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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

WILMER ALEXANDER MANCIA-ARIAS, **JONATHAN ALEXANDER MANCIA ROMERO,** *Petitioners*, v. **BOBBY THOMPSON**, Warden, South Texas Detention Center; **MIGUEL VERGARA,** Acting/Director of the San Antonio Field Office U.S. Immigration and Customs Enforcement; **TODD LYONS,** Acting Director, Immigration and Customs Enforcement **KRISTI NOEM,** Secretary of the U.S. Department of Homeland Security; and **PAMELA BONDI,** Attorney General of the United States, in their official capacities, *Respondents*.	Case No. 5:26-cv-00085 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioners Wilmer Alexander Mancia Arias and Jonathan Alexander Mancia Romero are a father and son who are in the physical custody of Respondents at the South Texas Detention Facility in Pearsall, Texas. **Exh. A, ICE Detainee Locator Results.** Petitioners were first detained and released on about May 10, 2019 under DHS's discretionary detention authority under 8 U.S.C. 1226. **Exh. B Form I-286 Notice of Custody Redetermination.** Over six years later, on October 9, 2025, DHS arrested them after they attended their immigration court hearing in San Antonio, Texas and took them into custody. They have remained detained since that date.

2. The Department of Homeland Security (DHS) insists that its authority to detain them stems from 8 U.S.C. § 1225(b) and that they are therefore ineligible for a bond hearing. This assertion is legally incorrect. Nevertheless, the Executive Office for Immigration Review (EOIR) has validated this position in contravention of the plain text of the statute and decades of statutory interpretation and practice and Respondents' own prior treatment of Petitioners. *See Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

3. Federal district courts across the nation have reached a clear consensus: Section 1225(b) does not apply to Petitioners' circumstances, and Respondents' reliance on this inapplicable statute renders their detention unlawful. Because Petitioners cannot be detained under Section 1225(b)(1) or Section 1225(b)(2), the only lawful basis for continued detention would be Section 1226—which provides for individualized bond determinations. However, Respondents do not assert they are detaining Petitioners under Section 1226. By detaining Petitioners under a statute that does not authorize their

detention while simultaneously refusing to apply the statute that does, Respondents hold them in unlawful custody. Petitioners are therefore entitled to immediate release.

4. The present petition filed on behalf of the Petitioners is one of a number of recent lawsuits with similar facts challenging the federal government's authority to detain noncitizens during the pendency of removal proceedings under 8 U.S.C. § 1225(b). District Courts in the Western District of Texas and other District Courts located in the Fifth Circuit overwhelmingly ruled in favor of petitioners facing similar detention conditions. *See e.g Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025), *Diaz Perez v. Thompson et al*, No. 5:25-CV-1664-JKP, 2025 WL 3654333 (W.D. Tex. Dec. 15, 2025), *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025). Indeed, most District Courts across the nation have agreed with the petitioners in similar cases. *See e.g. Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Puerto-Hernandez v. Lynch*, No. 1:25-CV-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025); *Castellanos v. Kaiser,* No. 25-CV-07962, 2025 WL 2689853, at *3 (N.D. Cal. Sept. 18, 2025); *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Perez-Pina v. Stamper*, No. 2:25-CV-00509-SDN, 2025 WL 2939298 (D. Me. Oct. 16, 2025); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at *5 (N.D. Ill. Oct. 16, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025).

5. Accordingly, to preserve Petitioners' statutory and constitutional rights, this Court should grant the instant petition for a Writ of Habeas Corpus for the reasons stated *infra*. Absent

an order from this Court, Petitioners will continue to suffer an unconstitutional deprivation of their right to liberty, as well as extreme irreparable harm given the personal facts of their situation. Petitioners ask this Court to find that their detention is unconstitutional and order immediate release from detention.

JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

7. This Court has subject matter 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 (Suspension Clause).

8. 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.

9. Here, Petitioners challenge the legality of their detention, asserting that they are held in violation of both the Constitution and federal immigration statutes. Such claims fall squarely within the habeas jurisdiction of federal district courts. None of the jurisdiction stripping provisions found at 8 U.S.C. § 1252(a)(2)(A), § 1252(g) and § 1252(b)(9) apply.

10. Federal district courts have consistently held that these jurisdictional bars do not preclude habeas review of the proper application of INA detention provisions. *See Hernandez Fernandez v. Lyons et al, No. 5:25-CV-00773-JKP, 2025 WL 2976923* (W.D. Tex. Oct. 21, 2025), *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *2-4 (W.D. Tex. Oct. 16, 2025) (finding a case 'falls squarely outside' the jurisdictional bars where Petitioner was only 'challenging whether certain INA provisions require his

detention without a bond hearing'); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *4 (W.D. Tex. Sept. 22, 2025) (rejecting government's jurisdictional arguments). As these courts have recognized, habeas jurisdiction exists to review whether the government is detaining a noncitizen under the correct statutory authority and with adequate procedural protections. That is precisely the question presented here.

VENUE

11. Venue is proper with this Court because Petitioners are detained at the South Texas Detention Facility in Pearsall, Texas, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for Writ of Habeas Corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioners are not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

14. Petitioners Wilmer Alexander Mancia-Arias is a 43 year-old citizen of Honduras. Petitioner Jonathan Alexander Mancia Romero is the biological son of Wilmer Mancia-Arias and is also a citizen of Honduras. They are currently detained at South

Texas Detention Facility in Pearsall, Texas. They are in the custody, and under the direct control, of Respondents and their agents.

15. Respondent Bobby Thompson is the Warden of the Frio County Immigration Processing Center and he has immediate physical custody of Petitioners pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioners.

16. Respondent Miguel Vergara is sued in his official capacity as the Acting Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent Vergara is a legal custodian of Petitioners and has authority to release him.

17. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioners.

18. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioners' detention / custody. Respondent Noem is a legal custodian of Petitioners.

19. Respondent 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 Bondi is a legal custodian of Petitioners.

STATEMENT OF FACTS

20. Petitioner Wilmer Alexander Mancia Arias, age 43, and petitioner Jonathan Alexander Mancia Romero, age 19, natives and citizens of Honduras. Entered the United States without inspection near McAllen, Texas, in about April or May of 2019. They were apprehended shortly after their entry and ultimately charged with inadmissibility pursuant to 8 U.S.C. 1182(a)(6)(A)(i). **Exh. C, Notice to Appear dated 2019**. On May 9, 2019 they were released from custody on their own recognizance pursuant to DHS's discretionary authority under 8 U.S.C. 1226. **Exh. B, Form I-286, Notice of Custody Redetermination.**

21. Petitioners complied with the conditions of their release from that time. They applied for asylum on March 7, 2022, and at a hearing on June 2, 2022, their cases were dismissed by the immigration court. **Exh. F, IJ Order of Dismissal**. On July 17, 2025, DHS issued a new Notice to Appear for each of the Petitioners, again alleging inadmissibility pursuant to 8 U.S.C. 1182(a)(6)(A)(i), and they were scheduled for another hearing on October 9, 2025. **Exh D. Notice to Appear dated 2025.** They attended their hearing on that date and were taken into the custody of the Respondents without any warning or any way to challenge their re-detention. Petitioners have been detained by DHS since October 9, 2025, and will not be released by DHS pursuant to the current policy or DHS and EOIR. The immigration Court denied relief for the Petitioners on December 10, 2025. They subsequently appealed their removal orders on December 17, 2025 and as such their appeal is currently pending with the Board of Immigration Appeals and their removal orders are not final at this time. **Exh E. BIA Appeal Filing Receipt.**

LEGAL FRAMEWORK

22. Two statutes principally govern the detention of noncitizens pending removal proceedings: 8 U.S.C. §§ 1225 and 1226. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are 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). Second, § 1225 applies to "applicants for admission," who are, as relevant here, noncitizens "present in the United States who [have] not been admitted." 8 U.S.C. § 1225(a)(1). All applicants for admission must be inspected by an immigration officer. Id. § 1225(a)(3). DHS can elect to place certain applicants for admission into expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108-09 (2020). In other cases, if the examining immigration officer determines that an applicant for admission is not "clearly and beyond a doubt entitled to be admitted," Section 1225(b)(2) provides that the applicant for admission "shall be detained for" standard removal proceedings. 8 U.S.C. § 1225(b)(2)(A); *see Jennings v. Rodriguez*, 583 U.S. 281, 287-88 (2018). A noncitizen detained under Section 1225(b)(2) may be released only if he is paroled "for urgent humanitarian reasons or significant public benefit" under 8 U.S.C. § 1182(d)(5)(A). *Jennings*, 583 U.S. at 300 ("That express exception to detention implies that there are no other circumstances under which aliens detained under § 1225(b) may be released.").

23. Whereas Section 1225(b) "authorizes the Government to detain certain aliens *seeking admission* into the country," Section 1226 "authorizes the Government to detain certain *aliens already in the country* pending the outcome of removal proceedings." *Jennings*, 583 U.S. at 289 (emphases added). Section 1226(a) establishes a discretionary detention framework for noncitizens arrested and detained "[o]n a warrant issued by the Attorney General." For such individuals, the Attorney General (1) "may continue to detain the arrested alien," (2) "may release the alien on ... bond of at least $1,500," or (3) "may release the alien on ... conditional parole." 8 U.S.C. §§ 1226(a)(1)-(2). The arresting immigration officer makes an initial custody determination, but noncitizens have the right to request a custody redetermination (i.e., bond) hearing before an Immigration Judge. See 8 C.F.R. §§ 1236.1(c)(8), (d)(1).

24. In addition to bond, the government may release a noncitizen detained under Section 1226(a) on an Order of Recognizance, which is a form of conditional parole. *See* 8 U.S.C. § 1226(a)(2)(B); *Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 747 (B.I.A. 2023) ("The respondents were ... released on their own recognizance pursuant to DHS' conditional parole authority under ... 8 U.S.C. § 1226(a)(2)(B)[.]"); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the [government] used the phrase 'release on recognizance' as another name for 'conditional parole' under § 1226(a)."); *Cruz-Miguel v. Holder*, 650 F.3d 189, 191 (2d Cir. 2011) (similar).

25. Section 1226(c) is the sole exception to Section 1226(a)'s discretionary detention framework. *See* 8 U.S.C. § 1226(a) ("Except as provided in subsection (c) ... the Attorney General ... may"); id. § 1226(c)(1) Section 1226(c) requires the detention of noncitizens

who are inadmissible or deportable and who have been arrested, charged with, or convicted of certain crimes. *See* id. §§ 1226(c)(1)(A)-(D).

26. This case concerns the detention provisions at §§ 1226(a) and 1225(b) and specifically whether Petitioners are lawfully detained under Section 1225(b) as the government now contends, or is instead subject to discretionary detention under Section 1226(a), as the government represented in its initial custody determination in 2019.

27. Section 1226(a) "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings," *Jennings*, 583 U.S. at 289, and it applies when a noncitizen is "arrested and detained" "[o]n a warrant issued by the Attorney General," 8 U.S.C. § 1226(a); *See Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 749 (B.I.A. 2023) (holding that an immigration judge erred in treating release on recognizance of non-citizens "detained soon after their unlawful entry" as constructive humanitarian parole where Government had not followed the "procedures for parole under [section 1182(d)(5)]").

28. Petitioners anticipate that Respondents will argue that both petitioners are subject to mandatory detention under 8 U.S.C. § 1225(b)(1) because they were apprehended shortly after their entry into the U.S. Alternatively, Petitioners anticipate that Respondents will argue that both petitioners are subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Both positions have no basis in law.

29. Petitioners cannot be subject to 8 U.S.C. § 1225(b)(1). When DHS apprehended Petitioners in 2019, DHS had the option to place them in either expedited removal proceedings under 8 U.S.C. § 1225(b)(1), *or* full removal proceedings 8 U.S.C. § 1229a. It opted for the latter and as such cannot now claim that Petitioners are not in full

proceedings. *See Patel v. Tindall*, No. 3:25-CV-373-RGJ, 2025 WL 2823607, at *5 (W.D. Ky. Oct. 3, 2025) ("Respondents in other cases have conceded that an individual cannot be in two removal proceedings simultaneously); *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *7 (N.D. Cal. Sep. 12, 2025) (stating that "The Government concedes that Ms. Salcedo Aceros is currently in full removal proceedings under Section 1229, and that while those proceedings are live, she cannot be simultaneously subjected to Section 1225(b)(1)'s expedited removal proceedings."); *Munoz Materano*, 2025 WL 2630826, at *11 ("Respondents therefore expressly concede that, while Munoz Materano's appeal is pending, he remains in Section 240 removal proceedings subject to § 1229a, not expedited removal pursuant to § 1225(b)(1).").

30. Furthermore, 1225(b)(1) could not apply to either petitioner due to the timing of their re-detention. "In this case, Petitioners are not an "arriving" noncitizens but have been present in our country for over [six years]. This substantial amount of time indicates they are afforded the Fifth Amendment's guaranteed due process before removal." *Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *10 (S.D. Cal. Oct. 1, 2025); *See also Yamataya v. Fisher*, 189 U.S. 86, 87 (1903) (finding a noncitizen was entitled to due process before removal despite having spent only four days in the US); *Make the Rd. New York v. Noem*, No. 25-CV-190 (JMC), 2025 WL 2494908 (D.D.C. Aug. 29, 2025) (staying DHS guidance authorizing expansion of scope of expedited removal to noncitizens apprehended anywhere in the United States on the basis that it violates the Due Process).

31. Respondents' alternative anticipated position that Petitioners are subject to mandatory detention under 8 U.S.C. § 1225(b)(2) is equally untenable. Respondents are likely to

argue that Petitioners are subject to mandatory detention without a bond hearing under the plain language of 8 U.S.C. § 1225(b)(2), despite being released on their own recognizance pursuant to 8 U.S.C. 1226 and living in the U.S. for over six years. This position has been resoundingly and repeatedly rejected by federal district courts across the country, including courts in the Fifth Circuit and the Western District of Texas. *See Granados v. Noem et al, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D.T.X. 11/26/2025), Aguilar v. Bondi et al, No. 5:25-CV-01453-JKP, 2025 WL 3471417 (W.D.T.X. 11/26/2025), Guzman-Tovar v Noem et al, No. 5:25-CV-1509-JKP, 2025 WL 3471416 (W.D.T.X. 11/25/2025), Martinez Orellana v. Noem et al, No. 5:25-CV-1028-JKP, 2025 WL 3471569 (W.D.T.X. 11/24/2025), Miralrio Gonzalez v. Ortega et al, No. 5:25-CV-1156-JKP, 2025 WL 3471571 (W.D.T.X. 11/24/2025), Cardona-Lozano v. Noem et al, No. 1:25-CV-1784-RP, 2025 WL 3218244 (W.D.T.X. 11/14/2025), Becerra Vargas v. Noem et al, No. SA-25-CV-1023-FB (HJB), 2025 WL 3300446 (W.D.T.X. 11/12/2025), Ortega Munoz v. Noem et al, No. 1:25-CV-1753-RP, 2025 WL 3218241 (W.D.T.X. 11/07/2025) (decision on a Temporary Restraining Order), Rojas Vargas v. Bondi et al, No. 1:25-cv-01699-DAE, 2025 WL 3251728 (W.D.T.X. 11/05/2025) (decision on a Temporary Restraining Order), Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, (W.D. Tex. Sept. 22, 2025), *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting twelve such decisions); *see, e.g., Jimenez v. FCI Berlin, Warden*, No. 25-CV-326-LM-AJ, 2025 WL 2639390, at *10 n.9 (D.N.H. Sept. 8, 2025); *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *5 (W.D. La. Sept. 11, 2025); *Kostak v. Trump*, No. 25-CV-01093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025);

Respondents' own documents and actions, the plain text of the statute, traditional canons of statutory construction, and DHS' longstanding practices all establish that 1226(a) governs Petitioners' detention.

32. When the Petitioners were initially released on May 9, 2019, the Form I-286 provided that they were released "[i]n accordance with section 236 of the [INA] and the applicable provisions of Title 8 of the Code of Federal Regulations." **Exh. B, Form I-286, Notice of Custody Redetermination.** They were then re-detained on October 9, 2025, after residing in the United States since their entry.

33. In all, "the government's treatment of Petitioners since their arrival in the United States on about [May of 2019], establishes that Petitioners were detained pursuant to the government's discretionary authority under § 1226(a)." *See J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025).

34. The plain text of Section 1225(b) and Section 1226(a) also clearly establishes 1225(b) does not apply to noncitizens like Petitioners who are arrested while residing in the U.S. Following a noncitizen's arrest and detention, and pending the completion of removal proceedings, Section 1226(a) provides that the Attorney General: (1) "may continue to detain the arrested alien"; (2) "may release the alien on ... bond"; or (3) "may release the alien on ... conditional parole." 8 U.S.C. §§ 1226(a)(1), (a)(2)(A), (a)(2)(B). "The thrice-used permissive word 'may' indicates Congress's intent to establish a discretionary, rather than mandatory, detention framework for noncitizens arrested on a warrant." *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *6 (D. Mass. July 7, 2025)

35. As district courts across the country have repeatedly concluded, Respondents' "interpretation of the statute (1) disregards the plain meaning of § 1225(b)(2)(A); (2) disregards the relationship between §§ 1225 and 1226; (3) would render a recent amendment to § 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice." *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 WL 2938779, at *5 (N.D. Ill. Oct. 16, 2025) (citing *Alejandro v. Olson*, 2025 WL 2896348, at *6 (S.D. Ind. Oct. 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025) ("[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens 'seeking admission into the country,' whereas section 1226 governs detention of non-citizens 'already in the country.' ") (cleaned up) *Martinez v. Hyde*, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) ("The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system.") (cleaned up) (citing *Jennings*, 583 U.S. at 289).

36. In addition, "CBP's decision to conditionally parole [Petitioners] under Section 1226(a) is consistent with its longstanding practice of conditionally paroling noncitizens arrested near the border. *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *3, f.7 (D. Mass. July 7, 2025) (citing Transcript of Oral Argument, at 44:24-45:2, *Biden v. Texas,* 597 U.S. 785 (2022) (No. 21-954) (Solicitor General representing that "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.").

37. Finally, Respondents' actions implicate constitutional due process. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003). "To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). Those factors are: (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, 96 S.Ct. 893.

38. As to the first element, "'[t]he interest in being free from physical detention' is 'the most elemental of liberty interests.' " *Martinez v. Noem,* 2025 WL 2598379, at *2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004)). Petitioners possess a cognizable interest in their freedom from detention because they spent over six years at liberty in the United States. *See Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11 (W.D. Tex. Sept. 22, 2025) ("Because he spent nearly three years at liberty in the United States, Lopez-Arevelo possesses a cognizable interest in his freedom from detention.")

39. Under the second *Mathews* factor, the Court considers "whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Martinez v. Noem*, 2025 WL 2598379, at *3 (quoting *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025)).

The Petitioners did not request a bond hearing in the present case, given the futility of doing so due to the legal position of DHS and EOIR. Courts have found that attempts at pursuing release on bond are ineffective because since the *Yajure-Hurtado* decision, these hearings "[do] not in fact provide ... an opportunity to contest the existence, nature, or significance of [any] supervision violations' or otherwise make an individualized assessment of the need to re-detain him." *Lopez-Arevelo*, 2025 WL 2691828, at *11 (citing *Espinoza v. Kaiser,* No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *11 (E.D. Cal. Sept. 5, 2025). Further, given "the BIA's interpretation of mandatory detention in *Yajure Hurtado* [and *Q. Li*], that appeal is almost certainly a futile exercise. " *Id.* "Thus, there is a high risk that [Petitioner] has been and will continue to be erroneously deprived of his liberty." *Id.*

40. On the final factor, Respondents cannot identify any meaningful countervailing interest, other than perhaps their generalized interest in enforcing the INA as they interpret it. "But the decision to release [Petitioners] on their own recognizance [over six] years ago, in and of itself, 'reflects a determination by the government that the noncitizens are not a danger to the community or a flight risk.'" *Lopez-Arevelo*, 2025 WL 2691828, at *11 (citing *Saravia v. Sessions,* 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), aff'd 905 F.3d 1137 (9th Cir. 2018)). The Petitioners diligently complied with all conditions of their initial release. Nor have they committed any crimes or endangered anyone during their six years at liberty in the United States.

41. "The appropriate relief for an immigration detainee held in violation of their right to due process is their immediate release from custody, and to be provided with relief returning them to *status quo ante*, i.e., the last uncontested status which preceded the pending

controversy." *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025). "With regard to the specifics of the relief that might be ordered, in recent weeks many federal district courts" –including the Western District of Texas– "have ordered the immediate release of immigration habeas petitioners held in custody in violation of their due process rights." *Id; See Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588, at *13 (W.D. Tex. Oct. 1, 2025); *Diaz Perez v. Thompson et al*, No. 5:25-CV-1664-JKP, 2025 WL 3654333 (W.D. Tex. Dec. 15, 2025); *See also J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267, at *1(D. Or. Aug. 21, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530, at *7 (D. Me. Aug. 29, 2025).

42. Alternatively, the court should order a bond hearing as a habeas remedy where the burden is on the government. Indeed, "as of 2020, the 'vast majority'—an 'overwhelming consensus'—of courts granting immigration detainees' habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk." *Lopez-Arevelo*, 2025 WL 2691828, at *12 (citing *Velasco Lopez,* 978 F.3d at 855 n.14 (citations omitted). "Allocating the burden in this manner reflects the concern that '[b]ecause the alien's potential loss of liberty is so severe ... he should not have to share the risk of error equally.'" (citing *German Santos*, 965 F.3d at 214). "And the consensus appears to be holding, with many courts in recent days ordering a bond hearing, at which the Government bears the burden of justifying the immigration

habeas petitioners' continued detention by clear and convincing evidence." *Id.* ; *Velasquez Salazar v. Dedos,* No. 25-cv-835, 2025 WL 2676729, at *9 (D.N.M. Sept. 17, 2025); *Morgan v. Oddo,* No. 24-cv-221, 2025 WL 2653707, at *1 (W.D. Pa. Sept. 16, 2025); *J.M.P. v. Arteta*, No. 25-cv-4987, 2025 WL 2614688, at *1 (S.D.N.Y. Sept. 10, 2025); Espinoza, 2025 WL 2581185, at *14; *Arostegui-Maldonado v. Baltazar,*, 2025 WL 2280357, at *12 (D. Colo. Aug. 8, 2025). Nevertheless, though this Court has the authority to order relief as the Court sees fit, Petitioners maintain that their immediate release from custody is the most appropriate remedy for their unlawful detention because the Respondents had no valid reason to re-detain them on October 2025, given that their circumstances had not changed in any way that would indicate that they had become a danger to the community or a flight risk. *See e.g. Matter of Sugay*, 17 I&N Dec. 637 (BIA 1981).

CAUSES OF ACTION

COUNT ONE
Violation of Fifth Amendment Right to Due Process

43. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

44. 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

45. Petitioners have a fundamental interest in liberty and being free from official restraint.

46. The government's arbitrary subjection of Petitioners to mandatory detention pursuant to 8 U.S.C. 1225, after six years of release on their own recognizance under § 1226 and without affording them any opportunity to contest their detention within the agency, and in spite of any change in their circumstances violates their right to Due Process pursuant to the Fifth Amendment.

COUNT TWO
Violation of the Immigration and Nationality Act
Unlawful Re-detention after being released under 8 U.S.C. 1226(a)

47. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

48. The mandatory detention provision at 8 U.S.C. § 1225(b) does not apply to noncitizens residing in the United States who have already been determined by DHS to be subject to discretionary detention under 8 U.S.C. 1226(a). The application of § 1225(b) to re-detain Petitioners in spite of any change in circumstances and to bar them from receiving a bond re-determination hearing violates the Immigration and Nationality Act.

PRAYER FOR RELIEF

Wherefore, Petitioners respectfully request this Court to grant the following:

(1) Assume jurisdiction over this matter and maintain jurisdiction to the extent necessary to ensure Respondents' compliance with any order this Court may issue;

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

(3) Declare that the refusal to allow Petitioners a bond redetermination hearing before an immigration judge violates the INA and the Due Process clause of the Fifth Amendment;

(4) Issue a Writ of Habeas Corpus requiring that Respondents immediately release the Petitioners, or, in the alternative, provide a custody redetermination hearing before this District Court where the Government bears the burden to prove by clear and convincing evidence that the Petitioners pose a danger to the community or are a flight risk;

(5) Maintain jurisdiction over the Petitioners until the Respondents have complied with any relief ordered by this Court;

(6) Order further relief as this Court deems just and appropriate.

Respectfully submitted,

/s/ Mark Kinzler
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Attorney for Petitioners

Dated: January 9, 2026

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

I represent Petitioners, Wilmer Alexander Mancia Arias and Jonathan Alexander Mancia Romero, and submit this verification on their 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 of 2026.

/s/ Mark Kinzler
Mark Kinzler, Esq.
Oregon State Bar No. 05298-8
Attorney for Petitioners

CERTIFICATE OF SERVICE
Mancia-Arias v. Thompson et al
Case no. 5:26-cv-00085

I hereby certify that on January 9, 2026, I have mailed by United States Postal Service the Petition for Writ of Habeas Corpus by certified mail to the following:

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U.S. Attorney General Pamela Bondi
950 Pennsylvania Ave NW
Washington, DC 20530

The above respondents were also named in the CM/ECF habeas corpus filing with the Western District of Texas court

/s/ Mark Kinzler