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8 **IN THE UNITED STATES DISTRICT COURT**
9 **DISTRICT OF ARIZONA**

10 Geoffrey Aframefuna Akaolisa,
11
12 Petitioner,

Case No. _____

13 v.

14 **VERIFIED PETITION FOR**
15 **WRIT OF HABEAS CORPUS**
16 **PURSUANT TO 28 U.S.C. § 2241**

17 Luis Rosa Jr. in his official capacity as
18 the Warden of the Central Arizona
19 Florence Correctional Center;

20 John E. Cantú, in his official capacity as
21 Director, ICE Phoenix Field Office;

22 Todd Lyons, in his official capacity as
23 Acting Director of U.S. Immigration and
24 Customs Enforcement;

25 Kristi Noem, in her official capacity as
26 Secretary of the Department of Homeland
27 Security; and

28 Pamela Bondi, in her official capacity as
Attorney General of the United States,

Respondents.

INTRODUCTION

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2 1. Petitioner Geoffrey Afamefuna Akaolisa, a 35-year-old man who endured
3 severe persecution in Nigeria and survived domestic violence at the hands of his US
4 citizen wife, brings this petition for a writ of habeas corpus to seek immediate release from
5 immigration detention or, in the alternative, a bond hearing before an Immigration Judge
6 within seven days of this Court’s order.
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9 2. Mr. Akaolisa is in the physical custody of Respondents at the Central
10 Arizona Florence Correctional Center, in Florence, Arizona. For nearly three months,
11 Respondents have unlawfully detained him without bond because the Department of
12 Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have
13 erroneously concluded he is subject to mandatory detention.
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15 3. Mr. Akaolisa is charged with being present in the United States “without
16 being admitted or paroled.” 8 U.S.C. § 1182(a)(6)(A)(i). This alleged manner of entry,
17 coupled with the fact that he has no pending criminal charges or convictions, places him
18 under the default detention authority outlined in 8 U.S.C. § 1226(a). Under this statute,
19 Mr. Akaolisa is eligible to seek discretionary release on bond from an immigration judge.
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22 4. Despite this clear statutory authority, Immigration Judges have declined to
23 exercise jurisdiction over such bond requests based on the Board of Immigration Appeals’
24 decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the BIA
25 held that Immigration Judges lack jurisdiction to adjudicate bond requests filed by
26 individuals present in the United States without admission, concluding that such
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1 individuals are detained under 8 U.S.C. § 1225(b)(2)(A) as “applicants for admission” and
2 are therefore categorically ineligible for bond—departing from decades of prior agency
3 practice.

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5 5. Yet Mr. Akaolisa’s detention on this basis violates the plain text of the
6 Immigration and Nationality Act (“INA”), because § 1225 applies only to noncitizens
7 apprehended while “seeking admission” to the United States. It does not apply to
8 individuals like Mr. Akaolisa, who are alleged to have previously entered the country
9 without admission or parole and were residing in the United States at the time of
10 apprehension. By the statute’s express terms, such individuals are instead subject to
11 detention under § 1226(a), which authorizes release on conditional parole or bond.
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14 6. Accordingly, Mr. Akaolisa seeks a ruling from this Court that he is properly
15 detained only pursuant to 8 U.S.C. § 1226(a), and an order requiring his immediate release,
16 or, in the alternative, a bond hearing under § 1226(a) within seven days.
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18 **JURISDICTION**

19 7. The federal district courts have jurisdiction to hear habeas corpus claims by
20 non-citizens challenging the lawfulness or constitutionality of their detention by DHS.
21 *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678,
22 687 (2001). This Court has subject matter jurisdiction over this Petition pursuant to 28
23 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of
24 the United States Constitution (the Suspension Clause).
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1 8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
2 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

3 **VENUE**

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5 9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484,
6 493- 500 (1973), venue lies in the United States District Court for the District of Arizona,
7 the judicial district in which Mr. Akaolisa is currently detained.

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

12 **EXHAUSTION OF REMEDIES**

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14 11. Mr. Akaolisa has not sought a bond hearing as of the time of filing this
15 petition. Exhaustion of administrative remedies in the immigration habeas context is
16 prudential, not statutory. *See L.G. v. Choate*, 744 F. Supp. 3d 1172, 1181 (D. Colo. 2024)
17 (noting that in habeas cases under 28 U.S.C. § 2241, “the government admits
18 administrative exhaustion is not required by statute”); *Lopez Benitez v. Francis*, --- F.
19 Supp. 3d ---, No. 35-cv-5937-DEH, 2025 WL 2371588, at *13 (S.D.N.Y. Aug. 13, 2025).
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22 12. Moreover, exhaustion is excused here because it would be futile and because
23 the petition presents substantial constitutional questions. *See Del Cid v. Bondi*, No. 25-
24 00304, 2025 WL 2985150, at *13 (W.D. Pa. Oct. 23, 2025) (quoting *Stokes v. Warden of*
25 *FCI-Allenwood*, No. 24-1048, 2024 WL 4567287, at *2 (M.D. Pa. Oct. 24, 2024))
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27 (exhaustion is unnecessary where it “would be futile” or “the issue presented is one that
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1 consists purely of statutory construction.”); *J.U. v. Maldonado*, 25-cv-4836, 2025 WL
2 2772765, at *3-4 (E.D.N.Y. Sept. 29, 2025) (finding futility and other exceptions to
3 exhaustion in a similar case); *Lopez Benitez*, 2025 WL 2371588, at *14 (finding “no
4 doubt” that a petition with similar claims raised a “substantial constitutional question that
5 cannot properly be adjudicated administratively”).

7 13. In particular, DHS has taken the position that noncitizens like Mr. Akaolisa
8 are subject to mandatory detention under 8 U.S.C. § 1225, notwithstanding the fact that
9 DHS initially arrested him under INA § 236, as reflected on the Form I-200, and released
10 him.
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12 14. The Executive Office for Immigration Review has adopted that position. In
13 a published decision, the Board of Immigration Appeals held that “Immigration Judges
14 lack authority to hear bond requests or to grant bond to [noncitizens] who are present in
15 the United States without admission.” *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
16 2025).
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18 15. Under the BIA’s interpretation, Mr. Akaolisa is categorically ineligible for
19 bond as a noncitizen who entered the United States without inspection. Accordingly, there
20 are no administrative remedies available for him to exhaust before seeking habeas relief.
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22 *See Singh v. Lewis*, 2025 WL 2699219, at *2 (W.D. Ky. Sept. 22, 2025) (“[t]he United
23 States has made clear their position on Section 1225, and it is being applied at all levels
24 within the DHS. Therefore, it is unlikely that any administrative review would lead to the
25 United States changing its position and precluding judicial review”); *Lopez-Campos v.*
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1 *Raycraft*, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025) (“Because exhaustion
2 would be futile and unable to provide Lopez-Campos with the relief he requests in a timely
3 manner, the Court waives administrative exhaustion and will address the merits of the
4 habeas petition.”).

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6 **REQUIREMENTS OF 28 U.S.C. § 2243**

7 16. Under 28 U.S.C. § 2243, the Court must grant the petition for a writ of
8 habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not
9 entitled to relief. If the Court issues an order to show cause, Respondents must file a return
10 “within three days unless for good cause additional time, not exceeding twenty days, is
11 allowed.” *Id.*

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13 17. Habeas corpus is “perhaps the most important writ known to the
14 constitutional law . . . affording as it does a swift and imperative remedy in all cases of
15 illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). As the Ninth
16 Circuit has explained, “[t]he application for the writ usurps the attention and displaces the
17 calendar of the judge or justice who entertains it and receives prompt action . . .” *Yong v.*
18 *I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted). The Supreme Court has
19 likewise “constantly emphasized the fundamental importance of the writ of habeas corpus
20 in our constitutional scheme.” *Johnson v. Avery*, 393 U.S. 483, 485 (1969).
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PARTIES

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2 18. Petitioner Geoffrey Afamafuna Akaolisa is a national of Nigeria currently
3 detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Central Arizona
4 Florence Correctional Center in Arizona.
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6 19. Respondent Luis Rosa Jr. is the Warden of the Central Arizona Florence
7 Correctional Center in Florence, Arizona, where Mr. Akaolisa is detained. As the official
8 with immediate physical custody over Mr. Akaolisa, he is a proper respondent and is sued
9 in his official capacity.
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11 20. Respondent John E. Cantú is the Director of the Phoenix Field Office of
12 ICE’s Enforcement and Removal Operations. In this capacity, he is the legal custodian of
13 Mr. Akaolisa and has the authority to produce him before this Court or to order his release.
14 He is sued in his official capacity.
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16 21. Respondent Todd Lyons, or his successor, is the Acting Director of U.S.
17 Immigration and Customs Enforcement. As the head of ICE, he exercises supervisory
18 authority over the agency’s detention and removal operations nationwide, including those
19 affecting Mr. Akaolisa, and is sued in his official capacity.
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21 22. Respondent Kristi Noem is the Secretary of the Department of Homeland
22 Security. She is responsible for administering and enforcing the INA and for overseeing
23 ICE, the agency responsible for Mr. Akaolisa’s detention. In that capacity, she exercises
24 ultimate authority over his custody and is sued in her official capacity.
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1 27. While at liberty, Mr. Akaolisa filed an application for asylum based on a fear
2 of persecution in Nigeria (Ex. D). During this period, he was granted an employment
3 authorization (Category C08), valid through 2029, allowing him to lawfully work and
4 support himself while his asylum application remained pending. (Ex. E).
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6 28. On March 24, 2025, Mr. Akaolisa married a U.S. citizen. During the
7 marriage, his spouse subjected him to physical and emotional abuse. In the course of that
8 abusive dynamic, his spouse filed a criminal complaint against him on August 30, 2025.
9 All charges were ultimately dismissed by *nolle prosequi* at the preliminary hearing stage
10 (Ex. F) and Mr. Akaolisa has no criminal convictions.
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12 29. As a result of the abuse, Mr. Akaolisa filed a Form I-360, Petition for
13 Amerasian, Widow(er), or Special Immigrant, as a self-petitioning abused spouse under
14 the Violence Against Women Act (“VAWA”). (Ex. G). That petition remains pending
15 and, if approved, would provide him an independent pathway to lawful permanent
16 residence.
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19 30. ICE took Mr. Akaolisa into custody in Baltimore and transported him to the
20 ICE Baltimore Holding Room (“BHR”), where he was confined for approximately five
21 days. While at the BHR, Mr. Akaolisa was held in a crowded holding cell containing
22 approximately forty people. The cell had no beds, forcing him and others to sleep on the
23 floor while sitting upright, without pillows or blankets. The facility had no showers and
24 only a single toilet shared by everyone in the cell.
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1 31. During his confinement at the BHR, Mr. Akaolisa repeatedly informed ICE
2 officers that he was experiencing significant pain due to a medical condition and that his
3 prescribed medication was located at his uncle's home. Despite these requests, ICE did
4 not transport him to a hospital, obtain his medication from his uncle, or offer to secure
5 replacement medication from a pharmacy. Mr. Akaolisa remained in pain and without
6 access to necessary medication throughout his time in the holding room and did not
7 receive any medical care.
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10 32. After several days in the Baltimore Holding Room, ICE transferred Mr.
11 Akaolisa to Arizona. He arrived at the Central Arizona Florence Correctional Center on
12 or about the first week of September, where he has been detained ever since.
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14 33. While detained at the Central Arizona Florence Correctional Center, Mr.
15 Akaolisa works as a janitor, earning approximately one dollar per day. During his
16 detention, he also works with his legal representative to prepare for his immigration court
17 proceedings.
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19 34. Currently, although Mr. Akaolisa is in removal proceedings under 8 U.S.C.
20 § 1229a, he has a pending VAWA self-petition and asylum application, was previously
21 deemed a fit candidate for release on recognizance, has no criminal convictions, and he
22 remains in ICE custody. To date, Mr. Akaolisa has not sought a custody redetermination
23 hearing because Respondents' reliance on *Matter of Yajure-Hurtado* forecloses any such
24 request, rendering administrative relief unavailable and resulting in continued detention
25 that violates his Fifth Amendment right to due process.
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LEGAL FRAMEWORK

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2 35. The INA prescribes three basic forms of detention for the vast majority of
3 noncitizens in removal proceedings.

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5 36. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard
6 removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention
7 are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
8 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or
9 convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
10 Discretionary detention under § 1226(a) has been described as the “default” immigration
11 detention provision in standard removal proceedings. *Jennings v. Rodriguez*, 583 U.S.
12 281, 288 (2018). Under § 1226(a), “[e]xcept as provided in subsection (c) of this section,
13 the Attorney General ‘may release’ [a noncitizen] detained under § 1226(a) ‘on...bond’
14 or ‘conditional parole.’” *Id.* (internal citation omitted).
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18 37. Second, the INA provides for mandatory detention of noncitizens subject to
19 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking
20 admission referred to under § 1225(b)(2).

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22 38. Last, the INA also provides for detention of noncitizens who have been
23 ordered removed, including individuals in reinstatement or withholding-only proceedings.
24 8 U.S.C. § 1231(a)–(b).

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26 39. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
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1 40. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part
2 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996,
3 Pub. L. No. 104--208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583,
4 3009-585. Section 1226(a) was most recently amended earlier this year by the Laken
5 Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).
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7 41. Following the enactment of the IIRIRA in 1996, EOIR drafted new
8 regulations explaining that, in general, people who entered the country without inspection
9 were not considered detained under § 1225 and that they were instead detained under §
10 1226(a). *See Inspection and Expedited Removal of Aliens; Detention and Removal of*
11 *Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323
12 (Mar. 6, 1997).
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15 42. Thus, in the decades that followed, it has been Respondents' practice to
16 afford § 1226(a) discretionary bond hearings to individuals who entered without
17 inspection and were placed in removal proceedings, unless their criminal history rendered
18 them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many
19 more decades of prior practice, in which noncitizens who were not deemed "arriving"
20 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. §
21 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
22 simply "restates" the detention authority previously found at § 1252(a)).
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1 43. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy
2 that rejected well-established understanding of the statutory framework and reversed
3 decades of practice.

4 44. The new policy, entitled “Interim Guidance Regarding Detention Authority
5 for Applicants for Admission,”¹ claims that all persons who entered the United States
6 without inspection shall now be subject to detention under § 1225(b)(2)(A) without
7 eligibility for bond. The policy applies regardless of when a person is apprehended and
8 affects those who have resided in the United States for months, years, and even decades.
9 *Id.* DHS is explicit that this new policy is a marked deviation from prior interpretation and
10 implementation of the statutory framework. *Id.* (“For custody purposes, these
11 [noncitizens] are now treated in the same manner that ‘arriving aliens’ have historically
12 been treated.”).

13 45. On September 5, 2025, the BIA adopted this same position in a published
14 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered
15 the United States without admission or parole are subject to detention under §
16 1225(b)(2)(A) and are ineligible for IJ bond hearings.

17 46. Since Respondents adopted their new policies, the vast majority of federal
18 district courts have rejected ICE’s new interpretation of the INA’s detention authorities.
19 Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading
20 of the statute as ICE.
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28 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 47. Courts across virtually every district—including numerous decisions from
2 this District—have rejected ICE’s and EOIR’s interpretation and held that § 1226(a), not
3 § 1225(b), governs detention in these circumstances. *See e.g., Aldana Sanabria v. Rosa,*
4 *Jr.*, No. CV-25-04439-PHX-JJT, 2025 WL 3561632 (D. Ariz. Dec. 11, 2025); *Soto v.*
5 *Noem*, No. CV-25-04178-PHX-MTL, 2025 WL 3294755 (D. Ariz. Nov. 26, 2025); *Luna-*
6 *Gonzalez v. Noem*, No. CV-25-03794-PHX-MTL, 2025 WL 3294961 (D. Ariz. Nov. 26,
7 2025); *Millan-Osuna v. Cantú*, No. CV-25-04019-PHX-MTL, 2025 WL 3294945 (D.
8 Ariz. Nov. 26, 2025); *Vargas-Murillo v. Bondi*, No. CV-25-03396-PHX-MTL, 2025
9 WL3280904 (D. Ariz. Nov. 25, 2025); *Gomez v. Doe*, 2025 WL 3269886 (D. Ariz. Oct.
10 31, 2025), *report and recommendation adopted*, 2025 WL 3269055 (D. Ariz. Nov. 24,
11 2025); *Rodriguez Plascencia v. Bondi*, No. CV-25-04140-PHX-DWL, 2025 WL 3250914
12 (D. Ariz. Nov. 21, 2025); *Perez Rodriguez v. Noem*, No. CV-25-03921-PHX-JJT (D. Ariz.
13 Nov. 13, 2025); *Gonzalez Rodriguez v. Bondi*, No. CV-25-03917-PHX-JJT, (D. Ariz.
14 Nov. 6, 2025) CV-25-3917; *Benitez-Cornejo v. Cantú*, No. CV-25-03672-PHX-JJT, 2025
15 WL 2992211 (D. Ariz. Oct. 17, 2025); *Echevarria v. Bondi*, No. CV-25-03252-PHX-
16 DWL, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Rocha Rosado v. Figueroa*, CV-25-
17 02157-PHX-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and*
18 *recommendation*, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *see also Mairena-Munguia*
19 *v. Arnott*, -- F. Supp. 3d --, 2025 WL 3229132 (W.D. Mo. Nov. 19, 2025); *Delgado Avila*
20 *v. Crowley*, -- F. Supp. 3d --, 2025 WL 3171175 (S.D. Ind. Nov. 13, 2025); *Guaita*
21 *Quinapanta v. Bondi*, 2025 WL 3157867 (W.D. Wis. Nov. 12, 2025); *Chilel Chilel v.*
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1 *Sheehan*, 2025 WL 3158617 (N.D. Iowa Nov. 12, 2025); *Ayala Amaya v. Bondi*, 2025 WL
2 3033880 (D.N.J. Oct. 30, 2025); *Martinez-Elvir v. Olson*, 2025 WL 3006772 (W.D. Ky.
3 Oct. 27, 2025); *Loa Caballero v. Baltazar*, 2025 WL 2977650 (D. Colo. Oct. 22, 2025);
4 *Ochoa Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Merino v. Ripa*, 2025
5 WL 2941609 (S.D. Fla. Oct. 15, 2025); *A.A. v. Olson*, 2025 WL 2886729 (D. Minn. Oct.
6 8, 2025); *Quispe-Ardiles v. Noem*, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *Barrios*
7 *v. Shepley*, 2025 WL 2772579 (D. Me. Sept. 29, 2025); *Valencia Zapata v. Kaiser*, 2025
8 WL 2741654 (N.D. Cal. Sept. 26, 2025); *Hernandez Lopez v. Hardin*, 2025 WL 2732717
9 (M.D. Fla. Sept. 25, 2025); *Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23,
10 2025); *Brito Barrajas v. Noem*, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Larysa*
11 *Kostak v. Trump et al.*, 25-CV-1093 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*,
12 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, -- F. Supp. 3d --, 2025 WL
13 2403827 (D. Mass. Aug. 19, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D.
14 Wash. 2025).

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19 48. Courts have overwhelmingly rejected DHS's and EOIR's new interpretation
20 because it defies the INA; as of November 18, 2025, at least 288 district court decisions
21 support Petitioner's position, compared with only six endorsing Respondents' view.
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23 *Demirel v. Fed. Detention Ctr. Philadelphia*, 2025 WL 3218243, at *1 (E.D. Pa. Nov. 18,
24 2025); *see also Aldana Sanabria v. Rosa, Jr.*, 2025 WL 3561632 (D. Ariz. Dec. 11, 2025)
25 (Noting that Respondent's view clearly represents the minority position.); *Soto v. Noem*,
26 2025 WL 3294755 (D. Ariz. Nov. 26, 2025); *Luna-Gonzalez v. Noem*, 2025 WL 3294961
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1 (D. Ariz. Nov. 26, 2025); *Millan-Osuna v. Cantú*, 2025 WL 3294945 (D. Ariz. Nov. 26,
2 2025); *Vargas-Murillo v. Bondi*, 2025 WL3280904 (D. Ariz. Nov. 25, 2025); *Rodriguez*
3 *Plascencia v. Bondi*, 2025 WL 3250914 (D. Ariz. Nov. 21, 2025).

4 49. Section 1226(a) applies by default to all persons “pending a decision on
5 whether the [noncitizen] is to be removed from the United States.” These removal hearings
6 are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[]
7 [noncitizen].” *Echevarria v. Bondi*, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025), at *7-8.
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9 50. The text of § 1226 also explicitly applies to people charged as being
10 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
11 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default,
12 such people are afforded a bond hearing under subsection (a). *See Rodriguez v. Bostock*,
13 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs.,*
14 *P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)) (explaining that “when Congress
15 creates ‘specific exceptions’ to a statute’s applicability, it proves that absent those
16 exceptions, the statute generally applies”).
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18 51. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
19 who recently entered the United States. The statute’s entire framework is premised on
20 inspections at the border of people who are “seeking admission” to the United States. 8
21 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
22 detention scheme applies “at the Nation’s borders and ports of entry, where the
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1 Government must determine whether a[] [noncitizen] seeking to enter the country is
2 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

3 52. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not
4 apply to people like Mr. Akaolisa, who have already entered and were residing in the
5 United States at the time he was re-detained.
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7 53. When detention under § 1225(b)(2) is unauthorized and inconsistent with
8 the statutory scheme and due process, immediate release or provision of a bond hearing
9 are appropriate remedies. *Rocha Rosado v. Figueroa*, CV-25-02157-PHX-DLR, 2025 WL
10 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, 2025 WL
11 2349133 (D. Ariz. Aug. 13, 2025) (ordering immediate release); *Cardin Alvarez v. Rivas*,
12 CV-25-02943-PHX-GMS, WL 2898389 (D. Ariz. Oct. 7, 2025), *report and*
13 *recommendation adopted*, 2025 WL 2899092 (D. Ariz. Oct. 10, 2025) (ordering
14 immediate release under the same conditions that existed before detention); *Gomez v. Doe*,
15 CV-25-03255-PHX-JJT, 2025 WL 3269886 (D. Ariz. Oct. 31, 2025), *report and*
16 *recommendation adopted*, 2025 WL 3269055 (D. Ariz. Nov. 24, 2025) (ordering release
17 under the same conditions that existed before detention or provision of a bond
18 redetermination hearing); *Benitez-Cornejo v. Cantú*, No. CV-25-03672-PHX-JJT, 2025
19 WL 2992211 (D. Ariz. Oct. 17, 2025) (same).
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24 54. Mr. Akaolisa has been unlawfully detained under § 1225(b) without a bond
25 hearing. The detention is unauthorized, inconsistent with the statutory scheme, and
26 violative of due process since Mr. Akaolisa has been deprived of his liberty and confined
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1 at Central Arizona Florence Correctional Center without Respondents following the
2 procedures expressly laid out for the applicable basis for detention. Accordingly, release
3 is an appropriate remedy.

4
5 **CLAIMS FOR RELIEF**

6 **COUNT I**

7 **Violation of the INA and the APA**

8 55. The preceding paragraphs are incorporated by reference.

9
10 56. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply
11 to all noncitizens residing in the United States who are present without having been
12 admitted or paroled. By its very terms, it applies only to those noncitizens who are
13 apprehended while they are “seeking admission” near the border or at a port of entry. As
14 relevant here, it does not apply to those who previously entered the country and have been
15 residing in the United States prior to being detained and placed in removal proceedings by
16 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
17 § 1225(b)(1), § 1226(c), or § 1231.
18

19
20 57. Since Mr. Akaolisa is neither “seeking admission” nor an “arriving alien,”
21 he is entitled to a bond hearing by an immigration judge pursuant to § 1226(a). The
22 application of § 1225(b) to Mr. Akaolisa unlawfully mandates his continued detention
23 without bond and violates the INA by depriving him of the rights he should be afforded
24 under § 1226(a).
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1 58. To the extent that DHS asserts that *Matter of Yajure Hurtado* nevertheless
2 requires his mandatory detention, the BIA's interpretation in that case is unlawful and in
3 conflict with the careful balance of factors clearly established in the INA in regard to bond
4 eligibility, and not subject to deference. *See Loper Bright Enters. v. Raimondo*, 603 U.S.
5 369 (2024). Such an agency action also violates the Administrative Procedures Act, as it
6 is arbitrary, capricious, and an abuse of discretion, or otherwise not in accordance with
7 law; contrary to constitutional right, power, privilege or immunity; and in excess of
8 statutory jurisdiction, authority, or limitations, or short of statutory right. 5 U.S.C. §
9 706(2)(A)-(C).
10
11

12 **COUNT II**

13 **Violation of the Due Process Clause (U.S. Const. amend. V)**

14
15 59. Mr. Akaolisa repeats, re-alleges, and incorporates by reference each and
16 every allegation in the preceding paragraphs as if fully set forth herein.
17

18 60. The government may not deprive a person of life, liberty, or property without
19 due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from
20 government custody, detention, or other forms of physical restraint—lies at the heart of
21 the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690.
22

23 61. Due process in the immigration detention context requires not only an
24 individualized hearing, but one in which the Government bears the burden of justifying
25 continued detention, given the significant deprivation of liberty at stake. Under the
26 framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976), categorically denying Mr.
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28

1 Akaolisa bond based on *Matter of Yajure Hurtado* violates procedural due process for
2 several reasons, including but not limited to:

3 a. Mr. Akaolisa has a substantial liberty interest in freedom from physical
4 restraint, as he is currently incarcerated after living in the United States for more than two
5 years.
6

7 b. The risk of erroneous deprivation of liberty is exceptionally high because
8 Respondents' interpretation categorically denies Mr. Akaolisa any opportunity to
9 demonstrate—through an individualized hearing, as contemplated by the INA—that he is
10 neither a flight risk nor a danger to the community.
11

12 c. The Government's burden is minimal, particularly where it is required—
13 consistent with longstanding agency practice and due process—to justify continued
14 detention by clear and convincing evidence at a bond hearing. Until DHS's abrupt
15 reinterpretation of the INA in *Matter of Yajure Hurtado*, Immigration Judges routinely
16 conducted bond hearings for individuals like Mr. Akaolisa and weighed individualized
17 factors as required by statute. Requiring the Government to do what it has long done does
18 not justify any additional weight in its favor under the *Mathews* analysis.
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22 62. Mr. Akaolisa therefore has a fundamental interest in liberty and in being free
23 from arbitrary official restraint. The Government's continued detention of Mr. Akaolisa
24 without affording him a bond hearing at which it bears the burden of justifying detention
25 violates the Due Process Clause of the Fifth Amendment.
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PRAYER FOR RELIEF

1
2 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 3 a. Assume jurisdiction over this matter;
- 4 b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Petitioner shall not be
- 5 transferred outside of this jurisdiction while this habeas petition is pending;
- 6 c. Issue an Order requiring Respondents to show cause within three days why
- 7 this Petition should not be granted;
- 8 d. Declare that Petitioner's detention is unlawful, as he is not "seeking
- 9 admission" or "an arriving alien" subject to 8 U.S.C. § 1225(b);
- 10 e. Declare that Respondents may properly detain Petitioner, if at all, only
- 11 pursuant to 8 U.S.C. § 1226(a);
- 12 f. Declare that Respondents' actions, as set forth herein, violate Petitioner's due
- 13 process rights;
- 14 g. Issue a writ of habeas corpus ordering Petitioner's immediate release or, in the
- 15 alternative, a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days,
- 16 at which Respondents bear the burden of demonstrating, by clear and
- 17 convincing evidence, that Petitioner's continued detention is justified;
- 18 h. Enjoin Respondents from denying bond on the basis of § 1225(b) or *Matter of*
- 19 *Yajure Hurtado*;
- 20 i. Enjoin Respondents from re-detaining Petitioner without first affording him a
- 21 pre-deprivation hearing before a neutral decisionmaker;
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1 j. Declare that Petitioner's continued detention violates the INA and the Due
2 Process Clause of the Fifth Amendment;

3 k. Grant any other and further relief that this Court deems just and proper.
4

5 Dated: December 24, 2025

Respectfully submitted,

6
7 /s/ Monica Mananzan
8 Monica Mananzan* (NY # 5182209)
9 1025 Connecticut Avenue NW, Suite 701
10 Washington, DC 20036
11 Tel.: (202) 916-8182
12 monica@amicacenter.org
13 *Counsel for Petitioner*

**TO BE ADMITTED PRO HAC VICE*

14
15 **VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF**
16 **PURSUANT TO 28 U.S.C. § 2242**

17 I am submitting this verification on behalf of the Petitioner because I am
18 Petitioner's DOJ Accredited Representative. I hereby verify that the statements made in
19 the attached Petition for Writ of Habeas Corpus are true and correct to the best of my
20 knowledge.

21 Dated: December 24, 2025

Respectfully submitted,

22 /s/ Maria Ponce
23 Maria Ponce
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27
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