner, as will be shown below, is not subject to mandatory detention under the provisions of 8 U.S.C. § 1225(b), but is rather subject to the detention authorities of § 1226(a), which allows for release on conditional parole or bond.

59. It is undisputed that from the termination of Petitioner's humanitarian parole on November 22, 2022, through his arrest without a warrant on November 20, 2025, the Petitioner was not in physical custody.

60. Thus, the Respondents failed to properly return the Petitioner to custody "forthwith" as required in order to subject him to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2). Having failed to properly return the Petitioner to custody "forthwith" as required by the statute, Respondents cannot now claim that he is detained pursuant to that same statute.

Petitioner is subject to detention under § 1226(a), not 1225

61. First of all, the Petitioner is clearly and unambiguously not subject to any of the provisions under 8 U.S.C. § 1225(b)(1), which states in its plain language that it governs "[i]nspection of . . . certain other aliens who have *not been admitted or paroled,*" (emphasis added) and expressly describes them in § 1225(b)(1)(A)(iii)(II), as an alien "who has not been admitted or paroled into the United States, and who has not affirmatively shown . . . that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph." *See Rodriguez v. Rokosky*, Civil Action No. 25-17419 (CPO), 2025 U.S. Dist. LEXIS 250239 at *4 (D.N.J. Dec. 3, 2025); *see also Rodriguez-Acurio v. Almodovar*, No. 25-6065, 2025 U.S. Dist. LEXIS 233224, 2025 WL 3314420, at *15-17 (E.D.N.Y. Nov. 28, 2025) (concluding that "has not been . . . paroled" in Section 1225(b)(1)(A)(iii)(II) describes a past event of parole, not a present status, because the present-perfect tense captures whether parole occurred "at any time in

the indefinite past," and that although the term "parole" can refer to both a manner of entry and legal status, contextual clues, such as the pairing of "admitted or paroled into the United States," show that Congress referred to a manner of entry, not an ongoing legal status).

62. Presumably, the Respondents will take the position that the Petitioner in this case are detained pursuant to § 1225(b)(2) because he entered this country as a parolee pursuant to 8 U.S.C. § 1182(d)(5). This argument also fails.

63. First, the Respondents' treatment of the Petitioners since their parole was terminated by the Secretary of DHS in November 2022 supports the conclusion that he is detained pursuant to § 1226(a). The Petitioner entered the country in September 2022 as a parolee. The Respondents could have, but did not, choose to return the Petitioner to custody "forthwith" when they terminated parole. However, Respondents failed to do so, and thus failed to comply with the "mandatory" detention requirement of 8 U.S.C. § 1225(b)(2).

64. Rather, for the past *three years*, the Respondents have consistently treated the petitioner as subject to 1226(a) up to this point. They did not go looking for the Petitioner with a warrant on the basis of his terminated parole. Rather, he was detained during an ICE check-in three years after the termination of his parole, demonstrating Respondent's lack of intent to return the Petitioner to mandatory detention based on that revocation.

65. Functionally, the Respondents released the Petitioner on his own recognizance from the moment his parole was terminated on November 22, 2022. By contrast, individuals detained under Section 1225(b) may not be released on recognizance; they may only be paroled into the country under § 1182(d)(5)(A) (release on recognizance is a form of "conditional parole" from detention under § 1226 that is distinct from parole under § 1182(d)(5)(A)). *See Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *3 (D. Mass. July 24, 2025))). That distinction is significant.

66. The INA allows an individual paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) to physically enter the country subject to a reservation of rights by the Government that it may continue to treat the non-citizen "as if stopped at the border." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

67. Individuals paroled into the country are thus in a fundamentally different and less protected position than "those who are within the United States after an entry, irrespective of its legality." *See Leng May Ma v. Barber,* 357 U.S. 185, 187 (1958)). However, as noted above, the termination of parole is accompanied by a mandatory requirement ("shall") that Respondents return the noncitizen to custody "forthwith."

68. Further, applying § 1225 to all persons who have not been admitted into the United States would conflict with the statute's broader structure, the Supreme Court's traditional understanding of the relationship between §§ 1225(b) and 1226(a), and decades of immigration practice. "[O]ne of the most basic . . . . canons" of statutory interpretation is that "a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." *Corley v. United States*, 556 U.S. 303, 314 (2009) (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004)) (internal brackets omitted).

69. By contrast, the Respondents' position that § 1225(b) applies to all persons who have not been admitted into the United States would render multiple provisions of § 1226 superfluous. For instance, § 1226(c)(1)(A), (D), and (E) already require mandatory detention of certain categories of inadmissible noncitizens. Indeed, Congress added § 1226(c)(1)(E)—which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

70. If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.

71. The Respondents' theory also conflicts with the Supreme Court's previous interpretation of the relationship between §§ 1225(b) and 1225(a). In

Jennings, the Supreme Court explained that § 1225(b) governs noncitizens "seeking admission into the country," whereas § 1226(a) governs noncitizens "already in the country" who are subject to removal proceedings. *Jennings*, 583 U.S. at 289. That interpretation is consistent with the core logic of our immigration system. "[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.

72. In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely 'on the threshold of initial entry.'" *Leng May Ma*, 357 U.S. at 187 (*quoting Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)); *accord Zadvydas*, 533 U.S. 678, 693 (2001) ("The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law."). Having been present subsequent to the termination of parole for a period of three years, the Petitioner is no longer "on the threshold of initial entry." Rather, he was constructively released into the United States subsequent to the termination of his 1182(d)(5) parole, and then rearrested and detained pursuant to § 1226(a).

73. Given this precedent, it is doubtful that Congress intended § 1225(b)(2) to apply to individuals like the Petitioners who were detained after being present in the U.S. for an extended period of time, who had not committed any crimes, and

who were fully compliant with all requirements to attend ICE check-ins and immigration court hearings.

74. DHS's historic practice reinforces § 1226(a)'s application to noncitizens in the Petitioners' position who are arrested (in this case, re-arrested) well after arriving to this country.

STATEMENT OF FACTS

75. Petitioner entered the United States on September 17, 2022. *See* Record of Entry, attached hereto as Exhibit "A".

76. On September 23, 2022, Petitioner was paroled into the United States until November 22, 2022 for the "purpose" of "212(d)(5)" *See* Petitioner's Form I-94, attached hereto as Exhibit "B".

77. On June 7, 2023, Petitioner timely applied for asylum, citing fear of [redacted] *See* Petitioner's Form I-589, attached hereto as Exhibit "C".

78. Petitioner's application for asylum has not yet been adjudicated.

79. Petitioner has a master calendar hearing scheduled for January 5, 2026, at 1:30 PM. *See* Screenshot of EOIR Case Tracker, Attached hereto as Exhibit "D".

80. At the time he was apprehended and detained in 2025, Petitioner was lawfully and gainfully employed. *See* Petitioner's Proof of Lawful Employment, attached hereto as Exhibit "E".

81. Petitioner has no criminal record. He has family residing in the area, he is lawfully and gainfully employed, and he is properly pursuing an application for asylum through all available channels. Petitioner is neither a flight risk nor a danger to the community.

82. At the time of his 2025 detention, Petitioner had resided in the United States for more than three uninterrupted years and pursued lawful status. He was not apprehended at a port of entry or at the border, but rather at the ICE ERO Field Office in Philadelphia, Pennsylvania, where he appeared for a scheduled interview.

83. On November 20, 2025, Petitioner appeared for a routine check-in at the Philadelphia ICE ERO field office and was subsequently detained. He is now believed to be in custody at the Pike County Correctional Facility.

84. The Petitioner remains in detention and, without relief from this court, faces the prospect of months or even years in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF
COUNT ONE
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

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

86. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

87. To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

88. *Matthews v. Eldridge* requires a court to consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos v. Raycraft, et al.*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) at *9 (*citing Mathews*, 424 U.S. at 335).

89. The Petitioner was detained based upon the Administration's novel interpretation of existing law, and without notice or any opportunity to contest the redetermination of their custody. All of the foregoing violates his due process rights.

90. Subjecting the Petitioner to indefinite, mandatory detention violates his due process rights.

COUNT TWO
Violation of the Fifth Amendment Right to Due Process
Immigration and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations
Unlawful Detention

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

92. On information and belief, Respondents have made no finding that Petitioner is a danger to the community or a flight risk.

93. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because, since the agency made its initial determination to release the Petitioner into the United States, on information and belief, there have been no changes to Petitioner's facts or circumstances that support detention.

94. Respondents have already considered Petitioner's facts and circumstances and determined that the Petitioner was not a flight risk or danger to the community when they initially paroled him into the United States. On information and belief, there have been no changes to the facts that justify their detention.

95. Detention that is unlawful under the Immigration and Nationality Act and the Administrative Procedure Act is a violation of the Petitioner's due process rights.

COUNT THREE
Violation of Fifth Amendment Right to Due Process Challenge

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

97. Respondents erred procedurally when they determined that the Petitioner should be subjected to indefinite, mandatory detention after paroling him into the United States more than three years ago based on the statutory and regulatory scheme.

98. Petitioner does not challenge the Respondents' decision to remove him, but challenges Respondents' legal authority to revoke or terminate his parole without due process of law.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following:

a) Assume jurisdiction over this matter;

b) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

c) Declare that Petitioner's warrantless arrest and detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;

d) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately;

e) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the Court's approval;

f) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

g) Grant any further relief this Court deems just and proper.

DATED this 23rd of December, 2025.

Respectfully submitted,

/s/ Karen L. Hoffmann, Esq.

Karen L. Hoffmann, Esquire.
ELLENBERG LAW GROUP
1500 John F. Kennedy Blvd
Suite 1825
Philadelphia, PA 19102
p. (215) 790-1682
karen@sellenberglaw.com
PA ID #323622

Attorney for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney and because Petitioner is detained and is unable to himself verify the contents of this petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 23, 2025

/s/ Karen L. Hoffmann, Esq.

Karen L. Hoffmann, Esquire.
ELLENBERG LAW GROUP
1500 John F. Kennedy Blvd
Suite 1825
Philadelphia, PA 19102
p. (215) 790-1682
karen@sellenberglaw.com
PA ID #323622

Attorney for Petitioner

LIST OF EXHIBITS

EXHIBIT	DOCUMENT DESCRIPTION
A	Petitioner's Record of Entry
B	Petitioner's Form I-94
C	Petitioner's Form I-589
D	EOIR Case Tracker Screenshot
E	Petitioner's Proof of Lawful Employment