UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GOLIB KHALILOV,

Petitioner,

v.

MICHAEL ROSE, Acting Field Office Director of Enforcement and Removal Operations, Philadelphia Field Office, Immigration and Customs Enforcement; ANGELA HOOVER, Warden of Clinton County Correctional Facility,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

Case No.

INTRODUCTION

1. Petitioner Golib Khalilov is in the physical custody of Respondents at the Clinton County Correctional Facility. He now 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. Petitioner entered the United States in August 2021, from Mexico without inspection. He was apprehended by Customs and Border Patrol (CBP) shortly thereafter and detained from August 26, 2021, until September 24, 2021. On September 24, 2021, he was released from custody. *See* Exhibit A.

3. Petitioner believes that, while he was detained, he was given a Credible Fear Interview (CFI) by an Asylum Officer. The Asylum Officer found that Petitioner did have a credible fear of return to Uzbekistan.

4. On or about July 31, 2024, Petitioner was issued a Notice to Appear (NTA) in Immigration Court, likely charging him as being an alien present in the United States without admission or parole under INA § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)]. He was released under INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)], which allows for discretionary parole into the United States "under such conditions as [DHS] may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." *See* Exhibit A.

5. Thereafter, Petitioner filed a Form I-589, Application for Asylum with EOIR. Petitioner's asylum application remains pending. As an asylum applicant, Petitioner has work authorization and a social security number. *See* Exhibit B. Since his entry into the United States, he has lived a productive and law-abiding life.

6. Since his release, Petitioner has reported for several ICE check-ins, which was a condition of his release, without issue.

7. ICE detained Petitioner on December 22, 2025 when he was purchasing fuel at a gas station.

8. Because Petitioner has been charged on his NTA as an alien present in the United States without admission or parole pursuant to 8 U.S.C.

§ 1182(a)(6)(A)(i), DHS has denied Petitioner 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.

9. 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.

10. Petitioner's detention on this basis 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.

11. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

12. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released, or in the alternative, Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Clinton County Correctional Facility in McElhattan, Pennsylvania.

14. 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).

15. 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

16. 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.

17. 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

18. 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.*

19. 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).

PARTIES

20. Petitioner Golib Khalilov is a citizen of Uzbekistan who has been in immigration detention since December 22, 2025. After arresting Petitioner while he

was at a gas station, ICE did not set bond and 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).

21. Respondent Michael Rose is the Acting Director of the Philadelphia Field Office of ICE's Enforcement and Removal Operations division. As such, Respondent Rose is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

22. Respondent Angela Hoover is employed as the Warden of the Clinton County Correctional Facility, where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

LEGAL FRAMEWORK

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

24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. 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).

25. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

26. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

27. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

28. 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).

29. 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).

30. 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)).

31. 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.

32. 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 it affects those who have resided in the United States for months, years, and even decades.

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

33. 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.

34. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities in over 200 decisions. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

35. 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).

36. There have been at least 289 district court decisions addressing the legal issues presented in the underlying Petition for Writ of Habeas Corpus. *Demirel v. Federal Detention Center Philadelphia, et al.,* No. 25-5488, 2025 WL 3218243, at *1 (E.D. Pa. Nov. 18, 2025) (provided full list of cases as of November 18, 2025). 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).

37. Indeed, within the Third Circuit, the Western District of Pennsylvania, the Eastern District of Pennsylvania, and the District of New Jersey have all rejected ICE and EOIR's new interpretation. *See Del Cid v. Bondi*, 3:25-cv-00304, 2025 WL 2985150 (W.D. Pa. Oct. 23, 2025); *Cantu-Cortes, v.O'Neill, et al.,* No. 25-CV-6338, 2025 WL 3171639 (E.D. Pa. Nov. 13, 2025)*; Kashranov v. J.L. Jamison, et al.,* No. 2:25-CV-05555-JDW, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025)*; Zumba v. Bondi*, Civ. No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Bethancourt Soto v. Louis Soto, et al.*, No. 25-CV-16200, 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Lomeu v. Soto, et al.*, No. 25CV16589 (EP), 2025 WL 2981296, at *8 (D.N.J. Oct. 23, 2025).

38. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained,

the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

39. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

40. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

41. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

42. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is

premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

43. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

44. An appropriate remedy for Respondents' violating Petitioner's constitutional rights is immediate release. The Supreme Court has also recognized that "Habeas has traditionally been a means to secure release from unlawful detention." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107, 140 S.Ct. 1959, 207 L.Ed.2d 427 (2020) (emphasis in original). The Court should not depart from this norm.

45. As noted above, several hundred district court decisions addressing the legal issues presented in the underlying Petition for Writ of Habeas Corpus and rejected the government's position. *Demirel v. Federal Detention Center Philadelphia*, et al., No. 25-5488, 2025 WL 3218243, at *1 (E.D. Pa. Nov. 18, 2025). Those Courts have roundly rejected Government's interpretation of the Immigration and Nationality Act (INA); the interpretation that is part of the Department of

Homeland Security's (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; and the interpretation is part of the Board of Immigration Appeals' (BIA or Board) September 5, 2025 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), which 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.

46. Many of these decisions have found that Respondents' erroneous application of the law violates the respective detainees constitutional right to Due Process. *See eg. Cantu-Cortes v. O'Neill*, No. 25-6338, 2025 317639 (E.D. Pa. Nov. 13, 2025); *Bethancourt Soto v. Soto*, 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Sanchez Ballestros v. Noem*, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025); *Hernandez-Alonso v. Tindall*, 2025 WL 3083920 (W.D. Ky. Nov. 4, 2025); *Rodriguez Serrano v. Noem*, 2025 WL 3122825 (W.D. Mich. Nov. 7, 2025); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, (N.D. Ill. Oct. 16, 2025); *Rosales Ponce v. Olson*, 2025 WL 3049785 (N.D. Ill. Oct. 31, 2025); *Loza Valencia*

v. Noem, 2025 WL 3042520 (N.D. Ill. Oct. 31, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Guerrero Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *E.C. v. Noem*, 2025 WL 2916264 (D. Nev. Oct. 14, 2025); *Garcia Domingo v. Castro*, 2025 WL 2941217 (D.N.M. Oct. 15, 2025); *Artiga v. Genalo*, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025).

47. Despite this *overwhelming rejection* of Respondents' new policies and *Matter of Yajure Hurtado*, and hundreds of decisions finding that Respondents are violating constitutional rights, Respondents refuse to relent and continue to act in defiance of the law and the Constitution. It has been reported that ICE agents inform detainees that the detainee "has to sue us (ICE) to get out."

48. Petitioner is now one of the approximately 61,000 people detained by Respondents.[2] Respondents' unlawful behavior is pervasive and defies decision after decision from the Courts. As Petitioner's arrest and detention were blatantly unlawful from the start, the only commensurate and appropriate equitable remedy to even partially restore Petitioner is to immediate release him and enjoin the Government from further similar transgressions. *See, eg., Martinez v. McAleenan*, 385 F. Supp. 3d 349, 373 (S.D.N.Y. 2019).

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[2] *See* ICE's publicly available detention data, available at: https://www.ice.gov/detain/detention-management

FACTS

49. Petitioner incorporates herein by reference paragraphs 1-8, *supra*.

50. The evidence in the record firmly establishes that in September 2021, Petitioner was conditionally paroled under § 1226(a), not paroled pursuant to § 1182(d)(5)(A) under § 1225(b).[3] Respondents issued Petitioner a "conditional parole" pursuant to 8 U.S.C. § 1226 and also paroled him pursuant to U.S.C. § 1182(d)(5)(A) under 8 U.S.C. § 1225 by issuance of his "Interim Notice Authorizing Parole." Exhibit A. Petitioner at all times was not treated as arriving alien but instead as an individual who had been conditionally paroled under 8 U.S.C. § 1226. *See, eg.*, Exhibit A, containing "Notice of Custody Determination" wherein it states that Petitioner was able to have his custody determination reviewed by an immigration judge.

51. Following Petitioner's arrest and transfer to the Clinton County Correctional Facility, ICE presumptively issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

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[3] Conditional parole under § 1226(a) is distinct from "humanitarian" or "significant public benefit" parole into the United States under § 1182(d)(5)(A). Conditional parole under § 1226(a) "releases a non-citizen already in the country from domestic detention" pending the normal removal process, whereas parole under § 1182(d)(5)(A) "permits a non-citizen to physically enter the country, subject to a reservation of rights by the Government that it may continue to treat the non-citizen" as an applicant for admission in expedited removal proceedings.

52. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider Petitioner's bond request.

53. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

54. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

55. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country, were apprehended by ICE or CBP, and were then released on their own recognizance. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

56. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of the Bond Regulations

57. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

58. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

59. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

60. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Due Process

61. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

62. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "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 v. Davis*, 533 U.S. 678, 690 (2001).

63. Petitioner has a fundamental interest in liberty and being free from official restraint.

64. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

COUNT IV
Violation of the Fifth Amendment Due Process Clause
Unlawful Re-Detention

65. The allegations in the above paragraphs are realleged and incorporated herein.

66. Respondents' re-detention of Petitioner violates his rights guaranteed by the Due Process Clause of the Fifth Amendment of the U.S. Constitution; the INA, 8 U.S.C. § 1231(a); implementing regulations, 8 C.F.R. § 241.13; and the APA.

67. Individuals released from custody have a constitutionally protected interest in their continued liberty. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997) (finding liberty interest for petitioner on pre-parole conditional supervision program when parole was denied and he was ordered back into custody); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973) (holding that a liberty interest attaches for individuals released on probation).

68. Because re-detention implicates the same sort of liberty interests, due process requires a procedurally adequate process to test the basis for detention, including notice of the reasons for re-detention and an opportunity to be heard. *See Villiers v. Decker*, 31 F.4th 825, 833 (2d Cir. 2022) ("[A]n individual whose release is sought to be revoked [by ICE] is entitled to due process such as notice of the alleged grounds for revocation, a hearing, and the right to testify at such a hearing").

COUNT V
Violation of the APA
Arbitrary and Capricious Revocation of Parole

69. The allegations in the above paragraphs are realleged and incorporated herein.

70. If the Court finds that Petitioner was paroled pursuant to § 1182(d)(5)(A) under § 1225(b), and not conditionally paroled under § 1226(a), then the Court should also find that Respondents acted arbitrarily and capriciously in revoking Petitioner's parole.

71. On December 1, 2025, Respondents revoked/terminated Petitioner's parole without following either the 8 U.S.C. § 1182(d)(5)(A) or its governing regulation, 8 C.F.R. § 212.5(e)(2)(i).

72. 8 U.S.C. § 1182(d)(5)(A) authorizes the Secretary to grant parole "on a case-by-case basis for urgent humanitarian reasons or significant public benefit" and provides that "when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled." Thus, under the statute, a noncitizen may not be "returned to the custody from which he was paroled" unless in the Secretary's opinion, "the purposes of such parole ... have been served." Petitioner was paroled into the United States based on his expressed intent to apply for asylum and withholding of removal under CAT. That was the "purpose" of his parole. Petitioner's asylum claim remains pending, and thus, the purpose of his parole has not been served at the time of his re-arrest/detention on December 1, 2025.

73. Further, under the governing regulations (8 C.F.R. § 212.5(e)(2)(i)), upon written notice, DHS may terminate parole "upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States."

Thus, written notice is a necessary but not a sufficient condition for compliance with this regulation. No such written notice was provided to Petitioner.

74. Next, under the second clause of the regulation, the agency may terminate parole if an authorized official has found that humanitarian reasons and public benefit no longer warrant a noncitizen's presence in the country.

75. DHS has issued guidance on what it means for the presence of an asylum seeker, such as Petitioner, not to be in the "public benefit." *See* ICE Directive 11002.1, Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture (Dec. 8, 2009). According to the Directive, if an asylum-seeker establishes her identity and that she presents neither a flight risk nor a danger to the public, her detention "is **not** in the public interest," and thus ICE "**should**, absent additional factors ... parole the alien." *Id.,* ¶ 6.2 (emphases added).

76. There is no evidence that Petitioner is a flight risk or a danger. He has no criminal records, and has complied with all of his ICE check-ins, timely applied for asylum, and otherwise done everything required of him while in the United States.

77. Respondents may not "simply disregard rules that [were] still on the books." *FCC v. Fox Television Stations, Inc.,* 556 U.S. 502, 515, 129 S.Ct. 1800, 173 L.Ed.2d 738 (2009) (citation omitted). By failing to follow the requirements of either the 8 U.S.C. § 1182(d)(5)(A) or 8 C.F.R. § 212.5(e)(2)(i) in terminating Petitioner's parole, Respondents failed entirely to take obligatory procedural steps.

Respondents made no findings at all on potentially dispositive issues regarding the termination of Petitioner's parole. Multiple Supreme Court decisions have concluded that there was "procedural error" when a "noncitizen was denied outright [the procedure] required by then-governing law." *Id.* Thus, by denying Petitioner the required procedure before purporting to terminate his parole, Respondents acted arbitrarily and capriciously and violated the APA.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Middle District of Pennsylvania while this habeas petition is pending;

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

d. Issue a Writ of Habeas Corpus requiring that Respondents to release Petitioner immediately as his re-detention was unlawful and in violation of his due process; or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

e. Declare that Petitioner's detention is unlawful;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Respectfully Submitted,

Date: January 7, 2026

s/Christopher M. Casazza

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