



constitutional right to due process because he is a lawful permanent resident and has not been served a warrant for his detention. Petitioner seeks his immediate release or access to a bond hearing pursuant to 8 U.S.C. § 1226(a). Yet, Petitioner is properly detained pursuant to 8 U.S.C. § 1226(c), which provides for mandatory detention, due to his previous offenses, and he will have an opportunity to challenge the applicability of Section 1226(c) before an immigration judge. Petitioner thus fails to demonstrate that his constitutional rights have been violated and that he is entitled to the relief he seeks.<sup>1</sup>

### **FACTUAL BACKGROUND**

Petitioner alleges that he was admitted to the United States as a refugee in 2004, was granted Legal Permanent Resident (“LPR”) status in 2007, and became a naturalized citizen in 2011. Pet. ¶ 19. The Petition acknowledges that these statuses were attained through fraud, noting that Petitioner was convicted in 2019 of Personage of Another in a Naturalization Proceeding, Procuring Naturalization Contrary to Law, and Making a False Statement on a Passport Application. *See id.* Petitioner admits that his citizenship was revoked due to his conviction, with his pre-sentencing report stating that he “would revert to his prior immigration status as a lawful permanent resident (LPR) [and] Immigration and Customs Enforcement (ICE) could then be empowered to strip him of his LPR status and commence deportation proceedings.” *See id.* Petitioner claims that following his release from his federal sentence on January 9, 2020, ICE detained him that same day. *See* Pet. ¶ 20.

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<sup>1</sup> The Petition also cites issues related to Petitioner’s confinement, namely the space in which Petitioner has been confined and his ability to practice his religion. These allegations are not addressed herein because Federal Respondents do not control the conditions of confinement at Northwest, and in any event, the Petition does not move for relief on these bases.

ICE issued Petitioner a Notice to Appear (“NTA”), thereby commencing removal proceedings. *See* Exhibit A. The NTA indicated that Petitioner was subject to removal pursuant to 8 U.S.C. § 1227(a)(1)(A) for having procured a visa or admission by fraud under 8 U.S.C. § 1182(a)(6)(C)(i) and for having falsely represented himself to be a citizen of the United States under 8 U.S.C. § 1227(a)(3)(D). In immigration court, Petitioner requested a bond hearing, to which the government objected. *See* Exhibit B. In March 2020, the immigration judge held that Petitioner was subject to mandatory detention under 8 U.S.C. § 1226(c) on the ground that Petitioner’s prior convictions arose from more than one single scheme of conduct, and thus 8 U.S.C. § 1227(a)(2)(A)(ii) applied. *See id.*

Petitioner alleges that he was released from ICE custody in April 2021, pursuant to a settlement in a court case. *See* Pet. ¶ 21. This class action concerned the detention of civil immigration detainees in light of Covid-19 health concerns. *See Savino v. Souza*, 459 F. Supp. 3d 317, 320 (D. Mass. 2020). Petitioner has remained in removal proceedings since his release. *See* Pet. ¶ 37. On January 1, 2026, a warrant issued for Petitioner’s arrest, and he was taken into custody. *See* Exhibit C. Accompanying the warrant was a notice of custody determination (Form I-286), in which Petitioner requested that an immigration judge review the custody determination. *See id.* Petitioner alleges that on January 2, 2026, he separately filed a motion for custody redetermination with the immigration court. *See* Pet. ¶ 32. Petitioner presently has a master calendar hearing in immigration court scheduled for January 15, 2026. *See id.*

Petitioner filed this habeas action on January 8, 2026. ECF No. 1. On January 9, 2026, the Court issued a Temporary Restraining Order stating that Petitioner should not be moved, as well as an Order to Show Cause why a writ of habeas corpus should not be granted. ECF No. 5.

### **LEGAL BACKGROUND**

In the Immigration and Nationality Act, Congress enacted a multi-layered statutory scheme for the civil detention of noncitizens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. “Detention during removal proceedings is a constitutionally valid aspect of the deportation process.” *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)).

Within Section 1226, subsection (c) addresses the detention of individuals who have committed certain offenses. The statute states, *inter alia*, “The Attorney General *shall* take in custody any alien who . . . is deportable by reason of having committed any offense covered in section 1227(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) of this title . . . when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.” 8 U.S.C. § 1226(c)(1)(B) (emphasis added). Section 1227 identifies as deportable individuals convicted of “two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct . . . .” 8 U.S.C. § 1227(a)(2)(A)(ii).

### **ARGUMENT**

#### **A. PETITIONER IS LAWFULLY DETAINED PURSUANT TO SECTION 1226(c).**

Petitioner claims that his detention violates his due process rights due to the lack of a warrant and because his LPR status entitles him to a bond hearing under Section 1226(a). Both arguments are incorrect and rely on factual inaccuracies.

First, Petitioner was arrested pursuant to a warrant, which included a probable cause determination that Petitioner is removable. *See* Exhibit C. The warrant was served on Petitioner the day of his arrest, along with a notice of custody determination, *see id.*, with an NTA having

already issued at the start of his removal proceedings in 2020, *see* Exhibit A. Accordingly, Petitioner's detention was preceded by adequate process.

Second, Petitioner wrongly claims that his LPR status bars his present detention. As an initial matter, Petitioner's allegation that following his conviction, he reapplied for and was granted LPR status is inaccurate. As the Petition itself notes, when Petitioner's citizenship was revoked, he reverted to his prior immigration status as an LPR. *See* Pet. ¶ 19. What Petitioner instead applied for was a new LPR *card* following his name change, *see* Exhibit D (excerpt of form I-90); his immigration status was not adjusted following his conviction, and he has remained in removal proceedings. *See* Pet. ¶ 37. Petitioner will remain an LPR until the proceedings conclude. *See* 8 C.F.R. 1.2 (LPR "status terminates upon entry of a final administrative order of exclusion, deportation, or removal").

More fundamentally, while Petitioner emphasizes his presence in the United States, arguing that the governing authority is Section 1226 and not 1225, he in fact is held pursuant to Section 1226(c), which provides for mandatory detention. When Petitioner was detained following the completion of his criminal sentence, he was afforded a custody redetermination by an immigration judge to assess whether he properly was held pursuant to Section 1226(c) or whether he was entitled to a bond hearing under Section 1226(a). The immigration judge analyzed his convictions and held that they did not arise out of a single scheme of criminal conduct, and thus, Section 1227(a)(2)(A)(ii) applied. As previously stated, Section 1226(c) provides for mandatory detention for offenses covered in Section 1227(a)(2)(A)(ii). *See* 8 U.S.C. § 1226(c)(1)(B). While Petitioner left ICE custody in 2021, his release stemmed from a Covid-19-related class action settlement, not any change in his immigration status or the applicability of Section 1226(c).

Moreover, although several years have passed since Petitioner was last detained, the Supreme Court has held that detention need not occur immediately after release from custody for Section 1226(c) to apply, even for legal permanent residents, stating “we [cannot] read its ‘when . . . released’ clause to defeat officials’ duty to impose such mandatory detention when it comes to aliens who are arrested well after their release.” *Nielsen v. Preap*, 586 U.S. 392, 413–14 (2019) (rejecting claims brought by individuals, including those with LPR status, who were held pursuant to 1226(c) years after their release from custody). Petitioner’s present detention therefore does not violate his constitutional rights, especially as he will have an opportunity to challenge the applicability of Section 1226(c) in immigration court, as set forth below.

**B. PETITIONER MAY SEEK A BOND HEARING THROUGH A *JOSEPH* HEARING.**

Petitioner’s claim that he is being denied an opportunity to challenge his detention fails, as he may request a hearing before the immigration judge to determine whether he is entitled to a bond hearing, and in fact, Petitioner already has done so. In *Jennings v. Rodriguez*, the Supreme Court stated:

Anyone who believes that he is not covered by § 1226(c) may also ask for what is known as a “*Joseph* hearing.” See *Matter of Joseph*, 22 I. & N. Dec. 799 (BIA 1999). At a *Joseph* hearing, that person “may avoid mandatory detention by demonstrating that he is not an alien, was not convicted of the predicate crime, or that the [Government] is otherwise substantially unlikely to establish that he is in fact subject to mandatory detention.” *Demore v. Kim*, 538 U.S. 510, 514, n. 3, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003).

583 U.S. 281, 289 (2018). When Petitioner was served a warrant on January 1, 2026, he also was served Form I-286, which allowed him to indicate that he wished to challenge the custody determination. Petitioner also filed a motion for custody redetermination with the immigration judge on January 2, 2026. See Pet. ¶ 32.

Petitioner alleges he presently has a master calendar hearing scheduled with the immigration court on January 15, 2026, see *id.*, and thus, he will have an opportunity to raise the

issue of his motion for custody redetermination at that time. Only two weeks in custody will have passed since his arrest, far less than that identified as violative of a person's due process rights. *See Demore*, 538 U.S. at 531 (rejecting habeas claim of petitioner held pursuant to Section 1226(c) for six months). Thus, Petitioner's current detention does not violate his constitutional rights, and the Court should permit the immigration court process to proceed.

**CONCLUSION**

For the reasons stated above, this Court should decline to issue a writ of a habeas corpus and terminate the temporary restraining order.<sup>2</sup>

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Respectfully submitted,

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<sup>2</sup> Federal Respondents' Opposition has been emailed to Petitioner's Next Friend, Abdirisak Maalin, in lieu of service by mail to ensure that it is received before the hearing set by the Court on January 12, 2026.