

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

Iverson Delgado-Lambrano, <i>Petitioner,</i> v. WARDEN, ERO El Paso Camp East Montana; MARY DE ANDA-YBARRA, El Paso Field Office Director, U.S. Immigration and Customs Enforcement and Removal Operations; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; PAMELA BONDI, Attorney General of the United States, in their official capacities, <i>Respondents.</i>	Case No. 3:26-cv-27 PETITION FOR WRIT OF HABEAS CORPUS
---	--

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner, Mr. Iverson Delgado-Lambrano (“Petitioner”), is a citizen of Venezuela who came to the United States as a minor and has a pending asylum application. Respondents have arbitrarily detained him for two (2) months, despite having committed no traffic or criminal violations. On or about November 3, 2025, immigration authorities identified him through a routine license plate scan of his car in Miami, Florida. He was detained for several weeks at Alligator Alcatraz before being transferred to ERO El Paso Camp East Montana in El Paso, Texas, in violation of his human and constitutional rights.

He was unlawfully denied bond because Respondents improperly classified Petitioner as an “arriving alien” under INA § 235(b), based on an encounter that occurred when he was a minor,

even though his current arrest occurred in the interior of the United States, where he has lived, worked, and sought lawful protection.

His next hearing is scheduled for July 18, 2029. If detention continues without the right to bond, he will face nearly four (4) years of confinement, which is unconstitutional under the Fifth Amendment of the U.S. Constitution, and contrary to federal precedent rejecting mandatory, categorical detention without individualized custody review.

Petitioner has no criminal history, possesses strong family and community ties, has fully complied with all immigration requirements, and is prepared to appear at all future hearings. He is neither a flight risk nor a danger to the community. Petitioner's prolonged detention and the resulting harm from his separation from family and community, make immediate custody review imperative, as continued detention without a bond hearing constitutes a violation of his rights under the Due Process Clause of the Fifth Amendment. Petitioner seeks an order from this Court declaring his continued and prolonged detention unlawful and ordering Respondents to release him from their custody.

JURISDICTION

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security (DHS). He is detained at ERO El Paso Camp East Montana in El Paso, Texas, and is under the direct control of Respondents and their agents.
2. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the United States Constitution (Suspension Clause).
4. 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.*, and the All Writs Act, 28 U.S.C. § 1651.
5. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), 1252(f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

6. Venue is proper because Petitioner is detained at ERO El Paso Camp East Montana in El Paso, Texas, which is within the jurisdiction of the Western District of Texas. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).
7. Venue also lies in this District because Respondents are employees, officers, or agencies of the United States, and a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas. 28 U.S.C. § 1391(e).

PARTIES

8. Petitioner Mr. Iverson Delgado-Lambrano is an asylum seeker and citizen of Venezuela, who most recently arrived in the United States on or about July 18, 2022. Petitioner is currently detained at ERO El Paso Camp East Montana. He has been in custody of the

Department of Homeland Security (DHS) and under the direct control of Respondents and their agents since November 3, 2025.

9. Respondent Warden is sued in his official capacity as the Warden of ERO El Paso Camp East Montana in El Paso, Texas, and has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.
10. Respondent Ms. Mary De Anda-Ybarra is sued in her official capacity as the Acting Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement and Removal Operations. Respondent Ms. De Anda-Ybarra is a legal custodian of Petitioner and has the authority to release him.
11. Respondent Ms. Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Ms. Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees the U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's custody. Respondent Ms. Noem is a legal custodian of Petitioner.
12. Respondent Ms. Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Ms. Bondi is a legal custodian of Petitioner.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. Petitioner has exhausted his administrative remedies to the extent required by law. He has fully cooperated with Respondents and has not delayed or obstructed his detention.
14. Petitioner argues any appeal to the BIA would be futile considering a September 5, 2025, BIA decision where the BIA adopted DHS's interpretation of the INA as mandating detention without bond for millions of noncitizens residing in the U.S. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA's decision held that immigration judges lack jurisdiction to hold hearings or grant bond to all individuals charged with entering the country without inspection. *Id.*
15. The Court should find administrative exhaustion would be futile. *See Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (per curiam) (the Fifth Circuit explained the limited circumstances in which administrative exhaustion is not required because it would be futile. The court held that a federal habeas petitioner need not exhaust administrative remedies where "the available administrative remedies either are unavailable or wholly inappropriate to the relief sought, or where the attempt to exhaust such remedies would itself be a patently futile course of action.")
16. BIA decisions are binding on immigration judges, and *Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens like Petitioner to hold a custody redetermination hearing. Therefore, judicial intervention enjoining Respondents from preventing Petitioner from having a bond hearing pursuant to the holding in *Hurtado* is necessary to enable Petitioner to avail himself of his administrative remedies.
17. Therefore, Petitioner's only remedy is by way of this judicial action.

STATEMENT OF FACTS

18. Petitioner Mr. Iverson Delgado-Lambrano is a citizen of Venezuela, born in Zulia, Venezuela on  2004.
19. On or about July 18, 2022, Petitioner came to the United States as a minor, accompanying his family, after experiencing persecution in his home country. Since that date, he has resided continuously in the United States.
20. Petitioner and his family applied for asylum within the one-year statutory deadline. His next hearing is scheduled for July 18, 2029. Petitioner fled Venezuela after he and his family were subjected to persecution on account of their political opinions. Petitioner cannot safely return to Venezuela, as he has a well-founded fear of future persecution.
21. On or about November 3, 2025, Petitioner was detained in the interior of the United States, in Miami, Florida, after immigration authorities identified him through a routine license plate scan of his car, despite having committed no traffic or criminal violation.
22. Petitioner was detained for several weeks at Everglades Detention Center, commonly known as "Alligator Alcatraz".
23. Petitioner is currently detained by U.S. Immigration and Customs Enforcement at the ERO El Paso Camp East Montana in El Paso, Texas, separated from his family, community, and workplace. (*See* Ex. A, Detention Information.)
24. Petitioner filed a written Motion for Custody Redetermination raising statutory and constitutional objections before the Immigration Court in El Paso, Texas.
25. On December 10, 2025, Petitioner appeared at a bond hearing before the Immigration Judge, but the hearing was not completed, as the Judge stated that he lacked jurisdiction

under INA § 236, 8 U.S.C. § 1226. Therefore, no individualized custody determination was made.

26. As a result of that jurisdictional ruling, the Immigration Judge's written bond decision does not acknowledge, address, or resolve Petitioner's statutory and constitutional arguments, nor indicate that they were considered. It also does not evaluate the evidence presented showing that Petitioner is not a flight risk, is not a danger to the community, and has strong family and community ties. (*See* Ex. B, Immigration Judge Written Bond Decision.)
27. Petitioner has remained in immigration detention for more than 60 days without any criminal convictions. He is not a flight risk, poses no danger to the community, and contributes to the U.S. economy through employment. Petitioner has strong family and community support, including his sponsor, Mr. Alexander Benitez Lara, and his employer, Mister 01 Extraordinary Pizza, who is willing to reemploy him upon release.
28. Petitioner has not been informed of the contact information of his assigned Deportation Officer. On December 11, 2025, following instructions on ICE's official website, Petitioner's Immigration Counsel contacted ICE's El Paso Office at (915) 225-1901, requesting this information, and was advised that it could not be provided by phone and had to be requested by email at *ElPaso.Outreach@ice.dhs.gov*. (*See* Ex. C, ICE Official Website: Legal and Case Information.)
29. On December 11, 12, 16, and 20, 2025, and January 6, 2026, Petitioner's Immigration Counsel submitted written requests to ICE, seeking the contact information of the Deportation Officer, and also followed up by phone. To date, ICE has not provided the requested information. (*See* Ex. D, Request for Deportation Officer Contact Information.)
30. Petitioner has fully complied with all immigration proceedings to date.

LEGAL FRAMEWORK

Due Process Clause

31. The Fifth Amendment to the United States Constitution guarantees that no person shall be “deprived of life, liberty, or property, without due process of law” (U.S. Const. amend. V).
32. The Supreme Court and federal courts have repeatedly recognized that the protections of the Due Process Clause apply to all persons within the United States, including noncitizens, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
33. The Due Process Clause affords Petitioner significant protections against unlawful detention. As the Supreme Court has explained, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” safeguarded by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
34. Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (internal quotation marks omitted).
35. In the immigration context, the Supreme Court has recognized only two legitimate purposes for civil detention: preventing flight and protecting the community from danger. *Id.*; *Demore v. Kim*, 538 U.S. 510, 522, 528 (2003). Detention for any other purpose is unconstitutional.
36. Accordingly, when detention becomes prolonged, or where the noncitizen raises a substantial defense to removal or claims to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether continued detention remains

reasonably related to its permissible purposes. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (noting that an “individualized determination as to [a noncitizen’s] risk of flight and dangerousness” may be required “if the continued detention became unreasonable or unjustified”); cf. *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (stating that “lesser safeguards may be appropriate” for “short-term confinement”; *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”).

37. Courts have further held that continued detention becomes arbitrary where it persists without an individualized showing of flight risk or dangerousness. Automatic detention pending appeal “after a judicial officer has determined that release [] is appropriate,” and without a “showing of dangerousness or flight risk,” “renders the continued detention arbitrary” and “raises a substantial Fifth Amendment claim.” *Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn. 2025). Although *Mohammed H.* addressed an automatic stay of bond on appeal, the same reasoning applies here: “... no special justification exists that outweighs the individual’s constitutionally protected interest in avoiding physical restraint . . .” *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1077 (N.D. Cal. 2004).
38. Due process also requires certain minimum procedural safeguards at bond hearings. These include:

- (1) placing the burden of proof on the government by clear and convincing evidence to justify continued detention;
- (2) requiring the decisionmaker to consider alternatives to detention; and

(3) when the government fails to meet its burden, requiring the decisionmaker to assess a noncitizen's ability to pay a bond when setting bond conditions.

39. To justify continued immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). The Supreme Court has relied on this same heightened burden in other civil detention contexts. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where the detainee was afforded a “full-blown adversary hearing,” requiring “clear and convincing evidence” before a “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, *inter alia*, they placed burden on detainee).
40. Due process further requires that a neutral decisionmaker consider available alternatives to detention. Because a principal purpose of immigration detention is to ensure a noncitizen's appearance at removal proceedings, detention must be reasonably related to that objective. *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Prolonged detention without an individualized assessment of flight risk or dangerousness violates due process particularly where, as here, Petitioner has strong community ties, stable employment, and no criminal history.
41. Due process likewise requires consideration of a noncitizen's ability to pay a bond. Detention based solely on inability to afford monetary bail is impermissible where appearance can reasonably be ensured through alternative conditions of release. *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc). Thus, constitutional principles require consideration of financial circumstances and alternative conditions to avoid detention based on poverty.

42. Evidence about immigration detention and the adjudication of removal cases provide further support for the due process right to a bond hearing in cases of prolonged detention.
43. Immigration detainees face severe hardships while incarcerated. They are held in lockdown facilities, with limited freedom of movement and access to their families. As the Supreme Court has observed, “the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails,” and “in some cases the conditions of their confinement are inappropriately poor.” *Jennings v. Rodriguez*, 138 S. Ct. 830, 861 (2018) (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017)).
44. These harsh conditions only further underscore the serious due process concerns that prolonged immigration detention pose for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding continued detention.
45. Under the Fifth Amendment, prolonged detention without individualized consideration of flight risk, dangerousness, alternatives to detention, and ability to pay violates due process.
46. Applying the BIA’s own standards, Petitioner is entitled to release on bond. According to *Matter of Patel*, 15 I. & N. Dec. 666 (BIA 1976), detention is appropriate when an individual poses a risk of flight, a danger to public safety, or a threat to national security. In assessing bond eligibility and determining its appropriate amount, the Court should consider factors such as employment, length of residence, the existence of family ties, lack of criminal history and no prior immigration violations. *See Matter of Spiliopoulos*, 16 I. & N. Dec. 561 (BIA 1978) (citing *Matter of Patel*, 15 I. & N. Dec. 666 (BIA 1976)).
47. All these considerations strongly support Petitioner’s release on bond.

8 U.S.C. § 1225 v. 8 U.S.C. § 1226

48. The Immigration and Nationality Act (“INA”) establishes three (3) principal detention regimes governing most noncitizens placed in removal proceedings as follows:

(1) 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Noncitizens detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to an individualized bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). By contrast, 8 U.S.C. § 1226(c) mandates detention without bond for a narrowly defined class of noncitizens who have been arrested for, charged with, or convicted of specific criminal offenses, for the duration of their removal proceedings.

(2) INA mandates detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1), as well as certain recent arrivals “seeking admission” under 8 U.S.C. § 1225(b)(2).

(3) INA authorizes detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, pursuant to 8 U.S.C. § 1231(a)–(b).

49. This case concerns the detention authorities set forth in 8 U.S.C. § 1226(a) and 8 U.S.C. § 1225(b)(2).

50. The detention authorities at 8 U.S.C. § 1226(a) and 8 U.S.C. § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

51. Following IIRIRA's enactment, the Executive Office for Immigration Review ("EOIR") promulgated regulations clarifying that noncitizens who entered the United States without inspection were generally detained under § 1226(a), rather than § 1225, and were therefore eligible for bond. *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled, [also known as aliens who entered without inspection], will be eligible for bond and bond redetermination.").
52. A few months ago, the Board of Immigration Appeals (BIA) adopted a new interpretation of the INA permitting categorical detention of noncitizens without individualized bond hearings. In *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), the BIA held that noncitizens who entered the United States without admission or parole are categorically "applicants for admission" subject to detention under 8 U.S.C. § 1225(b)(2), rendering them ineligible for bond hearings before an Immigration Judge. This interpretation eliminates individualized determinations of flight risk or dangerousness and authorizes potentially prolonged detention based solely on manner of entry.
53. The Supreme Court has repeatedly held that civil immigration detention is constitutionally permissible only when it is reasonably limited in duration and accompanied by adequate procedural safeguards. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001) (holding that indefinite civil detention raises serious constitutional problems); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (upholding mandatory detention only as brief and finite); *Jennings v. Rodriguez*, 583 U.S. 281, 308–09 (2018) (confirming that constitutional challenges to prolonged detention remain available).

54. Limitations on Immigration Judge bond authority do not divest Federal Courts of their longstanding habeas jurisdiction. Pursuant to 28 U.S.C. § 2241, courts retain the power to review whether immigration detention is authorized by statute and consistent with the Constitution. The Fifth Circuit has expressly recognized that habeas corpus under 28 U.S.C. § 2241 remains available to challenge the legality of immigration detention, including whether such custody is authorized by statute. *See Rosales v. Bureau of Immigration & Customs Enforcement*, 426 F.3d 733, 735–36 (5th Cir. 2005); *Zadvydas v. Underdown*, 185 F.3d 279 (5th Cir. 1999), *aff'd*, 533 U.S. 678 (2001).
55. Even where the agency asserts mandatory detention under 8 U.S.C. § 1225(b), Federal Courts retain authority to determine whether such detention exceeds statutory limits or violates due process. As the Supreme Court has explained, habeas courts remain the proper forum for resolving constitutional challenges to immigration detention. *Jennings v. Rodriguez*, 583 U.S. at 308–09. Accordingly, this Court may grant habeas relief, including ordering an individualized bond hearing, where categorical detention without individualized review is unlawful.
56. The statutory text of the INA independently confirms the Petitioner’s entitlement to a bond hearing. 8 U.S.C. § 1226(a) establishes the default framework for detention pending removal proceedings and expressly authorizes release on bond. Mandatory detention under § 1226(c) applies only to the specific categories enumerated by Congress. As written, entry without inspection, standing alone, does not fall within those categories.
57. The most recent amendment to 8 U.S.C. § 1226, enacted through the Laken Riley Act on January 29, 2025, further underscores this point. Subparagraph § 1226(c)(1)(E) applies only to noncitizens who are inadmissible under § 1182(a)(6)(A) and who have committed

specified criminal offenses, such as burglary or theft. Because the Petitioner does not meet these criteria, § 1226(c)(1)(E) is inapplicable.

58. By extending mandatory detention only to a defined subset of offenders, Congress reaffirmed that noncitizens who entered without inspection but lack the specified criminal history remain eligible for bond under § 1226(a). The Laken Riley Act, therefore, reinforces the Petitioner's right to an individualized bond hearing.

59. Accordingly, even under the BIA's interpretation in *Matter of Yajure Hurtado*, the statutory text and recent legislative history support the conclusion that the Petitioner remains entitled to an individualized bond hearing under § 1226(a). This provides an independent statutory basis for habeas relief, apart from the constitutional claims raised.

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1226(a)—Unlawful Denial of Bond Hearing

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

61. The Immigration Judge classified Petitioner as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2) based solely on an encounter that occurred when he was a minor child accompanying his family. This classification is legally incorrect for three reasons:

i. Petitioner's current arrest occurred in the interior of the United States, not at the border.

62. Immigration custody classification must be based on the circumstances of the arrest leading to current detention, not a years-old minor encounter at entry. The United States District Court for the Western District of Texas has made clear that interior arrests place noncitizens

within 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1225(b)(2), because they are no longer “applicants for admission” in any meaningful statutory sense. *See Granados v. Noem*, No. 5:25-CV-01464-XR (W.D. Tex. Nov. 26, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC (W.D. Tex. Sept. 22, 2025).

63. These courts reason that DHS may not rely on a long-past entry to impose mandatory detention under 8 U.S.C. § 1225(b) where the individual has lived in the United States and has been apprehended through an interior arrest, because 8 U.S.C. § 1225(b) is limited to the inspection and admission process and does not extend indefinitely beyond it.

ii. DHS cannot rely on Petitioner’s minor-entry apprehension to impose adult mandatory detention.

64. Petitioner was a child at the time of his initial arrival. He could not legally form intent, could not make admissions, and could not be held to adult immigration consequences.

65. Even courts addressing unaccompanied minors have rejected the government’s attempt to impose mandatory adult detention based solely on prior childhood border encounter. *See Sarmiento et al. v. Perry et al.*, No. 1:25-cv-01644 (E.D. Va. Nov. 5, 2025) (ordering bond hearings for individuals who entered as minors and rejecting mandatory detention classification).

66. This principle applies with equal force to individuals who entered as children with their families, who similarly lacked capacity and should not be subject to mandatory detention.

iii. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States.

67. Noncitizens, residing in the United States, who are subject to the grounds of inadmissibility because they previously entered the country without being admitted, are detained under 8 U.S.C. § 1226(a), unless they are subject to another detention provision, such as 8 U.S.C.

§ 1225(b)(1), 8 U.S.C. § 1226(c), or 8 U.S.C. § 1231. *See Maldonado-Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025).

68. Despite this, the Immigration Judge applied 8 U.S.C. § 1225(b)(2) to Petitioner during his bond hearing.
69. The application of 8 U.S.C. § 1225(b)(2) to Petitioner violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment, as it unlawfully denies Petitioner an individualized bond hearing, disregards statutory text, and imposes mandatory detention without justification.

COUNT TWO

Blanket Mandatory Detention Under 8 U.S.C. § 1225(b)(2) Violates Due Process

70. The allegations in the above paragraphs are realleged and incorporated herein.
71. Several federal district courts, including in the Western District of Texas, have rejected the government's recent interpretation of 8 U.S.C. § 1225(b)(2) as imposing a blanket "no bond for EWI arrivals" policy. These courts have emphasized that mandatory detention without individualized custody review, particularly without a bond hearing before a neutral decisionmaker, violates due process and statutory rights. *See Lopez-Arevelo v. Ripa*, No. 3:25-CV-00337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025) (engaging due process concerns under 8 U.S.C. § 1225(b)(2)); *Vasquez Chinchilla v. De Anda-Ybarra*, No. 3:25-CV-00548-DB (W.D. Tex. Nov. 24, 2025) (procedural due process protects against detention without individualized review).
72. Blanket mandatory detention under 8 U.S.C. § 1225(b)(2), applied without consideration of a noncitizen's risk of flight or dangerousness, is arbitrary and unconstitutional. The Supreme Court has repeatedly recognized that due process requires adequate procedural safeguards in civil detention, including individualized review, placement of the burden on

the government, and consideration of alternatives to detention. *See Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); *Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring).

73. Applying § 1225(b)(2) as a categorical, mandatory detention rule deprives Petitioner of liberty without due process, in violation of the Fifth Amendment. By eliminating individualized determinations, the policy ignores statutory limits, disregards the constitutional protections afforded to all persons in the United States, and exposes noncitizens to potentially prolonged and unjustified detention.

COUNT THREE

Violation of the Administrative Procedure Act—Unlawful Denial of Bond

74. The allegations in the above paragraphs are realleged and incorporated herein.
75. The application of 8 U.S.C. § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law.
76. By categorically denying bond without individualized review, the government has acted in disregard of statutory limits, failed to consider relevant factors such as flight risk and dangerousness, and disregarded the procedural protections guaranteed by the Due Process Clause. For these reasons, the application of 8 U.S.C. § 1225(b)(2) violates the Administrative Procedure Act. *See* 5 U.S.C. § 706(2).

COUNT FOUR

Mandatory Detention Based on a Child Entry Violates the Fifth Amendment Due Process Clause

77. The allegations in the above paragraphs are realleged and incorporated herein.
78. The Fifth Amendment guarantees that no person shall be “deprived of life, liberty, or property, without due process of law” (U.S. Const. amend. V).

79. The U.S. Supreme Court and federal courts have repeatedly recognized that this protection applies to all persons within the United States, including noncitizens, regardless of immigration status. *See Plyler v. Doe*, 457 U.S. 202, 210-16 (1982) (emphasizing that “[a]liens, even aliens whose presence in this country is unlawful, have long been recognized as ‘persons’ guaranteed due process of law by the Fifth and Fourteenth Amendments”).
80. In *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001), the Supreme Court held that “once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.”
81. Indefinite or mandatory detention without an individualized bond hearing violates procedural due process because it deprives a person of liberty without any opportunity to demonstrate that release on bond or conditions of supervision is appropriate.
82. Civil detention must be nonpunitive and reasonably related to its permissible purpose. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
83. Here, Petitioner entered the United States as a minor and has no criminal history. Applying mandatory detention retroactively or rigidly without individualized review violates his substantive and procedural due process rights, because he cannot be assumed a flight risk or threat to public safety solely based on a childhood border entry.
84. Due process entitles Petitioner to an immediate bond hearing to assess his individual circumstances.
85. Petitioner has no criminal record and meets the requirements for bond, with strong community and family ties, no risk of flight, and no danger to the public. These

circumstances, considered collectively, convert what should be civil detention into punitive treatment, rendering his continued detention constitutionally questionable.

86. Categorically denying Petitioner a bond hearing, based solely on an event from childhood, is arbitrary and violates fundamental fairness. In the absence of statutory or lawful authority, Petitioner's detention unlawfully deprives him of his liberty and warrants immediate release by this Court.

COUNT FIVE

ICE's Failure to Provide Petitioner's Deportation Officer Information

Violates the Fifth Amendment Due Process Clause

87. The allegations in the above paragraphs are realleged and incorporated herein.
88. Petitioner's continued detention is unconstitutional because U.S. Immigration and Customs Enforcement (ICE) has refused to provide the contact information of his assigned Deportation Officer, despite repeated requests by counsel. Access to this information is essential for Petitioner to meaningfully pursue available immigration relief while detained. ICE's inaction has directly deprived Petitioner of procedural due process, in violation of the Fifth Amendment.
89. Noncitizens in civil immigration detention are protected by the Fifth Amendment's Due Process Clause, which forbids the government from depriving a person of liberty without fair procedures. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003). Due process requires more than mere detention; it requires meaningful access to procedures and to officials necessary to pursue relief.
90. Procedural due process protects a detainee's ability to pursue available legal processes affecting liberty interests. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Official action or inaction that hinders a detainee's ability to access relief constitutes a due process

violation when it results in prejudice to the detainee's liberty. *Lewis v. Casey*, 518 U.S. 343, 351 (1996).

91. ICE's failure to provide Deportation Officer information interferes with access to relief. Despite repeated requests submitted by counsel on December 11, 12, 16, 20, 2025, and January 6, 2026, ICE has failed to provide the contact information of Petitioner's assigned Deportation Officer. This information is essential for:

- (1) communicating with the official responsible for the Petitioner's detention;
- (2) coordinating requests for available immigration relief; and
- (3) ensuring that counsel can advocate effectively on Petitioner's behalf.

By withholding this information, ICE has materially interfered with Petitioner's ability to pursue relief while detained, resulting in arbitrary and prolonged detention.

92. ICE's inaction creates a risk of arbitrary detention. Civil detention becomes constitutionally problematic when procedural deficiencies create a risk of erroneous or arbitrary deprivation of liberty. *Zadvydas*, 533 U.S. at 690. Petitioner's freedom is substantially impacted, and ICE's failure to provide essential custodial information increases the risk of prolonged, unjustified detention. The burden on ICE to provide basic contact information is minimal, while the impact on Petitioner is substantial.

93. The Fifth Circuit recognizes that noncitizens may challenge constitutional violations in detention under § 2241, including procedural due process claims. *See Pierre-Paul v. Barr*, 930 F.3d 684, 690–93 (5th Cir. 2019). Here, ICE's refusal to provide the assigned Deportation Officer information undermines procedural fairness, justifying habeas relief.

94. ICE's failure to provide the contact information of Petitioner's assigned Deportation Officer has deprived Petitioner of meaningful access to available relief while detained.

This denial constitutes a clear violation of the Fifth Amendment Due Process Clause, as it obstructs Petitioner's ability to protect his fundamental liberty interests.

95. ICE's deliberate inaction transforms what should be a civil detention governed by law into arbitrary and punitive confinement. The Constitution does not permit detention to be rendered unlawful by bureaucratic neglect. Accordingly, Petitioner respectfully requests that this Court grant immediate habeas relief and order his release, ensuring that fundamental liberty interests are preserved.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause directing Respondents to show cause why this Petition should not be granted within three (3) days;
3. Declare that Petitioner's detention without an individualized determination violates the Fifth Amendment's Due Process Clause;
4. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately from custody; hold a hearing if warranted; and determine that Mr. Iverson Delgado-Lambrano's detention is not justified because the government has not established by clear and convincing evidence that he presents a risk of flight or a danger to the community in light of the available alternatives;
5. Issue an Order prohibiting Respondents from transferring Petitioner from the district without the Court's approval;

6. Declare that Mr. Delgado-Lambrano's continued detention is unconstitutional and unlawful, as it is not reasonably related to any valid purpose of immigration detention and violates the Fifth Amendment guarantee of due process;
7. Declare that Respondents' conduct violates the Administrative Procedure Act, 5 U.S.C. §§ 702 and 706, as arbitrary, capricious, and not in accordance with law;
8. Order ICE to immediately provide Petitioner and his Immigration Counsel with the contact information of his assigned Deportation Officer;
9. In the alternative, should the Court determine that immediate release is not warranted, order Respondents to provide Mr. Delgado-Lambrano with an expedited individualized bond hearing before an impartial Immigration Judge, as soon as practicable and in no event later than seven (7) days from the Court's order, at which the government bears the burden to justify continued detention by clear and convincing evidence, ensuring that Petitioner receives meaningful access to relief in accordance with the Fifth Amendment's Due Process Clause;
10. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
11. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Bonnie Smerdon

Bonnie Smerdon (FL Bar No. 123933)

Luce Law PLLC

22966 Overseas Hwy

Cudjoe Key, FL 33042

Phone: (954) 624-2622

Email: bsmerdon@lucelawpllc.com

COUNSEL FOR PETITIONER

Dated: January 8, 2026.

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

I represent Petitioner, Mr. Iverson Delgado-Lambrano, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 9th day of January, 2026.

/s/ Bonnie Smerdon

Bonnie Smerdon (FL Bar No. 123933)