UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ADAN ROCA DELGADO,

Petitioner,

v.

TONY NORMAND, Warden Folkston Ice Processing Center, in his official capacity; ROMAN CHABAN, in his official capacity as Acting Deputy Director of Executive Office of Immigration Review; KRISTI NOEM, in her official capacity as Secretary of Department of Homeland Security; TODD LYONS in his official capacity as Acting Director of Immigration and Customs Enforcement; GEORGE STERLING in his official capacity as Deputy Field Office Director of the Atlanta Field Office, Immigration and Customs Enforcement,

Respondents.

Civil Action No.: 5:26-cv-011

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

INTRODUCTION

1. Petitioner Adan Roca Delgado is a 22-year-old Guatemalan citizen who has resided in the United States for 9 years since entering in 2016. He is not married, has no children. Petitioner has no criminal history. He is currently detained at

FOLKSTON ICE PROCESSING CENTER (FOLKSTON IPC), Folkston, a federal correctional institution, where he faces significant harm to his physical and mental health.

2. This case concerns Respondents' unlawful denial of Petitioner's statutory right to a bond hearing under 8 U.S.C. § 1226(a). Respondents contend that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) based on an interpretation of that statute that conflicts with its plain text, decades of agency practice, and the near-unanimous view of federal courts nationwide.

3. The sole barrier to Petitioner's release is Respondents' erroneous statutory interpretation—a pure question of law that federal district courts have uniformly resolved in favor of noncitizens like Petitioner.

4. This case presents a pure question of law regarding whether Petitioner's detention is governed by Section 1225(b)(2)(A), which mandates detention for noncitizens "seeking admission" at ports of entry, or by 8 U.S.C. § 1226(a), which provides discretionary detention with bond hearings for noncitizens already present in the United States. Nearly every federal district court to address this question has held that Section 1226(a) applies to long-term residents like Petitioner who entered without inspection but were apprehended years later while living in the interior. *See, e.g.*, *Arce v. Trump*, No. 8:25CV520, 2025 U.S. Dist. LEXIS 183049, at *8 n.3 (D. Neb. Sep. 18, 2025) (collecting cases); *but see Pena v. Hyde*, No. 25-CV-

11983NMG, 2025 U.S. Dist. LEXIS 144234, at *2 (D. Mass. July 28, 2025) (assuming without analysis that § 1225 governed because question of applicable detention authority was not before the court).

5. For nearly three decades, Respondents applied Section 1226(a)'s discretionary detention framework to noncitizens who entered without inspection and were later detained for removal proceedings. In 2025, Respondents abruptly reversed this longstanding practice and now claim that all such individuals—regardless of how long they have lived in the United States—are "seeking admission" under Section 1225(b)(2)(A) and thus ineligible for bond.

6. Respondents' continued deprivation of Petitioner's liberty interest is significant. Petitioner challenges his detention as a violation of the Due Process Clause of the Fifth Amendment and the Administrative Procedure Act (APA)—not any discretionary determination by Respondents or the IJ, nor any aspect of the merits of his removal proceedings.

7. Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order his immediate release on a reasonable bond.

CUSTODY

8. Petitioner is in the physical custody of the Warden of the Folkston IPC and is otherwise subject to the legal authority and control of the remaining Respondents. He is imprisoned at Folkston IPC, a federal penitentiary located in Folkston, Georgia.

JURISDICTION

10. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq*.

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

12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the APA, 5 U.S.C. § 701, *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

13. Nothing in the Immigration and Nationality Act (INA) deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(a)(5), 1252(b)(9), 1225(g), or 1226(e). District courts have jurisdiction under 28 U.S.C. § 2241 to decide habeas claims by individuals challenging the lawfulness or constitutionality of their civil immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

14. Challenges to the "fact or duration of confinement fall within the core of habeas corpus." *Vaz v. Skinner*, 634 F. App'x 778, 780 (11th Cir. 2015); *see Preiser v. Rodriguez*, 411 U.S. 475, 486 (1973). Petitioner's challenge is to the fact of his detention—not any aspect of his removal proceedings. Specifically, Petitioner seeks this Court's determination on the appropriate legal authority governing his detention

and consequently whether he may be released on bond. The Supreme Court determined that Section 1252 does not preclude judicial review of noncitizens' claims regarding their eligibility for bond hearings pending resolution of their immigration proceedings. *Jennings*, 583 U.S. at 292–95, *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 n.4 (2021) (finding jurisdiction and citing *Jennings*).

15. Likewise, Section 1226(e) does not bar habeas review, such as here, where petitioner asserts a statutory or constitutional challenge to detention. *See, e.g.*, *Demore*, 538 U.S. 510, 517 (2003) (finding that "Section 1226(e) contains no explicit provision barring habeas review"); *J.G. v. Warden*, No. 7:20-CV-93 (HL), 2021 U.S. Dist. LEXIS 227248, at *4 (M.D. Ga. Jan. 15, 2021) (analyzing Section 1226(e) and holding habeas review is not barred). *Mehmood v. Sessions*, No. 18-cv21095-Scola, 2018 U.S. Dist. LEXIS 202463, at *27 n.20 (S.D. Fla. Nov. 28, 2018) (same, collecting cases).

VENUE

16. Venue is proper under 28 U.S.C. § 1391 because Respondents, all of whom are officers, employees, or agencies of the United States, have detained Petitioner at Folkston IPC in Folkston, which is within the jurisdiction of this District. In addition, venue is proper in this District because a substantial part of the events giving rise to Petitioner's claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

17. 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, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. There is no statutory exhaustion requirement for habeas challenges under 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement, "sound judicial discretion governs." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). As a matter of discretion, exhaustion of administrative remedies should be waived, "(1) where prejudice to the prisoner's subsequent court action may result, for example, from an unreasonable or indefinite timeframe for administrative action; (2) where the administrative agency may not have the authority to grant effective relief; or (3) where the administrative body is shown to be biased or has otherwise predetermined the issue before it." *Jones v. Zenk*, 495 F. Supp. 2d 1289, 1297 (N.D. Ga. 2007) (cleaned up) (citing *McCarthy,* 503 U.S. at 146-48).

19. First, Petitioner's appeal of the IJ's bond decision to the Board of Immigration Appeals (BIA) would be futile given the BIA's erroneous interpretation in *Matter of Yajure Hurtado*, which is binding on Immigration Courts, but has been almost

unanimously rejected by federal courts as contrary to the INA. Second, the BIA lacks authority to adjudicate Petitioner's substantial constitutional claims regarding Respondents' violations of his rights. *See Frazile v. United States AG*, 236 F. App'x 541, 544 (11th Cir. 2007). Third, Immigration Courts are explicitly finding they lack jurisdiction, rendering administrative remedies insufficient to secure Petitioner's release and prevent further irreparable harm.[1]

PARTIES

20. Petitioner Adan Roca Delgado has been in ICE custody since December 15, 2025, when he was arrested by ICE agents. He remains detained at Folkston IPC, in Folkston, Georgia. Before detention, Petitioner resided in Texas with his mother, and twin sister.

21. Respondent Tony Normand, Warden of the Folkston Ice Processing Center, is sued in his official capacity as the individual in charge of the correctional institution where Petitioner is currently detained. He is the immediate custodian of Petitioner and has the authority to release him.

22. Respondent Roman Chaban is sued in his official capacity as the Acting Deputy Director of the Executive Office of Immigration Review ("EOIR") an

[1] Petitioner is not attempting to "bypass the administrative process in hopes that he will find a more sympathetic forum in Court." Sequeira-Balmaceda v. Reno, 79 F. Supp. 1378, 1382 (N.D. Ga. 2000). Rather, this Petition is a necessary last resort, as an appeal to the BIA offers Petitioner no adequate or effective relief. See Gibson, 411 U.S. at 575 n.14.

agency within the Department of Justice that administers the Immigration Courts and the Board of Immigration Appeals. EOIR officials have responsibility for the administration of immigration court proceedings, including removal proceedings and bond determinations under the Immigration and Nationality Act. He is the legal custodian of Petitioner and has the authority to release him.

23. Respondent Kristi Noem is sued in her official capacity as the Secretary of Department of Homeland Security. Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees ICE, which is the agency responsible for Petitioner's detention. She is the legal custodian of Petitioner and has the authority to release him.

24. Respondent Todd M. Lyons is sued in his official capacity as the Acting Director of ICE, a component agency of the Department of Homeland Security. Respondent Lyons has authority over the operations of ICE and broad authority over the enforcement of immigration laws. He is the legal custodian of Petitioner and has the authority to release him.

25. Respondent George Sterling is sued in his official capacity as Deputy Field Officer Director responsible for the Atlanta Field Office of ICE. He is the legal custodian of Petitioner and has the authority to release him.

LEGAL FRAMEWORK

26. There are three statutes that govern civil immigration detention. *See* 8 U.S.C. §§ 1225, 1226, 1231.

27. As a threshold matter, this case does not require the Court to resolve a broad statutory dispute regarding the scope of 8 U.S.C. § 1225(b)(2). Petitioner was taken into DHS custody and processed pursuant to DHS-issued custody documents -- including an Order of Release on Recognizance (Form I-220A) and related records -- that expressly classify her detention under INA § 236, codified at 8 U.S.C. § 1226(a). Because DHS itself placed Petitioner in § 1226(a) custody, Respondents may not later reclassify her detention under § 1225(b)(2) to deny bond eligibility. As the court explained in *Moreno Madrid v. Acuna*, "the Government could not simply "switch tracks" to detain the petitioner under §1225(b) when "the detention authority consistently applied by the government to [petitioner] since her arrival in the United States has always been §1226". 3:25-cv-01572, (W.D. La.). Only if the Court were to reject this agency-record–based classification would it need to reach Respondents' broader contention that § 1225(b)(2) applies categorically.

28. Section 1226(a) authorizes discretionary detention of noncitizens in standard removal proceedings under 8 U.S.C. § 1229a. Noncitizens in detention under Section 1226(a) are entitled to an initial bond hearing. *Jennings*, 583 U.S. at 306 (noting "[f]ederal regulations provide that, aliens detained under §1226(a) receive bond

hearings at the outset of detention."); 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a). Within Section 1226 is a carve-out provision that subjects noncitizens with applicable criminal history to mandatory detention. 8 U.S.C. § 1226(c).

29. Section 1225 authorizes mandatory detention of individuals subject to expedited removal, 8 U.S.C. § 1225(b)(1), and individuals who seek admission into the United States. *Id.* § 1225(b)(2).

30. Finally, Section 1231 authorizes detention of noncitizens subject to a final or reinstated order of removal. *Id.* § 1231(a)(2), (5).

31. This Petition presents a pure legal question regarding whether Petitioner's detention is governed by 8 U.S.C. §§ 1225 or 1226.

Mandatory Detention under 8 U.S.C § 1225

32. Section 1225 imposes mandatory detention on noncitizens subject to its provisions. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV), (b)(2)(A). The statute begins by defining an "applicant for admission" as a noncitizen "who has not been admitted or who arrives in the United States." *Id.* § 1225(a)(1).

33. Under Section 1225(b)(1) certain applicants for admission are subject to expedited removal. The first category pertains to noncitizens "arriving in the United States" and are inadmissible based on two specific grounds of inadmissibility. *Id.* § 1225(b)(1)(A). Among other things, implementing regulations define an "arriving

alien" as an applicant for admission "coming or attempting to come into the United States at a port-of-entry." 8 C.F.R. § 1.2.

34. The second category involves noncitizens designated by DHS and must meet each of the following criteria: (1) inadmissible due to willful misrepresentation or lack of valid entry documents; (2) not continuously physically present in the United States for 2 years immediately prior to inadmissibility determination; and (3) are within the group DHS has designated for expedited removal. 8 U.S.C. § 1225(b)(1)(A)(iii).

35. With limited exceptions not applicable here, Section 1225(b)(2) applies to all other applicants for admission outside of Section 1225(b)(1). *Id.* § 1225(b)(2)(A).

36. Applicants for admission under Section 1225(b)(2)(A) must be detained during removal proceedings "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." *Id.*

Discretionary Detention Under 8 U.S.C. § 1226(a)

37. Section 1226(a) detention applies when a noncitizen is arrested under "a warrant issued by the Attorney General" and "detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Pending a decision on removal, the noncitizen may be detained or released on bond or conditional parole. *Id.* § 1226(a)(1)-(2).

38. Under this framework, ICE makes an initial determination on release based on a showing that "release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. 1236.1(c)(8). After ICE's initial determination, the noncitizen has the right to seek bond redetermination before an IJ and can appeal the IJ's decision to the Board of Immigration Appeals. *Id.* § 1236.1(d)(1), (3)

39. Discretionary detention under Section 1226(a) is often referred to as the "default rule" for noncitizens already present in the United States. *Jennings*, 583 U.S. at 288. Section 1226(a) requires a bond hearing at the start of detention. 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a)

Statutory Interpretation of Sections 1225 and 1226

40. EOIR drafted regulations explaining that, in general, people who enter the United States without inspection are not considered detained under Section 1225; rather detention under Section 1226(a) applies. *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).

41. Consistent with EOIR regulations, the longstanding interpretation of Section 1225 is that it applies to "certain aliens seeking admission into the country." *Jennings*, 583 U.S. at 289. Admission refers to a determination that "generally begins at the Nation's borders and ports of entry, where the Government must determine

whether an alien seeking to enter the country is admissible." *Id.* at 287. By comparison, Section 1226(a) detention applies to inadmissible noncitizens who are already present in the United States and placed in removal proceedings. *See id.* at 289.

42. In practice, this meant that individuals who entered without inspection and were subsequently placed in removal proceedings were granted bond hearings if detained by ICE, except in cases where their criminal history required mandatory detention under Section 1226(c).

43. This interpretation aligns with the statutory framework governing immigration detention and ensures no provision is rendered meaningless. *Corley v. United States*, 556 U.S. 303, 314 (2009) (reiterating rule that statutes should be construed as a whole so that effect is given to all its provisions). The opposite construction renders Section 1226(c) inoperable. If Section 1225 authorizes mandatory detention of all noncitizens in the United States without admission or parole, there would be no need for mandatory detention under Section 1226(c) for criminal noncitizens in removal proceedings. *See Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1277 (W.D. Wash. 2025) (analyzing the very same interpretation advanced by Respondents and concluding it "would render significant portions of Section 1226(c) meaningless.")

44. Such a reading also collapses the distinction between Sections 1225(b)(2) and 1226(c) and renders superfluous amendments to Section 1226(c) that Congress enacted through the Laken Riley Act. *Id.* at 1279–80; 8 U.S.C. § 1226(c)(1)(E), *as amended* by Pub. L. 119-1, 139 Stat. 3 (2025).

45. The text of Section 1226(c) explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Logically, the Laken Riley Act's reference to individuals who entered without inspection makes clear that, by default, those individuals *are* afforded a bond hearing under Section 1226(a).

Respondents' Abrupt Reversal

46. Despite the long-established statutory construction of Sections 1225 and 1226, and Respondents' own historical practice of providing bond hearings to noncitizens like Petitioner, ICE reversed course in July 2025 and now mandates detention without bond for all noncitizens present in the United States without admission or parole—regardless of their length of residence.

47. On September 3, 2025, the BIA, seemingly following ICE's lead, issued *Matter of Yajure Hurtado*, a precedential decision holding that any noncitizen present in the United States without having been inspected and admitted is subject to mandatory detention under Section 1225(b)(2)(A). 29 I&N Dec. 216 (BIA 2025). *Matter of Yajure Hurtado* strips Immigration Courts' authority to hear bond requests

or grant bond for noncitizens who have lived in the United States for years. *Id.* at 216, 229.

48. Respondents' overly broad interpretation of Section 1225(b)(2)(A) is not supported by their own prior practice or longstanding construction of the detention framework. Nearly every district court across the nation to address the issue has rejected Respondents' interpretation and position on availability of bond for noncitizens who entered without admission or parole and resided in the United States for years. *See, e.g., Arce v. Trump*, 2025 U.S. Dist. LEXIS 183049, at *8 n.3 (collecting cases); *but see Pena v. Hyde*, 2025 U.S. Dist. LEXIS 144234, at *2.

49. Respondents' deprivation of Petitioner's fundamental liberty interest is significant but for *Matter of Yajure Hurtado*. Thus, the deprivation of Petitioner's fundamental interest is directly caused by the BIA's erroneous interpretation in *Matter of Yajure Hurtado* and the Respondents' position that Section 1225(b)(2)(A) mandates detention of noncitizens like Petitioner.

FACTUAL ALLEGATIONS

50. Petitioner Adan Roca Delgado is 22 years old and a citizen of Guatemala. He has resided in the United States since his entry in 2016. Petitioner has no criminal history. Petitioner is not married and has no children. Before ICE detained him at Folkston IPC, Petitioner worked a steady job as a subcontractor to a painter/construction company, was a model employee, and resided in Texas.

51. ICE's record confirms that Petitioner has resided in the United States since his entry without inspection. *Id.* ICE served Petitioner with a Notice to Appear which initiates standard removal proceedings under 8 U.S.C. § 1229a. *See id.*.

52. Petitioner timely filed an application for asylum and his first immigration hearing was scheduled on February 2, 2026, before the El Paso Immigration Court. As ICE then transferred Petitioner to Folkston GA, his immigration case was transferred to the Stewart Immigration Court and his first hearing is scheduled for February 24, 2026.

53. Folkston IPC is a correctional institution that houses criminal inmates. Petitioner's civil immigration detention occurs under the same restrictive conditions as federal criminal incarceration: visitation rules require detainees to undergo strip searches with metal detection equipment before and after family visits, must wear prison-issued khaki uniforms during visitation, is prohibited from possessing money or personal property in the visiting room, and faces the same security protocols—including disciplinary segregation and non-contact visiting—applied to federal prisoners. *See* Bureau of Prison, Atlanta Institution Supplement—Visiting Regulations, https://www.bop.gov/locations/institutions/atl/atl_visit.pdf?v=1.0.0 (last accessed on Oct. 2, 2025).

54. Petitioner's physical and mental health suffers in the prison-like setting under which he is detained

CLAIMS FOR RELIEF
COUNT ONE FIFTH AMENDMENT DUE PROCESS VIOLATION
(Procedural Due Process)

55. Petitioner alleges and incorporates by reference the paragraphs above.

56. 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. The Supreme Court has long-established that noncitizens are afforded due process rights. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Demore*, 538 U.S. at 523.

To determine whether civil detention violates an individual's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts weigh three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

57. Petitioner has a significant liberty interest in being free from detention—Respondents' assertion of the wrong detention authority presents a significant risk of erroneous deprivation of Petitioner's liberty interest. Respondents' position lacks support in the plain text of the INA and contravenes longstanding interpretation and prevailing case law.

58. Any appeal to the BIA would be futile because the BIA has adopted the same erroneous interpretation of the law as Respondents. In essence, Petitioner has no meaningful opportunity, outside of this Petition, to challenge the fact of his detention based on an incorrect reading of the law.

59. There is no significant governmental interest in keeping Petitioner detained.

60. Petitioner's continued detention without procedural due process amounts to a serious deprivation of his constitutional rights and violates the Due Process Clause of the Fifth Amendment.

COUNT TWO FIFTH AMENDMENT DUE PROCESS VIOLATION
(Substantive Due Process)

61. Petitioner alleges and incorporates by reference the paragraphs above.

62. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas,* 533 U.S. at 690. Due process "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

63. As a 9-year resident of the United States with established community ties, Petitioner has a fundamental interest in freedom from arbitrary detention.

64. Respondents' continued detention of Petitioner based on the erroneous statutory interpretation presented in *Matter of Yajure Hurtado* and Respondents'

position that 8 U.S.C. § 1225(b)(2)(A) applies to long-term residents constitutes arbitrary government action that violates Petitioner's substantive due process rights.

65. Petitioner has no meaningful avenue before Respondents or the BIA to challenge his continued detention.

66. Petitioner's continued detention, when he is indeed subject to discretionary detention under 8 U.S.C. § 1226(a) and is neither dangerous, nor a flight risk, does not serve a compelling governmental interest.

67. Respondents' actions violate Petitioner's substantive due process rights.

COUNT THREE VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (Agency Action in Excess of Statutory Authority)

68. Petitioner alleges and incorporates by reference the paragraphs above.

69. The Administrative Procedure Act (APA) requires courts to hold unlawful and set aside agency action found to be "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C).

70. Respondents continue to unlawfully detain Petitioner based on an incorrect interpretation of the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

71. Section 1225(b)(2)(A) applies only when three conditions are met: (1) the individual is an "applicant for admission"; (2) the individual is "seeking admission"; and (3) an "examining immigration officer" determines the individual is "not clearly and beyond a doubt entitled to be admitted."

72. The phrase "seeking admission" requires present-tense action and cannot be interpreted to apply to an individual who entered the country almost a decade ago and is seeking to remain here.

73. Petitioner is not "seeking admission" within the meaning of 8 U.S.C. § 1225(b)(2)(A) because he was not actively seeking lawful entry into the United States, having resided here continuously for over 9 years prior to being apprehended and placed in removal proceedings by ICE.

74. Respondents' interpretation of Section 1225(b)(2)(A) exceeds statutory authority by applying mandatory detention provisions designed for border and port of-entry encounters to long-term interior residents, thereby eliminating the discretionary detention framework that Congress established in section 1226(a) for individuals already present in the United States.

75. Respondents' position is not supported by the text of the INA or the long-held interpretation of INA's statutory detention framework. Respondents' most recent position is contrary to the government's own established practice with respect to which statute governs detention for someone like Petitioner.

76. Instead, Petitioner is subject to discretionary detention under Section 1226(a) and has a statutory right to a bond hearing.

77. By applying Section 1225(b)(2)(A) to Petitioner, Respondents act in excess of statutory authority and deprive him of the custody determination procedures that

Section 1226(a) and 8 C.F.R. § 1236.1(d)(1) mandate for individuals in his circumstances.

78. Respondents have denied Petitioner this statutory right based on an erroneous interpretation of section 1225(b)(2)(A) that conflicts with the statute's plain language, long-held construction of INA's statutory detention framework, and Respondents' own longstanding practice.

79. As a direct and proximate result of Respondents' violation of section 1226(a), Petitioner has been unlawfully detained the rights to which he is statutorily entitled.

COUNT FOUR VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (Arbitrary and Capricious Agency Action)

80. Petitioner alleges and incorporates by reference the paragraphs above.

81. In the alternative, even if Section 1225(b)(2)(A) were susceptible to multiple interpretations, the Respondents' actions against Petitioner based on a construction of that provision is arbitrary and capricious agency action under 5 U.S.C. § 706(2)(A).

82. Respondents' and the BIA in *Matter of Yajure Hurtado* failed to address fundamental principles of statutory construction, Supreme Court guidance on the proper interpretation of the detention statutes, and the government's prior agency practice.

83. Courts must "exercise independent judgment in determining the meaning of statutory provisions," and they "may not defer to an agency interpretation of the law

simply because a statute is ambiguous." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024). However, longstanding agency practice can inform a court's determination on the proper construction of the law. *See id.* at 386.

84. Respondents' arbitrary and capricious action violates the APA and subjects Petitioner to unjustifiable detention.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause within three days why this Petition should not be granted;
3. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this District pending the resolution of this case;
4. Declare that 8 U.S.C. § 1226(a)— not 8 U.S.C. § 1225(b)(2)(A) — is the appropriate statutory provision governing Petitioner's detention and eligibility for bond because he is not a recent arrival "seeking admission" to the United States, and instead was already residing in the United States when he was apprehended.
5. Issue a Writ of Habeas Corpus ordering Petitioner's release from detention.
6. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act and on any other basis justified under law; and

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

Date: January 5, 2026

Respectfully Submitted,

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner Adan Roca Delgado as his attorney. I have discussed with Mr. Roca Delgado the events described in this Petition and have examined all documents referenced herein. On the basis of those discussions and upon my review of those documents, on information and belief, I hereby verify that the factual statements made in the foregoing Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

Date: January 5, 2026

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